

ARKANSAS REGISTER



Proposed Rule Cover Sheet

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Name of Department Department of Finance and Administration

Agency or Division Name Medical Marijuana Commission

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

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Name of Rule Licensure of Medical Marijuana Dispensary Facilities

Newspaper Name Arkansas Democrat Gazette

Date of Publishing December 12, 2021 thru December 14, 2021

Final Date for Public Comment January 13, 2022

Location and Time of Public Meeting 1515 West 7th Street, 5th Floor, 4:30 p.m.

PUBLIC NOTICE

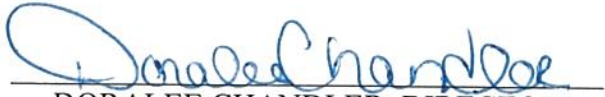
In compliance with the Administrative Procedure Act of the State of Arkansas (Act 434 of 1967), notice is hereby given that the Arkansas Medical Marijuana Commission proposes to promulgate rules concerning the medical marijuana industry in the state of Arkansas.

The Commission will consider rules in the following areas: licensure of medical marijuana dispensaries.

The public comment hearing will be held on January 13, 2022, at the hour of 4:30 p.m., in the fifth floor conference room, 1515 West Seventh Street, Little Rock, Arkansas. All interested parties will be afforded an opportunity to present their views at the hearing. The proposed rule is available on our website at: <https://www.dfa.arkansas.gov/medical-marijuana-commission>

The Alcoholic Beverage Control Division on behalf of the Medical Marijuana Commission will accept written comments on the proposed rule from December 12, 2021 to January 12, 2022. Please send comments to: The Alcoholic Beverage Control Division, 101 W. CAPITOL AVE, SUITE 401, LITTLE ROCK, AR 72201

All inquiries concerning the public comment hearing should be directed to Chip Lebovich, Staff Attorney, ABC-MMC Division, 101 W. Capitol Ave, Suite 401, Little Rock, Arkansas, 72201.


DORALEE CHANDLER, DIRECTOR
ALCOHOLIC BEVERAGE CONTROL DIVISION
DEPARTMENT OF FINANCE & ADMINISTRATION

**RULES GOVERNING THE APPLICATION FOR, ISSUANCE, AND RENEWAL OF
LICENSES FOR MEDICAL MARIJUANA CULTIVATION FACILITIES,
DISPENSARIES, AND PROCESSORS IN ARKANSAS**

**SECTION V.
DISPENSARY**

APPLICATION, LICENSING, & RENEWAL

1. License Required

- a. No person shall operate a medical marijuana dispensary unless the person has a license issued by the commission pursuant to this chapter.
- b. Each license for a dispensary shall specify:
 - i. The name of the individual who holds the license;
 - ii. The address of the individual who holds the license;
 - iii. The effective dates of the license;
 - iv. The address of the licensed facility.

2. Licenses Available

- a. The commission shall issue at least twenty (20), but no more than forty (40), dispensary licenses.
- b. Licenses shall be distributed within eight (8) geographic zones, to assure that dispensaries are available throughout the state. A dispensary license shall only be valid in the geographic zone where it was awarded.
- c. It shall be within the commission's discretion to make licenses available.
- d. When it has been determined that new licenses are available or appropriate, and unless the new license(s) will be selected from the reserve list described in Section V(9)(g)(ii), the commission shall notify the public at large by legal notice that it will be accepting applications for a dispensary license.
- e. The commission will create application pools for dispensary licenses based on the eight (8) identified geographic zones to ensure that dispensaries are distributed equally through the state. A dispensary license will only be valid for the designated zone and cannot be used in another zone.
- f. No individual shall have interest in more than one (1) Arkansas cultivation facility and one (1) Arkansas dispensary.
- g. In accordance with the Arkansas Medical Marijuana Amendment of 2016, there shall be no more than four (4) dispensaries in any one (1) county.

3. Application

- a. An application for a dispensary license shall include both an individual applicant and an applying entity and they shall apply to the commission on a form and in a manner prescribed by the commission.
- b. Applications will be accepted for the dispensary license beginning ten

(10) days after the date of publication of the legal notice by the commission, and no applications will be accepted after ninety (90) days of the publication date, if publication is required.

- c. Information and statements provided in an application shall become conditions of a license if the application is selected, and failure to satisfy the conditions will be cause for revocation or denial of renewal.

4. Minimum Qualifications for Applicant

- a. An applicant for a license under this chapter shall be a natural person that:

- i. Is twenty-one (21) years of age or older;
- ii. Is a current resident of the state of Arkansas and has been a resident for seven (7) consecutive years prior to the date of application;
- iii. Has not previously held a license for a licensed facility that has been revoked;
- iv. Has no ownership in any other dispensary in the state of Arkansas;
- v. Has not been convicted of a felony offense;
- vi. If possessing a professional license, that the license is in good standing; and
- vii. Has no outstanding tax delinquencies owed to the State of Arkansas or the federal government.

- b. If the applicant is applying on behalf of an entity, in addition to (a) of this Section, the individual applicant:

- i. Shall be legally authorized to submit an application on behalf of the entity;
- ii. Shall serve as the primary point of contact with the commission;
- iii. Shall submit sufficient proof that:
 - 1. The entity has no owner, board member, or officer under the age of twenty-one (21);
 - 2. Sixty percent (60%) of the equity ownership interests in the entity are held by individuals who have been residents of the state for at least seven (7) consecutive years prior to the application date;
 - 3. The entity has no owner, board member, or officer that has previously been an owner of a licensed facility that has had its license revoked;
 - 4. The entity has no owner, board member, or officer that has ownership in any other dispensary in the state of Arkansas;
 - 5. The entity has no owner, board member, or officer that has been convicted of a felony offense; and
 - 6. If an owner, board member, or officer has or had a professional license, that the license is in good standing; and

7. The entity has no owner, board member, or officer that owes delinquent taxes to the State of Arkansas or the federal government.
 - c. Applicants shall provide proof of assets or a surety bond in the amount of \$200,000.00 and proof of at least \$100,000.00 in liquid assets.
 - i. If an applicant posts a surety bond, the bond shall be maintained until:
 1. An applicant withdraws an application;
 - ~~2.~~ 2. An applicant's application is denied by the commission;
 - ~~2.3.~~ 2.3. An applicant's one-half application fee has been returned by the Department of Finance and Administration; or
 - ~~3.4.~~ 3.4. An applicant, following selection by the commission for a dispensary license, pays the licensing fee and performance bond required in Section V.10.a. and Section V.10.c.
 - d. Applicants shall provide a complete application with responses for each required item.
5. Documentation and Information for Applicant
- a. An individual applicant shall provide the following required information:
 - i. Legal name;
 - ii. Date of birth;
 - iii. Legal residence;
 - iv. Social security number;
 - v. Mailing address or principal residence address if different from the mailing address;
 - vi. Phone number;
 - vii. Email address; and
 - viii. Statement of individual's authority to act on behalf of an entity, if applicable.
 - b. The following supporting documents shall be submitted at the time of application:
 - i. To establish legal name an applicant must present at least one (1) of the following source documents:
 1. Certified copy of a birth certificate or marriage certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth or marriage;
 2. Valid, unexpired U.S. passport or U.S. passport card;
 3. Consular report of birth abroad Form FS-240, DS-1350 or FS-545 issued by the U.S. Commission of State;
 4. Valid, unexpired permanent resident card (Form I-551) issued by the Commission of Homeland Security (DHS) or the U.S. Citizenship and Immigration Services (USCIS);

5. Unexpired employment authorization document issued by the Commission of Homeland Security, Form I-766 or Form I-688B;
 6. Unexpired foreign passport with the following: a valid, unexpired U.S. visa affixed, and an approved I-94 form documenting the applicant's most recent admittance into the United States or a Commission of Homeland Security admittance stamp on the passport;
 7. Certificate of naturalization issued by Commission of Homeland Security, Form N-550 or Form N-570;
 8. Certificate of citizenship, Form N-560 or Form N-561, issued by Commission of Homeland Security;
 9. Court-issued, certified copy of a divorce decree; or
 10. Certified copy of a legal change of name order;
- ii. To establish date of birth an applicant must present at least one (1) of the following source documents:
 1. At least one document included in clauses (1) through (10) of subparagraph (i) of this paragraph; and
 2. A photocopy of the individual's valid, unexpired driver's license or government issued photo identification card.
 - iii. To establish residency in the State of not less than seven (7) years preceding the application, an applicant must present at least one (1) of the following source documents:
 1. Arkansas tax return Form AR1000 for each of the seven years preceding the application without schedules, worksheets, or attachments, and redacted to remove all financial information and all but the last four digits of the individual's social security number;
 2. Evidence of voter registration for the seven years preceding the application;
 3. Ownership, lease, or rental documents for place of primary domicile for the seven (7) years preceding the application;
 4. Billing statements including utility bills for the seven (7) years preceding the application; or
 5. Vehicle registration for the seven (7) years preceding the application.
 - iv. To establish proof of no felony convictions or other disqualifying background information, an individual applicant shall provide consent to a background check, including fingerprinting; and
 - v. Individuals applying on behalf of an entity must also provide the following proof:
 1. Documentation of the ownership of the entity; and
 2. Documentation demonstrating that sixty percent (60%) of

the equity ownership interests in the entity are held by individuals who have been residents of the state of Arkansas for seven (7) years prior to the application. Documentation sufficient to satisfy this requirement shall be the same as required of an individual in subsection (b)(iii);

3. Board members, and officers are over the age of twenty-one (21). Documentation sufficient to satisfy this requirement shall be the same as required of an individual in subsections (b) and (c); and
 4. Consents for criminal background checks for each owner, board members, and officers of the entity.
- c. Applicants shall provide proof that the proposed location of the dispensary is at least one thousand five hundred (1,500) feet from a public or private school, church, daycare, or facility for individuals with developmental disabilities existing before the date of the dispensary application pursuant to the Arkansas Medical Marijuana Amendment of 2016. The distance specified in this section shall be measured from the primary entrance of the dispensary to the nearest property line point of the school, church, daycare facility, or facility for individuals with developmental disabilities; and
- d. Applicants shall provide proof of authorization to occupy the property for the proposed dispensary. To establish proof the applicant shall provide one of the following:
- i. If the property is owned by the applicant, the applicant shall provide: confirmation of land ownership, identification of any mortgagees and perfected lienholders; and, if applicable, verification of notification to any mortgagees and perfected lien holders that the property is to be used as a medical marijuana dispensary, and consent thereto by any mortgagees and perfected lien holders;
 - ii. If the property is not owned, but is currently leased by the applicant, the applicant shall provide a copy of the lease; confirmation of land ownership, identification of any mortgagees and perfected lienholders; a written statement from the property owner or landlord, certifying consent that the applicant, if awarded a license, may operate a medical marijuana dispensary on the property, and, if applicable, verification of notification to any mortgagees and perfected lien holders that the property is to be used as a medical marijuana dispensary, and consent thereto by any mortgagees and perfected lien holders;
 - iii. If the property is not owned or leased by the applicant, the applicant shall provide: a written statement from the property owner or landlord certifying consent that the applicant has the option to lease or purchase the property, contingent upon the issuance of a dispensary license; and if applicable, verification of notification by the property owner to any mortgagees and perfected lienholders that the property is to be used for a medical

marijuana dispensary, and consent thereto by any mortgagees and perfected lienholders.

- e. If the city, town, or county in which the dispensary would be located has enacted zoning restrictions, applicants shall submit a sworn statement certifying that the dispensary will operate in compliance with the restrictions.
- f. The information and documents shall be submitted in a method prescribed by the commission in the notice of open application.

6. Background Checks

- a. The following are subject to background checks conducted by the commission or its designee in considering an application for a dispensary license:
 - i. The individual applicant;
 - ii. All owners, officers, and board members of an entity seeking to apply for a dispensary license through its designated individual applicant; and
 - iii. Agents of any of the above persons.

- b. Each person undergoing a background check shall provide written consent and all applicable processing fees to the commission or its designee to conduct the background check.

7. Application Fee

- a. Each application for a dispensary license shall include an application fee of \$7,500.00 in cash or certified funds. Any certified check or cashier's check shall be made payable to state of Arkansas, and delivered or mailed by certified mail, return receipt requested, to the address specified in the notice of open application.
- b. In the event an applicant is not successful in his or her application, \$3,750.00 of the initial application fee shall be refunded to the applicant.
- c. An application is not complete and will not be considered unless the application fee is received with the application by the deadline. **An unselected application as set forth in Section V(9)(g)(ii) and for which \$3,750.00 was refunded to the applicant, shall be considered a complete application upon payment of an amount equivalent to \$3,750.00 as allowed by these rules.**

8. Verification of Application

- a. After receipt of an application, the commission shall verify that the application and supporting documentation is complete, and the information submitted in the application is true and valid.
- b. Applications that meet the requirements of **Section V.4. and V.5** shall be placed into the pool of applicants for further review and selection based on merit. The commission shall notify the applicant in writing that the application was successfully verified.
- c. Applications that do not meet the requirements of **Section V.4. and**

Section V.5 shall be denied pursuant to **Section V.12**, and the commission shall notify the applicant in writing.

9. Selection Process and Criteria Based on Merit Selection

a. In addition to documentation establishing minimum qualifications, the applicant shall submit responses to the commission's merit criteria in a form and manner prescribed by the commission. Criterion shall be published with the initial notice of application.

b. The commission shall consider the following criteria based on merit to evaluate applications verified pursuant to **Section V.8**:

i. Ability to operate a business, including, but not limited to education, knowledge, and experience with:

1. Regulated industries;
2. Agriculture or horticulture;
3. Commercial manufacturing;
4. Creating and implementing a business plan, including a timeline for opening a business;
5. Creating and implementing a financial plan;
6. Secure inventory tracking and control;
7. The cultivation and production of marijuana;
8. Owning or managing a business that required twenty-four hour security monitoring;
9. Owning and managing a business that has not had its business license revoked; and

10. Any other experience the applicant considers relevant.

ii. Plan for operating a dispensary in compliance with applicable laws and rules and demonstrating planning sufficient to prove the applicant's:

1. Ability to manufacture approved medical marijuana products, each with a consistent cannabinoid profile and each able to pass the required quality control testing as further described in the rules of the Arkansas Department of Health;
2. Ability to produce sufficient quantities of approved medical marijuana products as necessary to meet the needs of individuals with qualifying medical conditions;
3. Ability to comply with the security requirements as described in the rules of the Arkansas Alcoholic Beverage Control Division.
4. Ability to comply with rules of the Arkansas Department of Health and the Arkansas Alcoholic Beverage Control Division regarding the inventory and tracking of marijuana products;
5. Ability to comply with the recordkeeping requirements of Arkansas Department of Health and the Arkansas Alcoholic Beverage Control Division;

6. Ability to maintain effective control against diversion of marijuana and marijuana products;
 7. Ability to comply with requirements for signage, packaging, labeling, and chain of custody of products; and
 8. Ability to comply with all other laws and rules regarding the operation of a medical marijuana dispensary.
- iii. Proof that the applicant is ready, willing, and able to properly carry out the activities of a medical marijuana dispensary, including a plan for operating a medical marijuana dispensary and a timeline for opening the dispensary;
 - iv. Proof of financial stability and access to financial resources, including but not limited to:
 1. Legal sources of finances immediately available to begin operating a dispensary;
 2. Possession of, or the right to use, sufficient real property, and equipment to properly carry on the activity described in the operating plan;
 3. A summary of financial statements in businesses previously or currently owned or operated by the applicant;
 4. A financial plan for operating a medical marijuana dispensary in Arkansas;
 5. Good credit history;
 6. No history of bankruptcy filings by the applicant or entities owned or operated by the applicant for eight (8) years prior to the date of application.
- c. The commission may consider the following criteria based on merit to evaluate applications verified pursuant to **Section V.8:**
- i. Affiliation with a Medical Doctor, Doctor of Osteopathy, or Doctor of Pharmacy.
 - ii. Proof, if any, that the applicant's proposed dispensary will positively impact the economy and diversity of the area in which the dispensary is to be located.
 1. Economic impact shall be assessed using the Arkansas Economic Development Commission's tier-ranking of counties based on the following factors: poverty rate, population growth, per capita personal income, and unemployment rate. Consideration shall be given based on the AEDC's tier ranking of the county of the proposed dispensary as it exists on the date of the application.
 2. Factors that may be considered in determining an applicant's impact on the diversity of the area include, but are not limited to, ownership by minority groups, ownership by veterans, and ownership by women.
 - iii. Proof, if any, that the applicant's proposed dispensary will provide

a benefit to the community in which the facility is to be located. Factors that may be considered include, but are not limited to:

1. Any proposed substance abuse plan to be implemented by the dispensary.
 2. Any proposed compassionate care plan to be implemented by the dispensary.
 3. Any proposed plan for research, education, and promotion of patient and public safety to be implemented by the dispensary.
 4. Local ownership percentage, meaning the percentage of ownership held by Arkansas residents.
- d. Each merit criterion will be worth a number of points announced by the commission in the notice of open application period.
- e. A review panel comprised of members of the Medical Marijuana Commission shall evaluate the applications and award points for each merit criterion. The points shall be totaled for each application and the applications ranked from the highest total score to the lowest total score within each geographic zone. The commission shall notify in writing each of the applicants of their respective score and their respective ranking among all applicants within the applicable geographic zone.
- f. The highest ranking applicants in each zone, equal to the amount of available licenses in each zone, shall have the first opportunity to submit the required license fee and post the performance bond required under these rules for the available licenses. If any applicant fails to pay the fee and post the bond within the required period of time, then their application shall be denied for the appropriate reason under **Section V.12.** of these rules. The commission shall then inform the next highest scoring applicant within the applicable zone, and they shall have the opportunity to submit the required license fee and post the performance bond required under these rules for the available license.
- g. i. The commission shall hold unselected applications in reserve to offer a license to the next highest scoring applicant within a zone if the highest scoring applicant within that zone fails to pay the licensing fee and post the performance bond in accordance with **Section V.10.**
- ii. Unselected applications from the initial application period that were scored and for which the applicant or the applicant's representative did not request a refund shall remain in reserve for 24 months from the issuance date of the initial licenses in any application period until five initial licenses have been awarded in a particular zone.
- h. The commission may initiate the selection process for dispensary licenses upon determining that there are not enough dispensaries to supply qualified patients within the state, or upon revocation of any existing license by the Alcoholic Beverage Control Division.
- i. If the commission determines that more licenses should be issued,

within a zone in which no more than four licenses have been awarded within 24 months following the issuance of licenses in the most recent application period, the commission shall offer the opportunity to pay the licensing fee and post the performance bond in accordance with **Section V.10** to the next highest scoring applicant from the applications held in reserve for the zone where the commission has determined a need for the license.

A. The next highest scoring applicant of the unselected applicants shall have seven (7) days from the date of the Commission's written offer to provide the following:

1. A check for the outstanding amount of the original application fee; and

2. An affidavit signed by the original applicant swearing and affirming that the applicant and applying entity continue to meet the requirements of:

a. Section V.4(a) of this Rule;

b. Section V.4(b) of this Rule;

c. Arkansas Const. Amend. 98 §8(g)(2)(C)(i)(a);

and

d. Arkansas Const. Amend. 98 §10(b)(2)

B. If the applicant timely provides the information required in subsection (A), along with meeting the requirements set forth in V.10, the applicant will be awarded the license.

C. If the applicant fails to provide the information required in subsection (A) within seven (7) days of receiving written notice of selection from the commission, the applicant shall not be awarded the license and the Commission shall select the license from next highest scoring unselected application.

~~i. If the commission determines that more licenses should be issued after the 24 months following the issuance of licenses in the most recent application period, the commission shall solicit new applications in accordance with these rules.~~

i. If the commission must break a tie in scoring among applicants, the following procedure shall be followed:

ii. Applicants with identical scores shall draw a number between one (1) and a number equal to the number of applicants with the identical score. Applicants will then repeat the drawing of numbers in the order determined by the first drawing. The tied applicants will be ranked according to the number pulled from the second drawing. The applicant who draws the number (1) will have the highest rank among the tied applicants.

10. Licensing Fee and Issuance of License

a. Within seven (7) days of receiving written notice of selection from the commission, the selected applicant for a dispensary license shall submit to the commission a dispensary license fee of \$15,000.00 in cash or certified funds. Any certified or cashier's check shall be made payable to

the State of Arkansas.

- b. If the licensing fee is not timely paid, the selected applicant will be disqualified, and the commission shall select the next highest scoring applicant within that particular zone.
- c. Within seven (7) days of receiving written notice of selection from the commission, the selected applicant shall submit to the commission a performance bond in the amount of \$100,000.00. The bond shall be maintained until the dispensary files its first application for renewal of the license.
- d. If the performance bond is not timely posted, the selected applicant will be disqualified, and the commission shall select the next highest scoring applicant within that particular zone.
- e. A license that is initially issued between Jan. 1 and July 1 may have the licensing fee prorated up to 50 percent of the total fee as determined by the commission.
- f. Upon issuance of a dispensary license, and following inspection required by Alcoholic Beverage Control Division Rules , the dispensary licensee may begin operations.
- g. The dispensary licensee shall visibly post a copy of its license at the dispensary covered under the license.

11. Term

- a. A license shall expire on June 30 of each calendar year and is renewable on or before June 30 of each calendar year for the fiscal year beginning July 1, unless the license is:
 - i. Suspended or revoked by the Department of Finance and Administration – Alcoholic Beverage Control Division;
 - ii. Surrendered by the dispensary licensee; or
 - iii. Replaced by a temporary license.

12. Denial of Application for or Renewal of a License

- a. The commission may deny an application for or renewal of a license for any of the following reasons:
 - i. Failure to provide the information required in these rules;
 - ii. Failure to meet the requirements set forth in these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division;
 - iii. Provision of misleading, incorrect, false, or fraudulent information;
 - iv. Failure to pay all applicable fees as required;
 - v. Failure to post performance bond, if required, naming the state as a secured party;
 - vi. An applicant has a background history that indicates the applicant does not have a reputable and responsible character or would pose a risk to the health, safety, or welfare of the public or qualifying patients; or
 - vii. Any other ground that serves the purpose of these rules or the rules of the Arkansas Department of Health or Arkansas

Alcoholic Beverage Control Division.

- b. If the commission denies an application for or renewal of a license, the commission shall notify the applicant in writing of the commission's decision, including the reason for the denial.

13. License Renewal Process and Fee

- a. A license may be renewed if the dispensary licensee:
 - i. Submits to the commission a renewal application on a form and in a manner prescribed by the commission at least sixty (60) days prior to the expiration date on the license;
 - ii. Is in good standing with the Arkansas Secretary of State's office;
 - iii. Continues to be in good standing with the Arkansas Department of Finance and Administration; and
 - iv. Continues to meet all the requirements set out in these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division.
- b. Before renewing a license, the commission may require further information and documentation and may conduct additional background checks to determine that the licensee continues to meet the requirements set out in these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division.
- c. After receiving written notice from the commission that its renewal application has been approved, the dispensary licensee shall pay the annual renewal fee of \$22,500.00 in certified funds. Any certified or cashier's check shall be payable to the State of Arkansas.
- d. A dispensary licensee whose license is not renewed shall cease all operations immediately upon expiration of the license, return the license to the commission; and
- e. Any marijuana or marijuana products remaining at the facility shall be destroyed or transferred pursuant to Arkansas Alcoholic Beverage Control Rules.

14. Surrender of License

- a. A dispensary may voluntarily surrender a license to the commission at any time.
- b. If a dispensary voluntarily surrenders a license, the dispensary shall:
 - i. Return the license to the commission;
 - ii. Submit a report to the commission including the reason for surrendering the license; contact information following the close of business; the person or persons responsible for the close of the business; and where business records will be retained; and
 - iii. Tender all marijuana and marijuana products for destruction or for sale to another facility in accordance with the Arkansas Department of Finance and Administration – Alcoholic Beverage Control Division. No portion of the licensing fee shall be returned to the dispensary licensee if the license is voluntarily surrendered prior to the expiration of the license.

15. Change in Information

- a. The dispensary licensee shall notify the commission of any changes in contact information.
- b. The dispensary licensee shall notify the commission in writing no less than fourteen (14) days in advance of any change that may affect the licensee's qualifications for licensure, and submit to the commission supporting documentation to prove the dispensary licensee continues to be qualified. In the event of a change for which a dispensary licensee does not have prior notice, the licensee shall notify the commission immediately upon learning of the change.
- c. Pursuant to section (b), the licensee shall notify the commission of the following:
 - i. The arrest or conviction for any felony of any individual listed in an application or subsequently identified as an applicant, licensee or individual with a financial interest;
 - ii. Any alterations to the floor plan of the facility, including, but not limited to, any increase or decrease in the total footprint or production capacity of the facility.
 - iii. The filing of bankruptcy by the entity holding the license or by any of the entity's owners;
 - iv. The temporary closure of the business for any reason for longer than fifteen (15) days;
 - v. The permanent closure of the business;
 - vi. Any other change that may affect the licensee's qualification for licensure.
- d. If the Commission determines that the change has the potential to disqualify a licensee, the Commission shall refer the matter to the Alcoholic Beverage Control Division for adjudication.

16. License Restrictions

- a. The dispensary license shall only be applicable for use in the geographic zone for which it is issued. A dispensary being operated outside of its designated area will result in the dispensary's license being revoked.

17. Transfer of License

- a. Licenses shall only be effective for the individuals identified in the original application.
- b. A licensee may not sell, transfer, or otherwise dispose of his or her license to another individual without approval from the commission.
- c. A licensee may only sell, transfer or otherwise dispose of her license to a natural person.
- d. An entity that holds a license through its individual agent shall not make any modification to the entity's ownership, board members, or officers as designated in the initial application without approval from the commission.
- e. A licensee's failure to obtain approval from the commission before

engaging in ownership changes described in (b) and (c) above shall result in the commission's revocation of that license.

- f. In order to obtain approval to transfer ownership of a license or of an entity that holds a license by its individual agent, principals in ownership, board members, or officers, the licensee shall submit to the commission an application for license transferal on a form and in a manner prescribed by the commission.
- g. If the commission denies an application for transfer of license, the commission shall provide written notice by certified mail or personal delivery to the licensee. The notice shall provide an explanation for the denial of the application. The licensee may request a hearing before the Commission pursuant to **Section V.20.b.** of this Rule.

18. Transfer of Location

- a. A Dispensary license shall only be valid at the location for which it was originally issued by the commission.
- b. A licensee shall not re-locate a dispensary without prior approval by the commission.
- c. In order to obtain approval to transfer a dispensary license to another location, a licensee shall submit the following to the commission:
 - i. An application for license transferal on a form and in a manner prescribed by the commission;
 - ii. Proof that the proposed location of the dispensary is at least one-thousand five-hundred (1,500) feet from a public or private school, church, or daycare existing before the date of the dispensary application for transfer pursuant to the Arkansas Medical Marijuana Amendment of 2016. The distance specified in this section shall be measured by the distance between the primary entrance of the cultivation facility to the nearest property line point of the school, church, or daycare facility; and
 - iii. Copies of any changes to the criteria set forth in **Section V.9.b.ii.** of these Rules if any changes were necessary due to the change of location..
- d. If the Commission denies an application for transfer of location, the commission shall provide written notice by certified mail or personal delivery to the licensee. The notice shall provide an explanation for the denial of the application. The licensee may request a hearing before the commission pursuant to **Section V.20.b.** of these Rules.

19. Issuance of Temporary License

- a. The commission may issue a temporary license to another natural person in conjunction with a dispensary when the natural person whose name is on the license of the dispensary ceases to be in actual control of the dispensary.
- b. In issuing a temporary license, the commission will determine the term of the temporary license, but at no time will a temporary license remain valid beyond the original term of the license it replaced.
- c. The issuance of a temporary license by the commission will immediately terminate the license which is to be replaced.

- d. The natural person to whom a temporary license is issued must meet the requirements of **Section V.4, 5 & 6** of these rules.
 - e. A temporary license can only be issued at the request of the natural person to whom a license was issued, that person's heir, or the entity on whose behalf the individual applicant held the license.
 - f. A temporary license cannot be transferred, sold or otherwise disposed of without the approval of the commission.
 - g. A temporary license can be renewed in a manner consistent with a license to operate a dispensary under **Section V.13** of these rules.
20. Appellate Procedure following Denial of License Renewal, Transfer of License, or Location.
- a. If the commission denies an application for the renewal of a dispensary license, the transfer of a license, or the transfer of the location for a license, the licensee may request a hearing before the commission by filing a written request no later than fifteen (15) days from receipt of the notice of denial from the commission.
 - b. The commission shall conduct a hearing no later than sixty (60) days from the receipt of the request for hearing. The commission shall provide notice of the hearing to all interested parties, conduct the hearing, and issue a decision in accordance with the Arkansas Administrative Procedure Act, §25-15-201 et seq.
 - c. The commission's decision may be appealed to the circuit court of the county in which the dispensary is situated or the Pulaski County Circuit Court. Appeals shall be governed by the term of the Arkansas Administrative Procedure Act, §25-15-201 et seq.
21. Hiring of Consultants
- a. The commission may retain the services of a contractor or consultant.
 - i. The selection of any contractor or consultant shall be conducted pursuant to the procurement laws of the State of Arkansas.
 - ii. The recommendations and findings of any contractor or consultant shall not be final and binding unless approved by a majority vote of the commission.

SUMMARY OF SUBSTANTIVE CHANGES

The Medical Marijuana Commission is seeking to amend the existing licensure rules to allow for the previously unselected reserve applications that were deemed denied by operation of law to be considered for selection of the remaining two licenses.

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**RULES GOVERNING THE APPLICATION FOR, ISSUANCE, AND RENEWAL OF
LICENSES FOR MEDICAL MARIJUANA CULTIVATION FACILITIES,
DISPENSARIES, AND PROCESSORS IN ARKANSAS**

**SECTION V.
DISPENSARY**

APPLICATION, LICENSING, & RENEWAL

1. License Required

- a. No person shall operate a medical marijuana dispensary unless the person has a license issued by the commission pursuant to this chapter.
- b. Each license for a dispensary shall specify:
 - i. The name of the individual who holds the license;
 - ii. The address of the individual who holds the license;
 - iii. The effective dates of the license;
 - iv. The address of the licensed facility.

2. Licenses Available

- a. The commission shall issue at least twenty (20), but no more than forty (40), dispensary licenses.
- b. Licenses shall be distributed within eight (8) geographic zones, to assure that dispensaries are available throughout the state. A dispensary license shall only be valid in the geographic zone where it was awarded.
- c. It shall be within the commission's discretion to make licenses available.
- d. When it has been determined that new licenses are available or appropriate, and unless the new license(s) will be selected from the reserve list described in Section V(9)(g)(ii), the commission shall notify the public at large by legal notice that it will be accepting applications for a dispensary license.
- e. The commission will create application pools for dispensary licenses based on the eight (8) identified geographic zones to ensure that dispensaries are distributed equally through the state. A dispensary license will only be valid for the designated zone and cannot be used in another zone.
- f. No individual shall have interest in more than one (1) Arkansas cultivation facility and one (1) Arkansas dispensary.
- g. In accordance with the Arkansas Medical Marijuana Amendment of 2016, there shall be no more than four (4) dispensaries in any one (1) county.

3. Application

- a. An application for a dispensary license shall include both an individual

applicant and an applying entity and they shall apply to the commission on a form and in a manner prescribed by the commission.

- b. Applications will be accepted for the dispensary license beginning ten (10) days after the date of publication of the legal notice by the commission, and no applications will be accepted after ninety (90) days of the publication date, if publication is required.
- c. Information and statements provided in an application shall become conditions of a license if the application is selected, and failure to satisfy the conditions will be cause for revocation or denial of renewal.

4. Minimum Qualifications for Applicant

- a. An applicant for a license under this chapter shall be a natural person that:
 - i. Is twenty-one (21) years of age or older;
 - ii. Is a current resident of the state of Arkansas and has been a resident for seven (7) consecutive years prior to the date of application;
 - iii. Has not previously held a license for a licensed facility that has been revoked;
 - iv. Has no ownership in any other dispensary in the state of Arkansas;
 - v. Has not been convicted of a felony offense;
 - vi. If possessing a professional license, that the license is in good standing; and
 - vii. Has no outstanding tax delinquencies owed to the State of Arkansas or the federal government.
- b. If the applicant is applying on behalf of an entity, in addition to (a) of this Section, the individual applicant:
 - i. Shall be legally authorized to submit an application on behalf of the entity;
 - ii. Shall serve as the primary point of contact with the commission;
 - iii. Shall submit sufficient proof that:
 - 1. The entity has no owner, board member, or officer under the age of twenty-one (21);
 - 2. Sixty percent (60%) of the equity ownership interests in the entity are held by individuals who have been residents of the state for at least seven (7) consecutive years prior to the application date;
 - 3. The entity has no owner, board member, or officer that has previously been an owner of a licensed facility that has had its license revoked;
 - 4. The entity has no owner, board member, or officer that has ownership in any other dispensary in the state of Arkansas;
 - 5. The entity has no owner, board member, or officer that has

- been convicted of a felony offense; and
- 6. If an owner, board member, or officer has or had a professional license, that the license is in good standing; and
- 7. The entity has no owner, board member, or officer that owes delinquent taxes to the State of Arkansas or the federal government.
- c. Applicants shall provide proof of assets or a surety bond in the amount of \$200,000.00 and proof of at least \$100,000.00 in liquid assets.
 - i. If an applicant posts a surety bond, the bond shall be maintained until:
 - 1. An applicant withdraws an application;
 - 2. An applicant's application is denied by the commission;
 - 3. An applicant's one-half application fee has been returned by the Department of Finance and Administration; or
 - 4. An applicant, following selection by the commission for a dispensary license, pays the licensing fee and performance bond required in Section V.10.a. and Section V.10.c.
- d. Applicants shall provide a complete application with responses for each required item.

5. Documentation and Information for Applicant

- a. An individual applicant shall provide the following required information:
 - i. Legal name;
 - ii. Date of birth;
 - iii. Legal residence;
 - iv. Social security number;
 - v. Mailing address or principal residence address if different from the mailing address;
 - vi. Phone number;
 - vii. Email address; and
 - viii. Statement of individual's authority to act on behalf of an entity, if applicable.
- b. The following supporting documents shall be submitted at the time of application:
 - i. To establish legal name an applicant must present at least one (1) of the following source documents:
 - 1. Certified copy of a birth certificate or marriage certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth or marriage;
 - 2. Valid, unexpired U.S. passport or U.S. passport card;

3. Consular report of birth abroad Form FS-240, DS-1350 or FS-545 issued by the U.S. Commission of State;
 4. Valid, unexpired permanent resident card (Form I-551) issued by the Commission of Homeland Security (DHS) or the U.S. Citizenship and Immigration Services (USCIS);
 5. Unexpired employment authorization document issued by the Commission of Homeland Security, Form I-766 or Form I-688B;
 6. Unexpired foreign passport with the following: a valid, unexpired U.S. visa affixed, and an approved I-94 form documenting the applicant's most recent admittance into the United States or a Commission of Homeland Security admittance stamp on the passport;
 7. Certificate of naturalization issued by Commission of Homeland Security, Form N-550 or Form N-570;
 8. Certificate of citizenship, Form N-560 or Form N-561, issued by Commission of Homeland Security;
 9. Court-issued, certified copy of a divorce decree; or
 10. Certified copy of a legal change of name order;
- ii. To establish date of birth an applicant must present at least one (1) of the following source documents:
 1. At least one document included in clauses (1) through (10) of subparagraph (i) of this paragraph; and
 2. A photocopy of the individual's valid, unexpired driver's license or government issued photo identification card.
 - iii. To establish residency in the State of not less than seven (7) years preceding the application, an applicant must present at least one (1) of the following source documents:
 1. Arkansas tax return Form AR1000 for each of the seven years preceding the application without schedules, worksheets, or attachments, and redacted to remove all financial information and all but the last four digits of the individual's social security number;
 2. Evidence of voter registration for the seven years preceding the application;
 3. Ownership, lease, or rental documents for place of primary domicile for the seven (7) years preceding the application;
 4. Billing statements including utility bills for the seven (7) years preceding the application; or
 5. Vehicle registration for the seven (7) years preceding the application.
 - iv. To establish proof of no felony convictions or other disqualifying background information, an individual applicant shall provide consent to a background check, including fingerprinting; and

- v. Individuals applying on behalf of an entity must also provide the following proof:
1. Documentation of the ownership of the entity; and
 2. Documentation demonstrating that sixty percent (60%) of the equity ownership interests in the entity are held by individuals who have been residents of the state of Arkansas for seven (7) years prior to the application. Documentation sufficient to satisfy this requirement shall be the same as required of an individual in subsection (b)(iii);
 3. Board members, and officers are over the age of twenty-one (21). Documentation sufficient to satisfy this requirement shall be the same as required of an individual in subsections (b) and (c); and
 4. Consents for criminal background checks for each owner, board members, and officers of the entity.
- c. Applicants shall provide proof that the proposed location of the dispensary is at least one thousand five hundred (1,500) feet from a public or private school, church, daycare, or facility for individuals with developmental disabilities existing before the date of the dispensary application pursuant to the Arkansas Medical Marijuana Amendment of 2016. The distance specified in this section shall be measured from the primary entrance of the dispensary to the nearest property line point of the school, church, daycare facility, or facility for individuals with developmental disabilities; and
- d. Applicants shall provide proof of authorization to occupy the property for the proposed dispensary. To establish proof the applicant shall provide one of the following:
- i. If the property is owned by the applicant, the applicant shall provide: confirmation of land ownership, identification of any mortgagees and perfected lienholders; and, if applicable, verification of notification to any mortgagees and perfected lien holders that the property is to be used as a medical marijuana dispensary, and consent thereto by any mortgagees and perfected lien holders;
 - ii. If the property is not owned, but is currently leased by the applicant, the applicant shall provide a copy of the lease; confirmation of land ownership, identification of any mortgagees and perfected lienholders; a written statement from the property owner or landlord, certifying consent that the applicant, if awarded a license, may operate a medical marijuana dispensary on the property, and, if applicable, verification of notification to any mortgagees and perfected lien holders that the property is to be used as a medical marijuana dispensary, and consent thereto by any mortgagees and perfected lien holders;
 - iii. If the property is not owned or leased by the applicant, the applicant shall provide: a written statement from the property

owner or landlord certifying consent that the applicant has the option to lease or purchase the property, contingent upon the issuance of a dispensary license; and if applicable, verification of notification by the property owner to any mortgagees and perfected lienholders that the property is to be used for a medical marijuana dispensary, and consent thereto by any mortgagees and perfected lienholders.

- e. If the city, town, or county in which the dispensary would be located has enacted zoning restrictions, applicants shall submit a sworn statement certifying that the dispensary will operate in compliance with the restrictions.
- f. The information and documents shall be submitted in a method prescribed by the commission in the notice of open application.

6. Background Checks

- a. The following are subject to background checks conducted by the commission or its designee in considering an application for a dispensary license:
 - i. The individual applicant;
 - ii. All owners, officers, and board members of an entity seeking to apply for a dispensary license through its designated individual applicant; and
 - iii. Agents of any of the above persons.
- b. Each person undergoing a background check shall provide written consent and all applicable processing fees to the commission or its designee to conduct the background check.

7. Application Fee

- a. Each application for a dispensary license shall include an application fee of \$7,500.00 in cash or certified funds. Any certified check or cashier's check shall be made payable to state of Arkansas, and delivered or mailed by certified mail, return receipt requested, to the address specified in the notice of open application.
- b. In the event an applicant is not successful in his or her application, \$3,750.00 of the initial application fee shall be refunded to the applicant.
- c. An application is not complete and will not be considered unless the application fee is received with the application by the deadline. An unselected application as set forth in Section V(9)(g)(ii) and for which \$3,750.00 was refunded to the applicant, shall be considered a complete application upon payment of an amount equivalent to \$3,750.00 as allowed by these rules.

8. Verification of Application

- a. After receipt of an application, the commission shall verify that the application and supporting documentation is complete, and the information submitted in the application is true and valid.
- b. Applications that meet the requirements of **Section V.4. and V.5** shall be placed into the pool of applicants for further review and selection based on merit. The commission shall notify the applicant in writing that the application was successfully verified.
- c. Applications that do not meet the requirements of **Section V.4. and Section V.5** shall be denied pursuant to **Section V.12**, and the commission shall notify the applicant in writing.

9. Selection Process and Criteria Based on Merit Selection

- a. In addition to documentation establishing minimum qualifications, the applicant shall submit responses to the commission's merit criteria in a form and manner prescribed by the commission. Criterion shall be published with the initial notice of application.
- b. The commission shall consider the following criteria based on merit to evaluate applications verified pursuant to **Section V.8**:
 - i. Ability to operate a business, including, but not limited to education, knowledge, and experience with:
 - 1. Regulated industries;
 - 2. Agriculture or horticulture;
 - 3. Commercial manufacturing;
 - 4. Creating and implementing a business plan, including a timeline for opening a business;
 - 5. Creating and implementing a financial plan;
 - 6. Secure inventory tracking and control;
 - 7. The cultivation and production of marijuana;
 - 8. Owning or managing a business that required twenty-four hour security monitoring;
 - 9. Owning and managing a business that has not had its business license revoked; and
 - 10. Any other experience the applicant considers relevant.
 - ii. Plan for operating a dispensary in compliance with applicable laws and rules and demonstrating planning sufficient to prove the applicant's:
 - 1. Ability to manufacture approved medical marijuana products, each with a consistent cannabinoid profile and each able to pass the required quality control testing as further described in the rules of the Arkansas Department of Health;
 - 2. Ability to produce sufficient quantities of approved medical marijuana products as necessary to meet the needs of individuals with qualifying medical conditions;

3. Ability to comply with the security requirements as described in the rules of the Arkansas Alcoholic Beverage Control Division.
 4. Ability to comply with rules of the Arkansas Department of Health and the Arkansas Alcoholic Beverage Control Division regarding the inventory and tracking of marijuana products;
 5. Ability to comply with the recordkeeping requirements of Arkansas Department of Health and the Arkansas Alcoholic Beverage Control Division;
 6. Ability to maintain effective control against diversion of marijuana and marijuana products;
 7. Ability to comply with requirements for signage, packaging, labeling, and chain of custody of products; and
 8. Ability to comply with all other laws and rules regarding the operation of a medical marijuana dispensary.
- iii. Proof that the applicant is ready, willing, and able to properly carry out the activities of a medical marijuana dispensary, including a plan for operating a medical marijuana dispensary and a timeline for opening the dispensary;
 - iv. Proof of financial stability and access to financial resources, including but not limited to:
 1. Legal sources of finances immediately available to begin operating a dispensary;
 2. Possession of, or the right to use, sufficient real property, and equipment to properly carry on the activity described in the operating plan;
 3. A summary of financial statements in businesses previously or currently owned or operated by the applicant;
 4. A financial plan for operating a medical marijuana dispensary in Arkansas;
 5. Good credit history;
 6. No history of bankruptcy filings by the applicant or entities owned or operated by the applicant for eight (8) years prior to the date of application.
- c. The commission may consider the following criteria based on merit to evaluate applications verified pursuant to **Section V.8:**
 - i. Affiliation with a Medical Doctor, Doctor of Osteopathy, or Doctor of Pharmacy.
 - ii. Proof, if any, that the applicant's proposed dispensary will positively impact the economy and diversity of the area in which the dispensary is to be located.
 1. Economic impact shall be assessed using the Arkansas Economic Development Commission's tier-ranking of

- counties based on the following factors: poverty rate, population growth, per capita personal income, and unemployment rate. Consideration shall be given based on the AEDC's tier ranking of the county of the proposed dispensary as it exists on the date of the application.
2. Factors that may be considered in determining an applicant's impact on the diversity of the area include, but are not limited to, ownership by minority groups, ownership by veterans, and ownership by women.
- iii. Proof, if any, that the applicant's proposed dispensary will provide a benefit to the community in which the facility is to be located. Factors that may be considered include, but are not limited to:
1. Any proposed substance abuse plan to be implemented by the dispensary.
 2. Any proposed compassionate care plan to be implemented by the dispensary.
 3. Any proposed plan for research, education, and promotion of patient and public safety to be implemented by the dispensary.
 4. Local ownership percentage, meaning the percentage of ownership held by Arkansas residents.
- d. Each merit criterion will be worth a number of points announced by the commission in the notice of open application period.
- e. A review panel comprised of members of the Medical Marijuana Commission shall evaluate the applications and award points for each merit criterion. The points shall be totaled for each application and the applications ranked from the highest total score to the lowest total score within each geographic zone. The commission shall notify in writing each of the applicants of their respective score and their respective ranking among all applicants within the applicable geographic zone.
- f. The highest ranking applicants in each zone, equal to the amount of available licenses in each zone, shall have the first opportunity to submit the required license fee and post the performance bond required under these rules for the available licenses. If any applicant fails to pay the fee and post the bond within the required period of time, then their application shall be denied for the appropriate reason under **Section V.12.** of these rules. The commission shall then inform the next highest scoring applicant within the applicable zone, and they shall have the opportunity to submit the required license fee and post the performance bond required under these rules for the available license.
- g. i. The commission shall hold unselected applications in reserve to offer a license to the next highest scoring applicant within a zone if the highest scoring applicant within that zone fails to pay the licensing fee and post the performance bond in accordance with **Section V.10.**
- ii. Unselected applications from the initial application period that were scored and for which the applicant or the

applicant's representative did not request a refund shall remain in reserve until five initial licenses have been awarded in a particular zone.

h. The commission may initiate the selection process for dispensary licenses upon determining that there are not enough dispensaries to supply qualified patients within the state, or upon revocation of any existing license by the Alcoholic Beverage Control Division.

i. If the commission determines that more licenses should be issued within a zone in which no more than four licenses have been awarded, the commission shall offer the opportunity to pay the licensing fee and post the performance bond in accordance with **Section V.10** to the next highest scoring applicant from the applications held in reserve for the zone where the commission has determined a need for the license.

A. The next highest scoring applicant of the unselected applicants shall have seven (7) days from the date of the Commission's written offer to provide the following:

1. A check for the outstanding amount of the original application fee; and

2. An affidavit signed by the original applicant swearing and affirming that the applicant and applying entity continue to meet the requirements of:

a. Section V.4(a) of this Rule;

b. Section V.4(b) of this Rule;

c. Arkansas Const. Amend. 98 §8(g)(2)(C)(i)(a);

and

d. Arkansas Const. Amend. 98 §10(b)(2)

B. If the applicant timely provides the information required in subsection (A), along with meeting the requirements set forth in V.10, the applicant will be awarded the license.

C. If the applicant fails to provide the information required in subsection (A) within seven (7) days of receiving written notice of selection from the commission, the applicant shall not be awarded the license and the Commission shall select the license from next highest scoring unselected application.

i. If the commission must break a tie in scoring among applicants, the following procedure shall be followed:

ii. Applicants with identical scores shall draw a number between one (1) and a number equal to the number of applicants with the identical score. Applicants will then repeat the drawing of numbers in the order determined by the first drawing. The tied applicants will be ranked according to the number pulled from the second drawing. The applicant who draws the number (1) will have the highest rank among the tied applicants.

10.Licensing Fee and Issuance of License

- a. Within seven (7) days of receiving written notice of selection from the commission, the selected applicant for a dispensary license shall submit to the commission a dispensary license fee of \$15,000.00 in cash or certified funds. Any certified or cashier's check shall be made payable to the State of Arkansas.
- b. If the licensing fee is not timely paid, the selected applicant will be disqualified, and the commission shall select the next highest scoring applicant within that particular zone.
- c. Within seven (7) days of receiving written notice of selection from the commission, the selected applicant shall submit to the commission a performance bond in the amount of \$100,000.00. The bond shall be maintained until the dispensary files its first application for renewal of the license.
- d. If the performance bond is not timely posted, the selected applicant will be disqualified, and the commission shall select the next highest scoring applicant within that particular zone.
- e. A license that is initially issued between Jan. 1 and July 1 may have the licensing fee prorated up to 50 percent of the total fee as determined by the commission.
- f. Upon issuance of a dispensary license, and following inspection required by Alcoholic Beverage Control Division Rules , the dispensary licensee may begin operations.
- g. The dispensary licensee shall visibly post a copy of its license at the dispensary covered under the license.

11. Term

- a. A license shall expire on June 30 of each calendar year and is renewable on or before June 30 of each calendar year for the fiscal year beginning July 1, unless the license is:
 - i. Suspended or revoked by the Department of Finance and Administration – Alcoholic Beverage Control Division;
 - ii. Surrendered by the dispensary licensee; or
 - iii. Replaced by a temporary license.

12. Denial of Application for or Renewal of a License

- a. The commission may deny an application for or renewal of a license for any of the following reasons:
 - i. Failure to provide the information required in these rules;
 - ii. Failure to meet the requirements set forth in these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division;
 - iii. Provision of misleading, incorrect, false, or fraudulent information;
 - iv. Failure to pay all applicable fees as required;
 - v. Failure to post performance bond, if required, naming the state as a secured party;
 - vi. An applicant has a background history that indicates the

- b. A licensee may not sell, transfer, or otherwise dispose of his or her license to another individual without approval from the commission.
- c. A licensee may only sell, transfer or otherwise dispose of her license to a natural person.
- d. An entity that holds a license through its individual agent shall not make any modification to the entity's ownership, board members, or officers as designated in the initial application without approval from the commission.
- e. A licensee's failure to obtain approval from the commission before engaging in ownership changes described in (b) and (c) above shall result in the commission's revocation of that license.
- f. In order to obtain approval to transfer ownership of a license or of an entity that holds a license by its individual agent, principals in ownership, board members, or officers, the licensee shall submit to the commission an application for license transferal on a form and in a manner prescribed by the commission.
- g. If the commission denies an application for transfer of license, the commission shall provide written notice by certified mail or personal delivery to the licensee. The notice shall provide an explanation for the denial of the application. The licensee may request a hearing before the Commission pursuant to **Section V.20.b.** of this Rule.

18. Transfer of Location

- a. A Dispensary license shall only be valid at the location for which it was originally issued by the commission.
- b. A licensee shall not re-locate a dispensary without prior approval by the commission.
- c. In order to obtain approval to transfer a dispensary license to another location, a licensee shall submit the following to the commission:
 - i. An application for license transferal on a form and in a manner prescribed by the commission;
 - ii. Proof that the proposed location of the dispensary is at least one-thousand five-hundred (1,500) feet from a public or private school, church, or daycare existing before the date of the dispensary application for transfer pursuant to the Arkansas Medical Marijuana Amendment of 2016. The distance specified in this section shall be measured by the distance between the primary entrance of the cultivation facility to the nearest property line point of the school, church, or daycare facility; and
 - iii. Copies of any changes to the criteria set forth in **Section V.9.b.ii.** of these Rules if any changes were necessary due to the change of location..
- d. If the Commission denies an application for transfer of location, the commission shall provide written notice by certified mail or personal delivery to the licensee. The notice shall provide an explanation for the

consultant shall not be final and binding unless approved by a majority vote of the commission.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Finance & Administration

DIVISION Medical Marijuana Commission

PERSON COMPLETING THIS STATEMENT Doralee Chandler

TELEPHONE 501-682-2916 **FAX** 501-682-2221 **EMAIL:** Doralee.Chandler@dfa.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS
RULE**

Licensure of Medical Marijuana Dispensaries

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☒ No ☐
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

(b) The reason for adoption of the more costly rule;

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following: N/A

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ 118,750

Next Fiscal Year

\$ 22,500

The refunded application fee of \$3,750 will need to be paid along with the license fee and the requirement of \$100,000 performance bond for the first year. The license fee and renewal fee for a dispensary is \$22,500.00

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes X (first
year only) No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.