

**BUREAU OF MEDICAL CANNABIS REGULATION**

**PRE-REGULATORY MEETING**

**GENERAL LICENSING REQUIREMENTS—MEETING SUMMARY**

**SACRAMENTO**

**September 20, 2016**

**Topic 1: Owners and financial interest; Definition of “owner”**

**BMCR Thoughts: Owners shall be defined as individuals with financial interests as follows:**

- 1. Sole Proprietor: Includes investors, persons that provide monetary gifts, persons that provide loans, consultants.**
- 2. Partnership: Individuals with 5% as a general partner, 10% as a limited partner.**
- 3. Spouses and registered domestic partners.**
- 4. Corporation: Stockholders with greater than or equal to 5% of stock, directors and officers with greater than or equal to 5% of stock.**
- 5. Trust: All trustees, and any individual with greater than or equal to 10% ownership interest.**
- 6. Limited Liability Company: All managers, members with greater than or equal to 10% ownership interest.**
- 7. Joint Venture: All individuals entitled to receive income or benefit from joint venture.**
- 8. Landlord: Landlord entitled to receive greater than or equal to 40% of proceeds.**

**COMMENTS:**

- The percentage of proceeds/landlord issue is confusing.
- 5% or 10% threshold is sufficient to establish ownership.
- Spouses and domestic partners should not be considered.
- Landlords should not be allowed to rent premises for a percentage of profit.
- Threshold should be higher for privately held corporations. Recommend 20-30%.
- Threshold should be set for loans and gifts or it should be eliminated.
- Non-resident owners should not be allowed.
- The method of how 40% of the proceeds are calculated needs to be clarified.
- Consultants should not be considered owners.
- The handout is wrong because LLCs can be taxed as a corporation or a partnership. This raises a threshold issue because an LLC can be a stock corporation or it can be made up of partners who have a financial interest.
- Investors won't want to be listed, so requiring investors to be “applicants” would result in less investment into businesses.
- Nonprofits don't have owners with financial interest, so will it be the boards that are considered “owners”? “You can't background check the board.”
- 40% volume of business by landlords is too big.
- Apply same criteria that are used for Walgreens.
- Usual 5-10%, suggest 5% or x dollars, whichever is higher or lower. Proposed action is

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<p>reasonable.</p> <ul style="list-style-type: none"> <li>• There should be some areas carved out specifically for small businesses.</li> <li>• Concerns about privacy/safety.</li> </ul>
<p><b>QUESTIONS:</b></p> <ul style="list-style-type: none"> <li>• How will large investment companies (e.g., pension funds, CalPERS) be treated?</li> <li>• Why a 40% cutoff for landlord and 5% for others?</li> <li>• Who to qualify for LLC?</li> <li>• How far back to get a person to qualify?</li> <li>• What constitutes ownership control? If on payroll?</li> <li>• Will there be a cap on the amount of licenses given?</li> </ul>
<p><b>Main Themes:</b></p> <ul style="list-style-type: none"> <li>• Landlords should not be allowed to receive profits. Should have to set a standard rental rate.</li> <li>• The threshold for ownership should be a higher percentage.</li> <li>• Consultants, spouses and domestic partners should not be considered owners.</li> <li>• Fairness and equality across all ownership forms.</li> </ul>

**Topic 2: Applicant Background Checks; Rehabilitation**

**BMCR Thoughts:**

1. **Only owners will be required to have background checks.**
2. **Review the following factors when considering the qualifications of an individual with a criminal history:**
  - a. **Nature and severity of the act or offense under consideration as grounds for denial.**
  - b. **Evidence of any act committed subsequent to the act or offense under consideration as grounds for denial.**
  - c. **Time that has elapsed since the commission of the act or crime:**
    - i. **Set number of years**
    - ii. **Case-by-case**
  - d. **Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.**
  - e. **Total criminal record.**
  - f. **Certificates of rehabilitation or other similar documents from other states.**

<p><b>COMMENTS:</b></p> <ul style="list-style-type: none"> <li>• Violent criminals should not be doing deliveries.</li> <li>• Owners and capital partners need background checks to prevent monopolies.</li> <li>• Cannabis felons should have a clean slate.</li> <li>• Violent felonies should be scrutinized.</li> <li>• Case-by-case basis is good.</li> <li>• Employees should receive background checks.</li> <li>• Only owners should have background checks.</li> <li>• Industry felons should be fast-tracked through the background check.</li> <li>• Misdemeanors should not be considered.</li> <li>• Should be a three-year sunset clause on felonies.</li> </ul>
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- Checks shouldn't be different than for liquor licenses or other licenses (not more stringent).
- Nonviolent cannabis-related offenders shouldn't be punished.
- Regulations should be written to reflect license-specific requirements regarding rehabilitation.
- There needs to be clear criteria regarding background checks so you know whether you should apply.
- Probably run checks on key employees or designated manager. Like gambling?
- Will there be penalties for owners who don't do background checks on employees if a problem arises?
- Shouldn't have to have background check to distribute medicine to patient.
- Cannabis-related offenses should not hurt your chances of being approved for a license.
- Owners should be able to decide to background check their employees themselves. The state should not require the background checks.
- Certification: Owners do certification of appropriate licenses of employees.
- Fraudulent crimes should be looked at during the background check.
- Need guidelines for rehabilitation checks for Appeal Section.
- Should be case-by-case in appeals only.
- Factors for consideration: How are related crimes weighed?

**QUESTIONS:**

- If one person has a problem background, can you shed them and keep the application active?
- Process for revoking license?
- Will there be a provisional license?
- Who is required to pay for the background check? The applicant or the state?
- Will the background check cost be part of the application fee?
- What kind of background check will the state require?
- What is the background check looking for exactly?

**MAIN THEMES:**

- Should be case-by-case.
- Violent felons should be scrutinized.

**Topic 3: Priority for Application Review**

**BMCR Thoughts: Define a business' first date of operation as the first date it began conducting commercial cannabis activity. Determine good standing through a certified document on official letterhead from the local government affirmatively authorizing the proposed commercial cannabis activity that the individual is applying for that is signed by an authorized employee of the local jurisdiction. All applications that meet both of the criteria above will be reviewed in order of receipt.**

**COMMENTS:**

- California residents should get priority.
- City of Sacramento would like the Bureau's thoughts on best practices for permit form.
- Many local authorities do not provide "official" approval of cannabis businesses; rather they just look the other way and permit them to conduct business.
- The following types of documents which could be provided to demonstrate date of operation for priority purposes: articles of incorporation; proof of business insurance with date; sales receipts; collective/cooperative membership agreement with date.

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- Applicant should have to be in compliance with all agencies for good standing.
- A template should be created for local jurisdictions to verify good standing.
- Many businesses did not keep certain records because there was no regulatory scheme and were concerned about federal illegality.
- Different records should be considered for proof of date of operations.
- Bureau of Equalization and Proposition 215 records should be required to demonstrate good standing.
- If an applicant can demonstrate they intended to be in compliance and were in substantial compliance that should be considered good standing.
- Having a permit or license should be proof of good standing.
- Tax certificate of good standing should be required.
- The state should mandate the local jurisdictions provide a list of who is operating and in good standing.
- Concerns about how to prove when business started.
- Huge concerns because transporters have no prior licenses.
- It will be difficult for transportation and distribution to provide evidence that they were in operation on a certain date and that they had local authority to conduct business.
- There should be a strong cap on the number of big out-of-state corporations or investors.

**QUESTIONS:**

- How can you prove “good standing” in a county without permits?
- Does “good standing” mean that an applicant is in compliance with all agencies or does it mean they have a license?
- Define authorization.
- In county where obtained Business License?
- Date formed?
- Corporate paperwork?
- Website considered as authority?
- Show what is required for Business License or Other Licenses?

**MAIN THEMES:**

- Flexibility in demonstrating good standing.
- Multiple documents/records should be considered for demonstrating the date operations began.

**Topic 4: Local Approval**

**BMCR Thoughts: Define “other authorization” as a certified document on official letterhead from the local government affirmatively authorizing the proposed commercial cannabis activity that the individual is applying for that is signed by an authorized employee of the local jurisdiction.**

**COMMENTS:**

- Should create a state board to review local requirements and set a baseline for good standing.
- State should mandate what local authority provides.
- State should create a template letter for local authority to use.
- If there was an ordinance and a business was operating that should be proof that they were authorized.

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- Transporters with no paperwork - Obtain letter on letterhead from County.
- Show what is required/business license or other licenses.
- Huge concerns because transporters have no prior licenses.
- What would act as prior license/authorization?
- With trucks – is a Motor Carrier Report required?

**QUESTIONS:**

- Does business license and fire marshal okay equal “other authorization”?
- Should Secretary of State documents be part of the application to show you’re in good standing with the state?

**MAIN THEMES:**

- Flexibility in determining “other authorization.”
- State should create a template for local jurisdictions to use.

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