

BUREAU OF MEDICAL CANNABIS REGULATION

PRE-REGULATORY MEETING

GENERAL LICENSING REQUIREMENTS—MEETING SUMMARY

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September 22, 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:

- Going too deep into who is an owner will limit venture capitalists from investing.
- Good idea to go deeply into who is an owner because large corporations with multiple interests should be limited.
- On handout, there is a difference between LLCs and other corporations, which doesn't make sense.
- Don't include consultants as owners.
- Making the landlord percentage high is good because it allows for alternative ways of operating.
- Differentiate between owners and those who get background checks.
- Getting to the ultimate owner (natural persons) is a good idea because it will prevent organized crime from investing in businesses.
- Owner should be defined as the person or persons who are responsible for the entity and accountable for the license.
- There should be a California residency requirement.
- Applicants should be at least 21 years old.
- Board of Directors should be considered “Owners”
- A “holding” company should be permitted to hold more than two licensees.
- Landlord percentage of profits for owner definition should be around 5-10%.
- A spouse's criminal background should not be a disqualifying event.
- The Bureau should stay consistent with “owner” definition used by other state agencies.
- The ownership interest structure should be made so that it keeps out/discourages “big

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business.”
<p>QUESTIONS:</p> <ul style="list-style-type: none"> • Why the difference between landlords and traditional investors? • Will there be a residency requirement? • Will there be limits on the number of companies a person can have a financial interest in? • Why would spouses be included? • How will the Bureau catch a transfer of title? • What will license enforcement look like? • How will the Bureau catch bad actors?
<p>MAIN THEMES:</p> <ul style="list-style-type: none"> • Landlords should not be allowed to receive profits. Should have to set a standard rental rate. • The threshold for ownership should be a higher percentage. • Consultants, spouses and domestic partners should not be considered owners. • Fairness and equality across all ownership forms.

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>COMMENTS:</p> <ul style="list-style-type: none"> • Don't discriminate against cannabis offenders. • Discriminate between cannabis offenses and other drug offenses. • Look into plea bargains (i.e., look at original charge). • Allow for a way for applicant to explain past. • Looking back 10 years is too long. • Set a time for how far you look back into a criminal history. • This is a chance to redress the iniquity of the War on Drugs. • Looking back 20 years is too long. • Differentiate between a "greedy opportunist" like a smuggler and an addict with an eightball. • Activities now being permitted that were formerly crimes shouldn't be considered bad. • Need some discretion left to BMCR, so create list of factors to look at.

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- A person is already “rehabilitated” if they were let out of prison, so they should be eligible for license.
- Don’t look at misdemeanors.
- People convicted of cannabis-related crimes should get priority.
- What if one investor messes up? Is the whole license at risk?
- Nonviolent civil disobedience should not be considered bad.
- Bright-line rules are better so that BMCR staff cannot deviate and the public is on notice.
- Let the industry decide on whether they want to background check their employees.
- Request that the state be flexible in the type of background check that is required.
- 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.
- White collar crimes and crimes involving fraud should be looked at during the background check.
- Violent and non-violent crimes should be treated differently.
- Crimes against children should be treated differently by the Bureau.
- Repeat offenders should be investigated.
- Disqualifying criminal past should include possession/sale of non-cannabis controlled substances (meth, cocaine, etc.).
- DQ for crimes of “moral turpitude.”
- Should look at past 5-7 years or 7-10 year periods.
- Case-by-case is a good idea.
- Should consider having a job or being in school as evidence of rehabilitation.
- “Substantially related” should be related to trustworthiness, protection of the public and the moral ability to act responsibly.
- Misdemeanors should not be considered at all.

QUESTIONS:

- What crimes should be disqualifying?
- Will there be an appeals process for a negative finding?

MAIN THEMES:

- Violent crimes, crimes against children and white collar crimes (moral turpitude) such as those involving fraud should be heavily scrutinized.
- Flexibility in the evaluation and case-by-case is a good method.

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.

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COMMENTS:

- California citizens 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; and collective/cooperative membership agreement with date.
- 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 operation.
- Board 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.
- Tax documents (1099) or receipts for sales can be used to prove the date operation started.
- Articles of incorporation could be used.
- Date of registration with Secretary of State could be used.
- Date of receipt of business tax ID number could be used.
- BOE sales tax remittance could be used.
- Dated photo of business in operation could be used.
- Dated lease agreement could be used.
- Business should have to prove that they are in total compliance with all rules at the time of operation before being given priority.
- Collectives may have some difficulty in proving that they were in business on a certain date.
- Collectives may be able to provide evidence of membership in a collective.
- Date seller's permit was obtained should be date operations began.
- Bureau should accept testimony/affidavits from people the applicant has done business with to prove when they were first operating.
- For proof of good standing could be a city document that the business is properly operating in the approved zoned region of the city for that activity.
- Many growers may have back unpaid taxes.
- For "good standing," a business should be required to supply a Cal OSHA IIPP form showing they are in compliance with all work place safety rules and regulations.

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?
- Will back taxes be a part of good standing?

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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:

- Carry over type of activity done in 2016; don’t allow change in activity (e.g., dispensary to distributor).
- Opposite of above.
- Moving counties/cities should be okay.
- In localities with no ban but no permit, BMCR should give locals a form to fill out to prove “good standing.”
- Affidavit regarding the date of operation should be enough. [Multiple commenters]
- Allow a copy of a lease to establish date of operation.
- Allow for affidavits regarding date of operation. [Multiple commenters]
- Bureaucrats at the local level won’t want to sign anything.
- Allow for electric bills and other documents to be used to establish date of operation.
- Allow for changes in type of business (e.g., dispensary to distributor)
- Proof of local approval should include a city document stating that the business is properly operating in the approved zoned region of the city for that activity.
- The state should keep a database that the Bureau can access for “date of operation” and “good standing” when processing a license.
- Processing of license should be done in regional offices so that there is not a backlog in Sacramento.

MAIN THEMES:

- There should be clear guidance on what counts as “other authorization.”
- A template form that the local jurisdictions can use should be provided by the Bureau.

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