

TYPES NOT MAPPED YET July 29, 2019 | TTR not mapped yet | Kevin J. Young

What's new for medical cannabis facilities after the Cannabis Regulation and Tax Act

On June 25, 2019, Illinois Governor J.B. Pritzker signed into law the [Illinois Cannabis Regulation and Tax Act](#) ("CRTA"), making recreational cannabis use legal for adults 21 and older. Additionally, the CRTA addresses the following topics relevant to facilities currently operating under Illinois' 2013 [Compassionate Use of Medical Cannabis Pilot Program Act](#) (the "MCPPA"):

- Early approval and secondary site applications for medical dispensaries;
- Early approval applications for medical cultivation centers; and
- The impact of the social equity component of CRTA on medical facilities.

Medical dispensaries

Existing medical cannabis dispensaries in good standing under the MCPPA as of the Effective Date of the CRTA - June 25, 2019 - may apply for an Early Approval Adult Use Dispensing Organization License ("Early Approval Dispensing License") which allows such dispensaries to sell cannabis for adult-use in the existing facility. Applications may be filed within 60 days of the Effective Date of the CRTA. Applications that comply with the below-listed requirements will receive an Early Approval Dispensing License within 14 days of the State's receipt of the completed application. Applications must include:

- Payment of non-refundable \$30,000 fee;
- Proof of good standing as a registered medical cannabis dispensary;
- Certification that applicant will comply with requirements of MCPPA;
- Legal name and physical address of dispensing organization;
- Certain personal information of each principal officer and board member;
- Payment of a Cannabis Business Development fee equal to the lesser of 3% of applicant's total sales between June 1, 2018, and June 1, 2019, or \$100,000; and
- Identification of one of the listed social equity inclusion plans to be completed by March 31, 2021.

Applicants that fail to meet one of the above-listed requirements will receive a deficiency order, for which the applicant will have 10 calendar days to cure the deficiency and resubmit the application. Early Approval Dispensing Licenses are valid until March 31, 2021, by which time facilities must complete a renewal application.

In addition to Early Approval Dispensing Licenses, existing medical cannabis dispensaries may apply for licenses for a second adult-use-only facility. Unlike the Early Approval Dispensing License for existing facilities, applications for secondary sites are not required to be submitted within 60 days. Application requirements are the same as those listed above, except for the following additional requirements:

- A copy of the current local zoning ordinance sections relevant to dispensary operations and documentation of approval;

- A plot plan of the dispensary drawn to scale;
- A statement that the dispensing organization agrees to respond to the State's supplemental requests for information;
- Confirmation of ownership of the building or land to be used as the proposed dispensary or written certification from the property owner consenting to the operation of a dispensary on the premises;
- A copy of the proposed operating bylaws, proposed business plans, proposed security plan, and inventory control plan; and
- A \$200,000 payment to the Cannabis Business Development Fund in lieu of the \$100,000 or 3% payment required for existing medical facilities.

The State will release applications for secondary sites within 60 days of the Effective Date. Applicants for secondary sites will be required to submit proof that they have filed a zoning approval application. The State will award licenses for secondary sites based on a lottery including all applicants that submitted a complete application.

Medical cultivation centers

Like medical dispensaries, existing medical cultivation centers will receive priority in the application for Early Approval Adult Use Cultivation Center Licenses ("Early Approval Cultivation License"). Applications may be filed any time between 60 and 180 days after the Effective Date. Those approved for Early Approval Cultivation Licenses may begin sales on December 1, 2019. The application requirements are the same as for an Early Approval Dispensing License, except the application fee is \$100,000, instead of \$30,000, and the contribution to the Cannabis Business Development fund is the lesser of 5% of total sales between June 1, 2018, and June 1, 2019, or \$750,000.

Applicants receiving an Early Approval Cultivation License must produce an adequate supply of cannabis for medical purchasers and if there is a shortage, purchasers of medical cannabis must be prioritized. Early Approval Cultivation Licenses are valid until March 31, 2021, by which time facilities must complete a renewal application.

Social equity component

As noted above, the CRTA has a social equity component which intends to reduce the barriers to ownership of cannabis business licenses. The program provides license application benefits and financial assistance to certain individuals. Additionally, existing medical dispensaries or cultivation centers seeking an early approval license must commit to completing one of the following Social Equity Inclusion Plans:

1. Contribution of the lesser of 5% (or, in the case of dispensaries, 3%) of total sales from June 1, 2018, to June 1, 2019, or \$100,000 to either:
 - The Cannabis Business Development Fund (in addition to any other fees required to be paid to the Cannabis Business development Fund);
 - A cannabis industry training or education program at an Illinois community college; or
 - A program that provides job training to those recently incarcerated or that operates in a Disproportionately Impacted Area (as defined in the CRTA);
2. Participate as a host in a cannabis business incubator program for at least one year and provide mentorship and a loan of at least \$100,000 to a licensee which qualifies as a Social Equity Applicant.

In addition to the above two options, holders of Early Approval Dispensing Licenses have the option of participating in a sponsorship program for at least two years in which the licensee provides an interest-free loan of at least \$200,000 to a Social Equity Applicant.

Additional rules and regulations

The Illinois Department of Agriculture will finish administrative rules no later than January 1, 2020, and publish those rules by January 7, 2020. These rules will, *inter alia*, develop a system to score applications for subsequent licenses to be issued. Separately, the Illinois General Assembly has passed SB 2023, which aims to stabilize and make permanent the state's medical cannabis program. Among the changes that SB 2023 will bring upon the governor's signing includes the addition of 11 new qualifying conditions for medical marijuana patients.



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