

MEDICAL MARIJUANA DRAFT REGULATIONS SELECTION/LICENSING PROCESS

DISPENSARIES

1. License Required

- a. No person or entity 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 date of the license;~~
 - ~~iv. The congressional district for which the dispensary is licensed;~~
 - 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
 - ~~v. —~~

2. Licenses Available

- a. The commission shall issue at least twenty (20), but no more than forty (40), dispensary licenses.
- b. License shall be distributed within congressional districts, to assure that dispensaries are available throughout the state. A dispensary license shall only be valid in the congressional district where it was awarded. [to be amended based on final determination by MMC for geographic distribution of licenses]
- c. It shall be within the commission's discretion to make licenses available.
- d. The commission shall establish an open application period for available licenses. The commission will create application pools for dispensary licenses based on congressional districts as existed at the time of rule implementation to ensure that dispensaries are distributed equally through the state. A dispensary license will only be valid for the designated congressional district and cannot be used in another district.
- ~~e.~~ No individual shall have interest in more than one (1) cultivation facility and one (1) dispensary.
- ~~e.f.~~ 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.
- ~~a.b.~~ The applicant shall indicate whether the proposed dispensary will or will not elect to cultivate medical marijuana as allowed by the Arkansas Medical Marijuana Amendment of 2016.
- ~~b.c.~~ Applications will then be accepted for the ~~cultivation facility~~ dispensary license beginning ten (10) days after the date of publication, and no applications will be accepted after ninety (90) days of the publication date.

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~~e.d.~~ 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 an individual 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 cultivation facility or dispensary that has been revoked;
 - iv. Has no ownership in any other dispensary in the state of Arkansas; ~~and~~
 - v. Has not been convicted of an excluded 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.
- b. If the applicant is applying on behalf of an entity, in addition to (a) of this Section, the individual
 - 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 the entity:
 1. Has no owner, board member, or officer under the age of twenty-one (21);
 2. Has ownership composed of at least sixty percent (60%) residents of the state of Arkansas and have been residents of the state for at least seven (7) consecutive years prior to the application date;
 3. Has no owner, board member, or officer that has previously been an owner of a dispensary or cultivation facility that has had its license revoked;
 4. Has no owner, board member, or officer that has ownership in any other dispensary in the state of Arkansas; ~~and~~
 5. Has no owner, board member, or officer that has been convicted of an excluded 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
 - ~~5.7.~~ Has no owner, board member, or officer that owes delinquent taxes to the State of Arkansas.

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

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- 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

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5. Vehicle registration for the seven (7) years preceding the application.
 - iv. To establish proof of no excluded 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 entity's ownership have been individuals 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 subsections (d);
 3. Documentation proving that each of the entity's owners, 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 owners, board members, and officers of the entity.
- 4-c. [Per 1/17 meeting: Proof of assets qualifier or bond requirement for dispensaries electing to cultivate?]
- e-d. 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 a 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. Required Attachments to Application
 - a. Each applicant electing to cultivate medical marijuana on the premises of the dispensary shall provide the following information in the form and manner prescribed by the Commission:
 - i. Applicant's 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;

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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. Affiliation with a Medical Doctor, Doctor of Osteopathy, or Doctor of Pharmacy.
 - iii. Plan for operating a cultivating dispensary in compliance with applicable laws and regulations 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 _____;
 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 of _____.
 4. Ability to comply with regulations contained in _____ regarding the inventory and tracking of marijuana products;
 5. Ability to comply with the recordkeeping requirements of _____;
 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;
 8. Ability to comply with the situs requirement of being located 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 pursuant to the Arkansas Medical Marijuana Amendment of 2016. The distance specified in this section shall be measured by nearest property line point of the dispensary to the nearest property line point of the school, church, or daycare facility; and
 9. Ability to comply with all other laws and regulations regarding the operation of a medical marijuana dispensary.
 - iv. 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;
 - v. 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;

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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 by the applicant or entities owned or operated by the applicant.
- b. Each applicant for a non-cultivating dispensary shall provide the following information in the form and manner prescribed by the Commission:
- i. Applicant's education, knowledge, and experience with:
 1. Regulated industries;
 2. Creating and implementing a business plan, including a timeline for opening a business;
 3. Creating and implementing a financial plan;
 4. Secure inventory tracking and control;
 5. Owning or managing a business that required twenty-four hour security monitoring;
 6. Owning and managing a business that has not had its business license revoked; and
 7. Any other experience the applicant considers relevant.
 - ii. Affiliation with a Medical Doctor, Doctor of Osteopathy, or Doctor of Pharmacy.
 - iii. Plan for operating a dispensary in compliance with applicable laws and regulations and demonstrating planning sufficient to prove the applicant's:
 1. Ability to comply with the security requirements of _____.
 2. Ability to comply with regulations contained in _____ regarding the inventory and tracking of marijuana products;
 3. Ability to comply with the recordkeeping requirements of _____;
 4. Ability to maintain effective control against diversion of marijuana and marijuana products;
 5. Ability to comply with requirements for signage, packaging, labeling, and chain of custody of products;
 6. Ability to comply with the situs requirement of being located 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 pursuant to the Arkansas Medical Marijuana Amendment of 2016. The distance specified in this section shall be measured by nearest property line point of the dispensary to the nearest property line point of the school, church, or daycare facility; and
 7. Ability to comply with all other laws and regulations regarding the operation of a medical marijuana dispensary.
 - iv. 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;

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v. 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 by the applicant or entities owned or operated by the applicant.

7.8. Application Fee

- a. Each application for a dispensary license shall include ~~an a non-refundable for one-half refundable if not successful~~ application fee of \$7,500.00 ~~by in 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.
- ~~a.~~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.
- ~~b.~~c. An application is not complete and will not be considered unless the application fee is ~~timely~~ received ~~by the commission with the application by the deadline.~~

8.9. 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, ~~and meets the requirements of Section 4.~~
- b. Applications that meet the requirements of **Section 4**, and that have submitted the documentation required by Sections 5, 6, and 7, shall be placed into the pool of applicants for further review and selection as described in **Section 910**, and the commission shall notify the applicant in writing.
- ~~b.~~c. Applications that meet the requirements of Section 4, but lack the documentation required by Section 7 shall be returned to the Applicant. The applicant may resubmit the application until deadline established in Section 10(b).
- ~~e.~~d. Applications that do not meet the requirements of **Section 4** shall be denied pursuant to **Section 12-13** and the commission shall notify the applicant in writing.

9.10. Selection Process

- a. When it has been determined that new applications are appropriate, the division shall notify the public at large by legal notice that it will be accepting applications for a particular ~~congressional district~~ [insert final determination for geographic division].
- b. Applications will then be accepted beginning ten (10) days after the date of publication, and no applications will be accepted after ninety (90) days of the publication date.
- c. All applications received will then be processed in accordance with **Section 8-9** and

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set for a commission meeting. The commission meeting shall not be earlier than one hundred fifty (150) days after the publication of the legal notice specified in subsection (b) of this section, nor later than one hundred eighty (180) days after publication.

- d. No later than fifteen (15) days prior to the hearing, each applicant for a new permit or his or her agent will be allowed to draw a number between one (1) and a number equal to the number of applicants having filed. The drawing will be conducted by the Director/Chairperson of the commission. Position numbers may not be assigned or transferred.
- e. The commission shall issue a written notice of selection to the drawn dispensary license applicants within ten (10) days of the selection. The commission shall hear applications for the specified area in the order determined by the lottery draw until the designated number of licenses have been issued for the area.
- f. The commission shall prepare and issue an order following each hearing. Each order shall contain a review of the evidence offered, findings of fact, and the conclusions of law supporting the commission's decision to approve or deny a license.
- g. Each approval for a dispensary license shall be conditioned upon the payment of the license fee defined Section 11.
- h. The denial of any application for a dispensary license may be appealed pursuant to Section 20 of these rules.
- e.i. The commission may initiate the selection process in any of the [insert final geographic divisions] upon determining that qualified patients in the [area] do not have adequate access to medical marijuana.

10.11. Licensing Fee and Issuance of License

- a. Within seven (7) days of receiving written notice of selection from the commission, the selected applicant that has elected to cultivate medical marijuana shall submit to the commission a dispensary license fee of \$ _____ \$25,000.00 by in certified funds. Any certified or cashier's check shall be made payable to: the State of Arkansas.
- a.b. Within seven (7) days of receiving written notice of selection from the commission, the selected applicant that has not elected to cultivate medical marijuana shall submit to the commission a dispensary license fee of \$ _____ \$2,500.00 by in certified funds. Any certified or cashier's check shall be made payable to: the State of Arkansas.
- b.c. Within seven (7) days of receiving written notice of selection from the commission, the selected applicant shall submit any documentation prescribed by the commission.
- e.d. If the application fee is not timely paid, the selected applicant will be disqualified, and the commission shall select the next highest scoring applicant within the segregated group of applications in accordance with Section 9 conduct a hearing for the next available applicant as determined by the selection process in Section 10 of these rules.
- e.e. Upon issuance of a dispensary license, the dispensary licensee may begin operations.

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~~e.f.~~ The dispensary licensee shall visibly post a copy of its license at the dispensary covered under the license.

~~11.12.~~ Term

- a. A license shall be valid for one (1) year from the date issued unless the license is:
 - i. Suspended or revoked by the ~~commission~~Department of Finance and Administration – Alcoholic Beverage Control Division; or
 - ii. Surrendered by the dispensary licensee.

~~12.13.~~ 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 this chapter;
 - ii. Failure to meet the requirements set forth in this chapter, [other medical marijuana chapters];
 - iii. Provision of misleading, incorrect, false, or fraudulent information;
 - iv. Failure to pay all applicable fees as required;
 - ~~v.~~Failure to be selected by the process described in Section 9;
 - ~~vi.~~v. 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.~~vi. Any other ground that serves the purpose of this chapter or [other medical marijuana chapters]
- 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.
- c. A person aggrieved by a decision made pursuant to this section may appeal in accordance with this chapter.

~~13.14.~~ 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 (if required to register with same);
 - iii. Continues to be in good standing with the Arkansas Department of Finance and Administration; and
 - iv. Continues to meet all the requirements of this chapter and [other medical marijuana chapters].
- 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 of this chapter and [other medical marijuana chapters].
- c. After receiving written notice from the commission that its renewal application has been approved, the dispensary licensee that cultivates medical marijuana shall pay the annual renewal fee of \$ ~~_____~~ \$32,500.00 in certified funds. ~~Any by-~~ certified or cashier's check shall be payable to the State of Arkansas.

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e.d. After receiving written notice from the commission that its renewal application has been approved, the dispensary licensee that does not cultivate medical marijuana shall pay the annual renewal fee of \$10,000.00 in certified funds. Any certified or cashier's check shall be payable to the State of Arkansas.

~~d.e.~~ 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 ~~[tender all marijuana and manufactured marijuana products in the dispensary licensee's possession to the ADH/ASP for destruction~~ 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]. ~~pursuant to this chapter.~~

14.15. 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 manufactured marijuana products in the dispensary licensee's possession to the ADH/ASP for destruction~~ 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
 - ~~iv.iii.~~ iii. 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.

15.16. 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 too, 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; and

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v. The permanent closure of the business.

vi. Any other change that may affect the licensee's qualification for licensure.

~~b.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 pursuant to Rule _____.

~~16.~~17. License Restrictions

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

~~17.~~18. Transfer of License

a. Licenses shall only be effective for the individuals and entities 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. 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.

d. A licensee's failure to obtain approval from the commission before engaging in ownership changes described in (b) and (c) above shall result in commission's revocation of that license.

e. 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.

f. 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 20.b of this Rule.

19. 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; and

ii. The criteria set forth in Section 7(a)(iii) or Section 7(b)(iii) of these Rules, depending on whether or not the dispensary is a cultivating dispensary.

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 18.b of these Rules.

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20. Appellate Procedure following Denial of Application for License, Renewal, Transfer of License, or Location.

a. Denial of Application for License

i. If the Commission denies an application for a dispensary license, the Commission's decision may be appealed to the circuit court of the county in which the cultivation facility is situated or the Pulaski County Circuit Court. Appeals shall be governed by the terms of the Arkansas Administrative Procedure Act, §25-15-201 et seq.

b. Denial of Application for Renewal of License, Transfer of License or Transfer of Location

i. If the Commission denies an application for the renewal of a cultivation facility 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.

ii. 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.

e-iii. The Commission's decision may be appealed to the circuit court of the county in which the cultivation facility is situated or the Pulaski County Circuit Court. Appeals shall be governed by the terms of the Arkansas Administrative Procedure Act, §25-15-201 et seq.

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