



MMCC Diversity Regulations

On September 27, 2018, the Maryland Medical Cannabis Commission voted and unanimously approved emergency regulations to increase diversity among medical cannabis businesses in the State.

A background and summary of the new diversity provisions is included below. For questions related to the diversity regulations or the forthcoming applications, please email applications.mmcc@maryland.gov.

Introduction

Effective May 15, 2018, Health-General Article, §13-3305.2 requires the MMCC to:

1. Evaluate a study of the medical cannabis industry to determine whether there is a compelling interest to implement remedial measures (e.g. race-conscious),
2. Evaluate race-neutral programs to address the needs of minority and women applicants, and,
3. Submit emergency regulations based on the findings of the study.

Diversity Regulations Timeline

- **April 2017** – Governor Hogan orders a study to determine whether minorities face a disadvantage in the State’s medical cannabis industry
- **January 2018** – Disparity study finds clear and unequivocal evidence that minority participants are disadvantaged in the State’s medical cannabis industry
- **May 15, 2018** – Governor Hogan signs House Bill 2, an emergency measure, and thereby establishes the statutory requirements of Health-General §13-3305.2
- **April – August 2018** – MMCC, in collaboration with MDOT, GOSBA, and the OAG, develops race-neutral and race-conscious measures to address the needs of minority and women applicants

Regulatory Proposal

The MMCC regulations establish that applicants be ranked based on a 100 point weighted scale according to specific application criteria, including 15 points for “additional factors.” The emergency regulations allocate the 15 points previously designated for “additional factors” to new race-neutral and race-conscious provisions aimed at addressing the needs of minority and women applicants. A summary of the revised proposal is as follows:

- The 15 points are divided among 3 provisions (diversity plan, disadvantaged equity applicant, and economically disadvantaged areas);

- Up to **5 points** for submitting a comprehensive plan for developing diversity among owners, investors, employees, and contractors. Diversity in this provision includes race, ethnicity, gender, veterans, individuals with disabilities, and socioeconomic diversity.
- **5 points** for the applicant demonstrating that owners, investors, employees, and/or contractors for the applicant live in economically disadvantaged areas of the state, as identified by the MMCC. Similar to the Dept. of Commerce “enterprise zones” the economically disadvantaged areas are determined by economic factors such as unemployment rate and median income.
- Up to **5 points** for an applicant having:
 - Ownership interests held by disadvantaged equity applicants, as identified by the MMCC, or
 - Made good faith efforts to obtain at least 51% ownership by disadvantaged equity applicants, as identified by the MMCC.

Detailed Breakdown for Disadvantaged Equity Applicants

- **3 points** for an applicant who demonstrates that at least 51 percent of its ownership interest is held by one or more individuals who are disadvantaged equity applicants, which means the individual(s) are (1) African-American, American Indian/Native American, Asian, Hispanic or Women), and (2) qualify under the personal net worth cap;
- **1 point** for an applicant who demonstrates that between 25 and 50 percent of its ownership is held by one or more individuals who (1) are among the most disadvantaged groups in the medical cannabis industry, and (2) qualify under the personal net worth cap; and
- **2 points** for an applicant who demonstrates that at least 51 percent of its ownership interest is held by one or more individuals who (1) are among the most disadvantaged groups in the medical cannabis industry, as determined by the MMCC, and (2) qualify under the personal net worth cap.