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Registered Marijuana Dispensary Application Process
Frequently Asked Questions
Updated January 2018

Question Categories

- [Submitting an Application](#)
- [Fees](#)
- [Application Review](#)
- [Requirements for Non-Profits](#)
- [Background Checks](#)
- [Financing](#)
- [Board of Directors](#)
- [Application of Intent](#)
- [Management and Operations Profile](#)
- [Siting Profile](#)
- [Miscellaneous](#)

Submitting an Application

Q: Is there a residency requirement to participate in the Registered Marijuana Dispensary (“RMD”) application process?

A: There is no residency requirement for RMD applicants. However, only a domestic entity registered to do business in Massachusetts may apply to become an RMD.

Q: Is it possible to apply for a certificate of registration to only dispense, only cultivate, or only process marijuana for medical use?

A: No. An RMD is responsible for dispensing, cultivating, and processing marijuana for medical use.

Q: If I am submitting multiple applications and I have already submitted a certain document to the Department with a previous application, do I need to submit a copy of it with my second or third application?

A: If the application instructions require that document to be provided, yes, the applicant must provide a copy of that document, even if the applicant submitted it with a previous application. Each application must be complete.

Q: Where can I find the blank application forms?

A: Blank application forms are posted online at www.mass.gov/medicalmarijuana.

Q: When is the deadline to submit an *Application of Intent*?

A: Applications are accepted on a rolling basis by the Department of Public Health (Department). Effective June 29, 2015 applications will be accepted and there is no deadline to submit an *Application of Intent*.

Q: Where do I submit an application?

A: Application forms may be mailed or hand-delivered to:

Department of Public Health
Bureau of Health Care Safety and Quality
Medical Use of Marijuana Program
RMD Applications
99 Chauncy Street, 11th Floor
Boston, MA 02111

Q: How do I start the application process?

A: To start the application process, submit an *Application of Intent*. All Registered Marijuana Dispensary (RMD) application materials are posted online at www.mass.gov/medicalmarijuana.

Q: Is there a limit to the number of applications I can submit?

A: An applicant may apply for up to 3 certificates of registration. No executive, member, or any entity owned or controlled by such an executive or member may directly or indirectly control more than 3 RMDs.

Q: Can I submit all of the application forms for an RMD at the same time?

A: No. Each form must be submitted separately, in the following order:

- 1) *Application of Intent*;
- 2) *Management and Operations Profile*;*;
- 3) *Siting Profile*.*

*An applicant may not submit a *Management and Operations Profile* until it is invited to do so by the Department after reviewing its *Application of Intent*. Similarly, an applicant may not submit a *Siting Profile* until it is invited to do so by the Department after reviewing its *Management and Operations Profile*.

Fees

Q: Are there fees associated with the application?

A: The fees associated with the applications are as follows:

<i>Application of Intent</i>	\$1,500
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<i>Management and Operations Profile</i>	\$30,000
<i>Siting Profile</i>	No additional fee

Q: Are application fees refundable?

A: No. Application fees are non-refundable.

Q: If submitting more than one *Application of Intent*, is the applicant required to submit separate checks of \$1,500 for each *Application of Intent*, or may the payment be combined (e.g., one \$4,500 check for three *Applications of Intent*)?

A: When submitting more than one *Application of Intent* or *Management and Operations Profile*, please submit a separate check for each submitted application.

Q: May a portion of the \$500,000 initial capital requirement be used for the application fees?

A: Yes.

Application Review

Q: How many RMDs does the Department plan to approve?

A: At this time, the Department is not limiting the number of Registered Marijuana Dispensaries that will be approved, as long as the applicants demonstrate compliance with the Humanitarian Medical Use of Marijuana Act, Ch. 369 of the Acts of 2012 (the “Act”), and its implementing regulations, 105 CMR 725.000, et seq. (“Regulations”), application instructions and the Department guidances identified in the instructions.

Q: In what order are applications reviewed?

A: Applications are accepted on a rolling basis. Reviews begin in order by the date the application is received by the Department.

Q: How are applications reviewed?

A: Applications are reviewed to determine if they comply with the Act and Regulations. Applications are not given a numerical score, but instead permitted to proceed if found compliant. If not found compliant, the Department will communicate with the applicant regarding issues of non-compliance and permit the applicant to address them.

Q: How long will the application review process take?

A: Similar to the Department's processing of health facility licensure applications, the amount of time it will take to process an application will depend upon the accuracy and completeness of the application as well as the volume of applications in queue.

Q: Are there deadlines associated with the application process?

A: Yes. To proceed in the applications process, the applicant must demonstrate compliance with the Act and the Regulations, and:

- An applicant must submit a *Management and Operations Profile* 45 days after receipt of the invitation letter;
- An applicant must receive an invitation to submit a *Siting Profile* within 1 year after submitting a *Management and Operations Profile*;
- An applicant must receive a Provisional Certificate of Registration within 1 year of the date of the invitation letter to submit a *Siting Profile*.

Requirements for Non-Profits

Q: Who does the Department consider "independent" for the purpose of issuing an independent legal opinion on an agreement's compliance with the Guidance for Registered Marijuana Dispensaries Regarding Non-Profit Compliance ("Guidance") (<http://www.mass.gov/eohhs/docs/dph/quality/medical-marijuana/applications/non-profit-compliance-guidance.pdf>)?

A: An attorney is considered independent if they do not have a pre-existing relationship with any of the contracting parties, other than issuing independent legal opinions regarding compliance with the Guidance. If an attorney that is not considered independent is employed by a law firm, another attorney in the same law firm would also not be deemed sufficiently independent.

Q: What information must be included in an independent legal opinion?

A: An independent legal opinion must include a detailed analysis or explanation of the basis of the opinion and the conclusion of the opinion.

Q: How do I show non-profit compliance?

A: Please read the *“Guidance for Registered Marijuana Dispensaries Regarding Non-Profit Compliance”* for policies related to RMD non-profit compliance. This document is posted at www.mass.gov/medicalmarijuana.

Q: In the *Guidance for Registered Marijuana Dispensaries Regarding Non-Profit Compliance* (“Guidance”), the Department states that “revenue-sharing” is inconsistent with the Guidance. What does “revenue-sharing” include?

A: The Department interprets “revenue-sharing” as arrangements under which a capital contributor, supplier or contractor provides financing, supplies, equipment or services in return for a share of the RMD’s revenue, and where the RMD has not demonstrated that (i) the arrangement is in the best interests of the nonprofit corporation, and (ii) the terms are commercially reasonable and consistent with fair market value for the financing, supplies, equipment or services being provided. Such arrangements are not consistent with the Guidance that an RMD “must ensure that revenue of the RMD is used solely in furtherance of its nonprofit purpose.”

Background Checks

Q: If an individual had a background check within 12 months from the last application period, do you need to perform another background check at this time?

A: All required individuals or entities must undergo a background check before a Provisional Certificate of Registration is granted to the applicant corporation. Background checks are valid for 1 year. If a background check has expired, a new background check must be performed.

Q: What background checks will be conducted?

A: Please read the *“Guidance for Registered Marijuana Dispensaries Regarding Background Checks”* for information on the types of background checks and how

background check information will be evaluated. This document is posted at www.mass.gov/medicalmarijuana.

Q: What type of background check information will disqualify a candidate?

A: Please read the *“Guidance for Registered Marijuana Dispensaries Regarding Background Checks”* for information on the types of background checks and how background check information will be evaluated. This document is posted at www.mass.gov/medicalmarijuana.

Q: Will background checks be required for staff and board members of already registered RMDs that seek additional licenses, so long as they have been performed in the last 12 months?

A: All required individuals or entities must undergo a background check before a Provisional Certificate of Registration is granted to the applicant corporation. Background checks are valid for 1 year. If a background check has expired, a new background check must be performed.

Q: Are background check fees refundable?

A: No. All background check fees and application fees are non-refundable.

Q: If an applicant has a member on its team that is deemed to be unsuitable by the Department will the entire application be denied?

A: No. If an individual associated with a proposed RMD is deemed “unsuitable,” the RMD may elect to remove that individual from the application and submit another individual for the proposed role during the application process. That individual would also be subject to a background check.

Q: What if background check information regarding an individual identified in the application changes during the application process (e.g., someone is arrested)?

A: All background check issues need to be resolved before the RMD receives a Provisional Certificate of Registration.

Q: May an applicant choose its own vendor to conduct background checks?

A: The Background Investigator has been selected by the Department for performing the Application Process background checks. RMDs will take the responsibility for completing and reviewing the requisite background checks for all individuals or entities associated with the RMD once it enters the Inspection Phase.

When RMDs are conducting the background check, the Background Investigator used must be an investigative firm holding the National Association of Professional Background Screeners (NAPBS®) Background Screening Credentialing Council (BSCC) accreditation and capable of performing the searches outlined in “*Guidance for Registered Marijuana Dispensaries Regarding Background Checks*”. This guidance document is posted at www.mass.gov/medicalmarijuana.

Q: If I am invited to submit a *Management and Operations Profile* or *Siting Profile*, does that mean that all of the Background Checks of my team members are complete?

A: No. Receiving an invitation to submit a *Management and Operations Profile* or *Siting Profile* does not indicate that team members have passed the Department’s background check process. Background checks continue throughout the application process. If an issue does arise, the applicant will be notified and the issue must be resolved before the RMD may be eligible to receive a Provisional Certificate of Registration. Please refer to the “*Guidance for Registered Marijuana Dispensaries Regarding Background Checks*” for further information. This document is posted at www.mass.gov/medicalmarijuana.

Q: Can the Department tell me whether a certain individual on my team would pass a background check if I gave you details about their history?

A: No. The Department cannot pre-approve or disapprove individuals prior to the application process. Utilizing the information provided in the “*Guidance for Registered Marijuana Dispensaries Regarding Background Checks*,” the applicant should make a determination as to how it wishes to proceed.

Q: If a team member holds multiple roles within the proposed RMD, do we need to submit multiple background check authorization forms and Character and Competency forms for that individual?

A: No. Only one background check authorization packet and Character and Competency form needs to be submitted for each required individual, even if that individual holds multiple roles within the RMD.

Financing

Q: How do I determine whether an individual or entity is contributing 5% or more of initial capital to operate a proposed RMD?

A: An individual or entity is considered to be contributing 5% or more of initial capital to operate the proposed RMD if they are contributing the following amounts based on the number of applications an applicant corporation submits to the Department:

- Applicant corporation submits 1 RMD application - \$25,000 or more
- Applicant corporation submits 2 RMD applications - \$45,000 or more
- Applicant corporation submits 3 RMD applications - \$65,000 or more

Q: If an applicant secures an additional capital contributor after submitting a *Management and Operations Profile*, what do they need to do?

A: If, after submitting a *Management and Operations Profile*, an applicant secures an additional capital contributor who is contributing 5% or more of initial capital to operate the proposed RMD, the applicant must submit a Character and Competency form, background check authorization forms, and background check fee to the Department for the new capital contributor.

Q: If the applicant replaces one capital contributor for another after submitting an *Application of Intent*, what do they need to do?

A: If the applicant replaces a capital contributor that was used to demonstrate the required initial capital in its *Application of Intent*, the applicant must resubmit the table in Section D of the *Application of Intent* and the financial account summary for the new contributor. The financial account summary must be dated no earlier than 30 days before the applicant submitted the new capital information to the Department. When submitting its *Management and Operations Profile* the applicant must submit a Character and Competency form, background check authorization forms, and background check fee to the Department for the new capital contributor.

Q: How much capital is an applicant required to show in the *Application of Intent*?

A: When submitting an *Application of Intent*, an applicant must demonstrate that it has at least \$500,000 in its control and available for initial capital. If the applicant is submitting more than one *Application of Intent*, it must demonstrate that it has an

additional \$400,000 in its control and available for each additional application. An applicant may apply for up to 3 certificates of registration.

Q: Are there any restrictions on the type of account in which the required initial capital may be held?

A: Yes. Accounts where funds are not readily available for use by the applicant corporation as required by 105 CMR 725.100(B)(1)(b) cannot be used.

Q: Do the parties listed on Section D of the *Application of Intent* need to be the same parties that are listed on Section F of the *Management and Operations Profile*?

A: Section D of the *Application of Intent* requires the applicant to demonstrate that it has access to and control over the initial capital. Section F of the *Management and Operations Profile* requires the applicant to list the individuals or entities that are contributors of that capital. The applicant will know best whether there is any overlap between any individual or entity indicated in Section D of the *Application of Intent* and any individual or entity indicated in Section F of the *Management and Operations Profile*.

Board of Directors

Q: If invited to submit a *Management and Operations Profile*, is it permissible to modify the Board of Directors?

A: Yes. As long as the applicant informs the Department in writing and submits to the Department a Character and Competency form, background check authorization forms, and fee for any person or entity that has become a member of the Board of Directors after the applicant submitted its *Application of Intent*.

Application of Intent

Q: Do you need to have someone assigned to each role mentioned in the instructions in the *Application of Intent*?

A: Yes.

Q: Do you need to propose a location in the *Application of Intent*?

A: No. Information regarding the proposed location(s) of the RMD is submitted with the *Siting Profile*.

Management and Operations Profile

Q: If initial capital, demonstrated during the *Application of Intent*, is being held in a joint account, is it acceptable to have one individual with signatory authority submit a Character and Competency form and background check authorization forms when submitting the *Management and Operations Profile*?

A: If 5% or more of initial capital to operate the proposed RMD is being held in a jointly held account, both account holders are considered capital contributors for the purpose of the “Guidance for Registered Marijuana Dispensaries Regarding Background Checks” and both account holders must submit a Character and Competency Form and background check authorization forms.

Q: Do you need to have someone assigned to each role mentioned in the instructions in the *Application of Intent* and *Management and Operations Profile*?

A: Yes.

Q: Our executive management team includes additional individuals that are not specifically mentioned in the Character and Competency form. Should a Character and Competency form be submitted for these individuals as well?

A: No. Only submit Character and Competency forms for the required individuals indicated in the Character and Competency Form instructions.

Siting Profile

Q: If I have received a Provisional Certificate of Registration, when submitting a *Siting Profile* for another proposed RMD that would use the same cultivation and processing location, must I submit a letter of support or non-opposition signed by the local municipality for that site?

A: Yes, in this situation the applicant would be proposing an intensification of its existing cultivation and processing facility that currently serves either one or two retail dispensary sites, so that it will serve an additional retail dispensary site. The host municipality for the cultivation and processing facility should be made aware of the proposed change and indicate their support or non-opposition to it.

Q: Should an agreement, such as a lease arrangement, authorize the seizure of any property on the premises under certain circumstances, how should the seizure of marijuana for medical use be handled?

A: Sometimes a lease calls for the Lessor, under certain circumstances, to seize the leased premises and any property therein. Only those authorized to possess marijuana for medical use pursuant to Ch. 369 of the Acts of 2012 and its implementing regulations, 105 CMR 725.000, et seq., are permitted to possess regulated assets, such as marijuana and marijuana-infused products, without being subject to law enforcement action. When submitting evidence of interest in a property, a lease must safeguard regulated assets from seizure by the Lessor or other parties unauthorized to possess them.

Q: May a municipality rescind a letter of support or non-opposition?

A: Yes. A municipality may rescind its letter of support or non-opposition for the applicant prior to the issuance of a Provisional Certificate of Registration. Applicants are encouraged to continue local engagement on an ongoing basis.

Q: May the municipality in which I am seeking to operate an RMD submit a letter of support or non-opposition directly to the Department before I submit my *Siting Profile*?

A: No. Letters of support or non-opposition must be submitted with the applicant's *Siting Profile*. Letters of support or non-opposition submitted to the Department before an applicant submits its *Siting Profile* will not be considered as a letter of support or non-opposition.

Q: Section E references a projected start date for the First Fiscal Year. When does the First Fiscal Year begin?

A: The start date for the proposed RMD's fiscal year is determined by the applicant corporation.

Q: Would a binding option to lease qualify as evidence of interest in property?

A: Yes, a binding option to lease would qualify as evidence of interest in property. If the binding option to lease takes the form of a letter, the letter must be countersigned (signed by both the lessee and the lessor).

Q: In the *Siting Profile*, may an applicant identify more than one property for cultivation, dispensing and processing?

A: In the *Siting Profile* an applicant must only identify one property for dispensing and one property for the additional location, if any, where marijuana for medical use will be cultivated or processed.

Q: What is the time frame for submitting the *Siting Profile*?

A: To provide applicants with flexibility to work with their host communities, the Department has not set a deadline for submitting the *Siting Profile*. Applicants should consider the instruction in the application forms. Applicants must receive a Provisional Certificate of Registration from the Department within one year of the date of the invitation letter from DPH to submit a *Siting Profile*.

Q: Section E of the *Siting Profile* references the projected date the RMD plans to open. Does “open” refer to the completion of the inspection phase, approval to grow, approval to sell, or another milestone?

A: The “projected date the RMD plans to open” refers to the first day that the RMD would be open to sell products.

Q: Can I apply to locate an RMD in a town, city, or county that already has an RMD located in it?

A: Yes. The applicant must provide a letter of support or non-opposition from the municipality where it intends to locate its RMD.

Q: What if I can't get a letter of support or non-opposition?

A: When submitting a *Siting Profile*, the applicant must submit a letter of support or non-opposition from the municipality where it intends to locate its RMD. If the applicant cannot obtain a letter of support or non-opposition from the municipality, the applicant may elect to seek a site in a different municipality.

Q: When should we plan to purchase property?

A: The Department cannot make recommendations regarding the timing of acquiring a property interest in a location.

Q: Can I change locations after submitting a *Siting Profile*?

A: Yes. If an applicant changes the location of its proposed RMD after submitting a *Siting Profile*, but before receiving a Provisional Certificate of Registration, it must submit a new *Siting Profile* in order to proceed in the application process. Note that an applicant must receive a Provisional Certificate of Registration within one year of the date of the invitation letter from DPH to submit a *Siting Profile*. If it does not, the applicant must restart the application process.

If a registrant changes the location of its RMD after receiving a Provisional Certificate of Registration, the registrant will need to submit a Change of Location Application and submit the \$10,000 fee.

Q: What are the acceptable methods of notifying the chief administrative officer and the chief of police of the proposed city or town in which the RMD would be sited, as well as the sheriff of the applicable county, regarding the intent to submit a *Management and Operations Profile* and a *Siting Profile*? How does the Department wish these interactions to be documented?

A: The applicant must decide what method to use to notify these parties, but applicants may wish to consider notifying in writing with a return receipt to avoid any dispute over compliance with this requirement. When completing the *Siting Profile*, the applicant must attest that the corporation has notified the chief administrative officer and the chief of police of the proposed city or town in which the RMD would be sited. Additionally, applicants must notify the sheriff of the applicable county, of the intent to submit a *Management and Operations Profile* and a *Siting Profile*.

Q: Are there any limits on the number of RMDs that may be located in a particular county?

A: No. At this time, the Department is not limiting the number of RMDs that will be approved in a particular county. Applicants must, however, submit the requisite letters of support or non-opposition from the local municipalities in which the applicants intend to locate their RMDs.

Q: When submitting a letter of support or non-opposition, does the Department give more value to one letter over the other?

A: No.

Q: If the applicant locates its proposed RMD within a zoning district that allows RMDs, is this enough proof of municipal support or non-opposition?

A: No. The applicant must still submit a letter of support or non-opposition from the municipality in which the applicant intends to locate its RMD.

Miscellaneous

Q: How does the Department determine whether an individual or entity directly or indirectly controls more than 3 RMDs pursuant to 105 CMR 725.100(A)(2)?

A: 105 CMR 725.100(A)(2) states that, “No executive, member, or entity owned or controlled by such executive or member, may directly or indirectly control more than three RMDs.” Under the Regulations, an “executive” is “the chair of a board of directors, chief executive officer, executive director, president, senior director, other officer, and any other executive leader of a RMD.” If an individual or entity appears to be affiliated with more than three RMDs, or proposed RMDs, as an executive or member, the Department may request a copy of the agreement(s) between applicant corporation(s) and the individual or entity in order to determine whether the individual or entity directly or indirectly controls more than three RMDs. Please note that the Regulations place the restriction on owning or controlling “more than three RMDs,” not three corporations.

Q: If a required individual or entity leaves or joins an applicant corporation after the corporation submits an *Application of Intent*, must the applicant corporation notify the Department, and if so, how?

A: Yes, an applicant corporation must notify the Department whenever a required individual or entity leaves or joins the corporation. An applicant corporation may do so by sending a letter explaining the change and updating its application as it pertains to all questions regarding the change in the person or entity filling the role in question. A Character and Competency form, background check authorization forms, and background check fee must be submitted for any new individual or entity.

Q: How do I find the character limits in the application forms in Adobe .pdf?

A: Before completing the application forms in Adobe .pdf, please save the forms from the Medical Use of Marijuana Program website to your computer and complete them off-line using Adobe Acrobat or Adobe Reader. This will allow you to view the character limits in the response fields by hovering over the response field with your computer's mouse.

Q: Do any application forms or attachments need to be notarized?

A: The following background checks authorization forms need to be notarized:

- 1) Release & Authorization Form; and
- 2) CORI Acknowledgement Form.

No other application forms or attachments need to be notarized.

Q: Does the Department have a preference for assignment of signing authority for the applications (e.g., CEO or the president of the Board of Directors)?

A: No. It is up to the applicant to decide who to designate as an authorized signatory (or signatories).

Q: 105 CMR 725.100(A)(2) states that "No executive, member, or any entity owned or controlled by such executive or member, may directly or indirectly control more than three RMDs." Is it acceptable to form a consulting group that could serve as a consultant to more than three RMDs?

A: The Regulations state that "[n]o executive, member, or any entity owned or controlled by such executive or member, may directly or indirectly control more than three RMDs." An executive or corporate member of an RMD may not, through a

consulting group or other entity that he or she owns or controls, directly or indirectly control more than three RMDs, but may provide services to RMDs, as long as the circumstances clearly demonstrate the consulting group has no decision-making power in the RMD.

Q: If an applicant receives a Certificate of Registration to operate more than one RMD, may each dispensary site operate its own cultivation site?

A: 105 CMR 725.100(A)(4) states that a “An RMD may not have more than two locations in Massachusetts at which marijuana is cultivated, MIPs are prepared, and marijuana is dispensed. Each of these activities may occur at only one such location, which may be either the RMD’s principal place of business or one Department-approved alternate location in Massachusetts, but not both.”

Under this provision, each RMD may only therefore have, at most, 1 retail operation and 1 remote cultivation location and must decide in which of those 2 locations it wishes to process MIPs.

A corporation may have 3 RMDs, each of which may have a retail dispensary and a remote cultivation facility. A corporation with multiple retail dispensaries may utilize one remote cultivation facility for its dispensaries or it may have one remote cultivation location per dispensary. The corporation may not, however, violate the Regulations by allowing one of its RMDs to cultivate marijuana in more than one remote facility. Therefore, if a corporation with multiple RMDs chooses to have multiple cultivation locations as well, it must ensure that it does so in a manner that does not violate 105 CMR 725.100(A)(4).