

MEDICAL MARIHUANA FACILITIES LICENSING ACT (EXCERPT)
Act 281 of 2016
PART 4. LICENSING

333.27401 Licensure; application; background investigation; consent to inspections, examinations, searches, and seizures; disclosure of confidential records; interest in other state operating license; fee; additional costs; notification to municipality.

Sec. 401.

(1) A person may apply to the marijuana regulatory agency for state operating licenses in the categories of class A, B, or C grower; processor; provisioning center; secure transporter; and safety compliance facility as provided in this act. The application shall be made under oath on a form provided by the marijuana regulatory agency and shall contain information as prescribed by the marijuana regulatory agency, including, but not limited to, all of the following:

(a) The name, business address, business telephone number, Social Security number, and, if applicable, federal tax identification number of the applicant.

(b) The identity of every person having a 2.5% or greater ownership interest in the applicant with respect to which the license is sought. If the disclosed entity is a trust, the application shall disclose the names and addresses of the beneficiaries; if a privately held corporation, the names and addresses of all shareholders, officers, and directors; if a publicly held corporation, the names and addresses of all shareholders holding a direct or indirect interest of greater than 5%, officers, and directors; if a partnership or limited liability partnership, the names and addresses of all partners; if a limited partnership or limited liability limited partnership, the names of all partners, both general and limited; or if a limited liability company, the names and addresses of all members and managers.

(c) An identification of any business that is directly or indirectly involved in the growing, processing, testing, transporting, or sale of marihuana, including, if applicable, the state of incorporation or registration, in which an applicant or, if the applicant is an individual, the applicant's spouse, parent, or child has any equity interest. If an applicant is a corporation, partnership, or other business entity, the applicant shall identify any other corporation, partnership, or other business entity that is directly or indirectly involved in the growing, processing, testing, transporting, or sale of marihuana in which it has any equity interest, including, if applicable, the state of incorporation or registration. An applicant may comply with this subdivision by filing a copy of the applicant's registration with the Securities and Exchange Commission if the registration contains the information required by this subdivision.

(d) Whether an applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled-substance-related misdemeanor, not including traffic violations, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.

(e) Whether an applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.

(f) Whether an applicant has filed, or been served with, a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state, or local law, including the amount, type of tax, taxing agency, and time periods involved.

(g) A statement listing the names and titles of all public officials or officers of any unit of government, and the spouses, parents, and children of those public officials or officers, who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of or hold any debt instrument issued by, or hold or have any interest in any contractual or service relationship with an applicant. As used in this subdivision, public official or officer does not include a person who would have to be listed solely because of his or her state or federal military service.

(h) A description of the type of marihuana facility; anticipated or actual number of employees; and projected or actual gross receipts.

(i) Financial information in the manner and form prescribed by the marijuana regulatory agency.

(j) A paper copy or electronic posting website reference for the ordinance or zoning restriction that the municipality adopted to authorize or restrict operation of 1 or more marihuana facilities in the municipality.

(k) A copy of the notice informing the municipality by registered mail that the applicant has applied for a license

under this act. The applicant shall also certify that it has delivered the notice to the municipality or will do so by 10 days after the date the applicant submits the application for a license to the marijuana regulatory agency.

(1) Any other information the department requires by rule.

(2) The marijuana regulatory agency shall use information provided on the application as a basis to conduct a thorough background investigation on the applicant. A false application is cause for the marijuana regulatory agency to deny a license. The marijuana regulatory agency shall not consider an incomplete application but shall, within a reasonable time, return the application to the applicant with notification of the deficiency and instructions for submitting a corrected application. Information the marijuana regulatory agency obtains from the background investigation is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) An applicant must provide written consent to the inspections, examinations, searches, and seizures provided for in section 303(1)(c)(i) to (iv) and to disclosure to the marijuana regulatory agency and its agents of otherwise confidential records, including tax records held by any federal, state, or local agency, or credit bureau or financial institution, while applying for or holding a license. Information the marijuana regulatory agency receives under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) An applicant must certify that the applicant does not have an interest in any other state operating license that is prohibited under this act.

(5) A nonrefundable application fee must be paid at the time of filing to defray the costs associated with the background investigation conducted by the marijuana regulatory agency. The marijuana regulatory agency shall set the amount of the application fee for each category and class of license by rule. If the costs of the investigation and processing the application exceed the application fee, the applicant shall pay the additional amount to the marijuana regulatory agency. All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the marijuana regulatory agency in the course of its review or investigation of an application for a license under this act shall be disclosed only in accordance with this act. The information, records, interviews, reports, statements, memoranda, or other data are not admissible as evidence or discoverable in any action of any kind in any court or before any tribunal, board, agency, or person, except for any action considered necessary by the marijuana regulatory agency.

(6) By 10 days after the date the applicant submits an application to the marijuana regulatory agency, the applicant shall notify the municipality by registered mail that it has applied for a license under this act.

History: 2016, Act 281, Eff. Dec. 20, 2016 ;-- Am. 2018, Act 582, Eff. Jan. 1, 2019 ;-- Am. 2020, Act 207, Imd. Eff. Oct. 15, 2020

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27402 License; issuance; ineligibility; circumstances; other considerations granting license; fingerprint processing fee; criminal history check; requirements applicable to fingerprints; definitions; review of application; informing applicant of decision; issuance; duration; renewal; notice; expiration; consent to inspections; examinations, searches, and seizures; information required to be provided by applicant.

Sec. 402.

(1) The marijuana regulatory agency shall issue a license to an applicant if all of the following conditions are met:

(a) The applicant submits a complete application.

(b) The applicant pays both the nonrefundable application fee required under section 401(5) and the regulatory assessment established by the marijuana regulatory agency for the first year of operation.

(c) The marijuana regulatory agency determines that the applicant is qualified to receive a license under this act.

(2) An applicant is ineligible to receive a license if any of the following circumstances exist:

(a) The applicant has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years. This subdivision does not apply to a felony for the manufacture, processing, or distribution of marihuana, or possession with the intent to manufacture, process, or distribute marihuana, unless the felony involved the distribution of marihuana to a minor.

(b) Within the past 5 years the applicant has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state. This subdivision does not apply to a misdemeanor or ordinance violation for the possession or use of marihuana.

(c) The applicant has knowingly submitted an application for a license under this act that contains false information.

(d) The applicant is an employee of the marijuana regulatory agency.

(e) The applicant fails to demonstrate the applicant's ability to maintain adequate premises liability and casualty insurance for its proposed marihuana facility.

(f) The applicant holds an elective office of a governmental unit of this state, another state, or the federal government. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

(g) The applicant is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government, or is employed by a governmental unit of this state. This subdivision does not apply to any of the following:

(i) An elected officer of or employee of a federally recognized Indian tribe.

(ii) An elected precinct delegate.

(iii) The spouse of a person who applies for a state operating license unless the spouse's position creates a conflict of interest or is within any of the following:

(A) The marijuana regulatory agency.

(B) A regulatory body of a governmental unit in this state, another state, or the federal government that makes decisions regarding medical marihuana.

(h) The marijuana regulatory agency determines that the applicant is not in compliance with section 205(1).

(i) The marijuana regulatory agency determines that the applicant is not in compliance with section 408.

(j) The applicant fails to meet other criteria established by rule.

(3) In determining whether to grant a license to an applicant, the marijuana regulatory agency may also consider all of the following:

(a) The business probity; financial ability and experience; and responsibility or means to operate or maintain a marihuana facility of the applicant and of any other person that meets either of the following:

(i) Controls, directly or indirectly, the applicant.

(ii) Is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant.

(b) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.

(c) The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility.

(d) Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, or reversed on appeal or otherwise. This subdivision does not apply to a criminal offense for the possession, use, manufacture, processing, or distribution of marihuana, or possession with the intent to manufacture, process, or distribute marihuana, unless the felony involved the distribution of marihuana to a minor.

(e) Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past 7 years.

(f) Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years.

(g) Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction.

(h) Whether at the time of application the applicant is a defendant in litigation involving its business practices.

(i) Whether the applicant meets other standards in rules applicable to the license category.

(4) Each applicant shall ensure that 1 set of fingerprints is submitted to the department of state police. The applicant shall submit with its application the applicant's written consent to the criminal history check described in this section and the submission of the applicant's fingerprints to, and the inclusion of the applicant's fingerprints in, the state and federal database systems described in subsection (7).

(5) The fingerprints required under subsection (4) may be taken by a law enforcement agency or any other person determined by the department of state police to be qualified to take fingerprints. The applicant shall submit a fingerprint processing fee to the department in an amount required under section 3 of 1935 PA 120, MCL 28.273, and any costs imposed by the Federal Bureau of Investigation.

(6) The department of state police shall do all of the following:

(a) Conduct a criminal history check on each applicant and request the Federal Bureau of Investigation to make a determination of the existence of any national criminal history pertaining to each applicant.

(b) Provide the marijuana regulatory agency with a written report containing the criminal history record

information of each applicant.

(7) All of the following apply concerning fingerprints submitted to the department of state police under this section:

(a) The department of state police shall store and retain all fingerprints submitted under this section in an automated fingerprint identification system database that searches against latent fingerprints, and provides for an automatic notification when a subsequent fingerprint is submitted into the system that matches a fingerprint previously submitted under this section or when the criminal history of an individual whose fingerprints are retained in the system is updated. Upon receiving a notification, the department of state police shall immediately notify the marijuana regulatory agency. Information in the database maintained under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(b) The department of state police shall forward all fingerprints submitted to it under this section to the Federal Bureau of Investigation for submission of those fingerprints into the FBI automatic notification system. This subdivision does not apply until the department of state police is a participant in the FBI automatic notification system. As used in this subdivision:

(i) "Automatic notification system" means a system that stores and retains fingerprints, and that provides for an automatic notification to a participant if and when a fingerprint is submitted into the system that matches an individual whose fingerprints are retained in the system or if and when the criminal history of an individual whose fingerprints are retained in the system is updated.

(ii) "FBI automatic notification system" means the automatic notification system that is maintained by the Federal Bureau of Investigation.

(8) The marijuana regulatory agency shall review all applications for licenses and shall inform each applicant of the marijuana regulatory agency's decision.

(9) A license shall be issued for a 1-year period and is renewable annually. Except as otherwise provided in this act, the marijuana regulatory agency shall renew a license if all of the following requirements are met:

(a) The licensee applies to the marijuana regulatory agency on a renewal form provided by the marijuana regulatory agency that requires information prescribed in rules.

(b) The application is received by the marijuana regulatory agency on or before the expiration date of the current license.

(c) The licensee pays the regulatory assessment under section 603.

(d) The licensee meets the requirements of this act and any other renewal requirements set forth in rules.

(10) The department shall notify the licensee by mail or electronic mail at the last known address on file with the marijuana regulatory agency advising of the time and procedure for paying and the amount of the regulatory assessment under section 603. The failure of the licensee to receive notice under this subsection does not relieve the licensee of the responsibility for renewing the license.

(11) If a license renewal application is not submitted by the license expiration date, the license may be renewed within 60 days after its expiration date upon application, payment of the regulatory assessment under section 603, and satisfaction of any renewal requirement and late fee set forth in rules. The licensee may continue to operate during the 60 days after the license expiration date if the license is renewed by the end of the 60-day period.

(12) License expiration does not terminate the marijuana regulatory agency's authority to impose sanctions on a licensee whose license has expired.

(13) In its decision on an application for renewal, the marijuana regulatory agency shall consider any specific written input it receives from an individual or entity within the local unit of government in which the applicant for renewal is located.

(14) A licensee must consent in writing to inspections, examinations, searches, and seizures that are permitted under this act and must provide a handwriting exemplar, fingerprints, photographs, and information as authorized in this act or by rules.

(15) An applicant or licensee has a continuing duty to provide information requested by the marijuana regulatory agency and to cooperate in any investigation, inquiry, or hearing conducted by the marijuana regulatory agency.

History: 2016, Act 281, Eff. Dec. 20, 2016 ;-- Am. 2017, Act 105, Imd. Eff. July 13, 2017 ;-- Am. 2018, Act 582, Eff. Jan. 1, 2019 ;-- Am. 2021, Act 103, Imd. Eff. Nov. 4, 2021 ;-- Am. 2021, Act 161, Eff. Mar. 30, 2022

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27403 Application deficiency; correction.

Sec. 403.

If the board identifies a deficiency in an application, the board shall provide the applicant with a reasonable period of time to correct the deficiency.

History: 2016, Act 281, Eff. Dec. 20, 2016

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27404 Repealed. 2018, Act 582, Eff. Jan. 1, 2019.

Compiler's Notes: The repealed section pertained to a true party of interest.

333.27405 Background check.

Sec. 405.

Subject to the laws of this state, before hiring a prospective employee, the holder of a license shall conduct a background check of the prospective employee. If the background check indicates a pending charge or conviction within the past 10 years for a controlled substance-related felony, a licensee shall not hire the prospective employee without written permission of the board.

History: 2016, Act 281, Eff. Dec. 20, 2016

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27406 Transfer, sale, or purchase of license.

Sec. 406.

Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the board's approval before a license is transferred, sold, or purchased. The attempted transfer, sale, or other conveyance of an interest in a license without prior board approval is grounds for suspension or revocation of the license or for other sanction considered appropriate by the board, but only if the transfer, sale, or other conveyance

would result in the transferee meeting the definition of applicant.

History: 2016, Act 281, Eff. Dec. 20, 2016 ;-- Am. 2018, Act 582, Eff. Jan. 1, 2019

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27407 Denial, suspension, revocation, or restriction of license.

Sec. 407.

(1) If an applicant or licensee fails to comply with this act or rules, if a licensee fails to comply with the marihuana tracking act, if a licensee no longer meets the eligibility requirements for a license under this act, or if an applicant or licensee fails to provide information the board requests to assist in any investigation, inquiry, or board hearing, the board may deny, suspend, revoke, or restrict a license. The board may suspend, revoke, or restrict a license and require the removal of a licensee or an employee of a licensee for a violation of this act, rules, the marihuana tracking act, or any ordinance adopted under section 205. The board may impose civil fines of up to \$5,000.00 against an individual and up to \$10,000.00 or an amount equal to the daily gross receipts, whichever is greater, against a licensee for each violation of this act, rules, or an order of the board. Assessment of a civil fine under this subsection is not a bar to the investigation, arrest, charging, or prosecution of an individual for any other violation of this act and is not grounds to suppress evidence in any criminal prosecution that arises under this act or any other law of this state.

(2) The board shall comply with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, when denying, revoking, suspending, or restricting a license or imposing a fine. The board may suspend a license without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marihuana facility's operation. If the board suspends a license under this subsection without notice or hearing, a prompt postsuspension hearing must be held to determine if the suspension should remain in effect. The suspension may remain in effect until the board determines that the cause for suspension has been abated. The board may revoke the license or approve a transfer or sale of the license upon a determination that the licensee has not made satisfactory progress toward abating the hazard.

(3) After denying an application for a license, the board shall, upon request, provide a public investigative hearing at which the applicant is given the opportunity to present testimony and evidence to establish its suitability for a license. Other testimony and evidence may be presented at the hearing, but the board's decision must be based on the whole record before the board and is not limited to testimony and evidence submitted at the public investigative hearing.

(4) Except for license applicants who may be granted a hearing at the discretion of the board under subsection (3), any party aggrieved by an action of the board suspending, revoking, restricting, or refusing to renew a license, or imposing a fine, shall be given a hearing before the board upon request. A request for a hearing must be made to the board in writing within 21 days after service of notice of the action of the board. Notice of the action of the board must be served either by personal delivery or by certified mail, postage prepaid, to the aggrieved party. Notice served by certified mail is considered complete on the business day following the date of the mailing.

(5) The board may conduct investigative and contested case hearings; issue subpoenas for the attendance of witnesses; issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents; and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties of the board under this act. The director of the department or his or her designee may issue subpoenas and administer oaths and affirmations to witnesses.

History: 2016, Act 281, Eff. Dec. 20, 2016 ;-- Am. 2018, Act 582, Eff. Jan. 1, 2019

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2,

333.27407a Operation of marihuana facility; license required; violation; penalties.

Sec. 407a.

Beginning June 1, 2019, a person shall not hold itself out as operating a marihuana facility if the person does not hold a license to operate that marihuana facility or if the person's license to operate that marihuana facility is suspended, revoked, lapsed, or void, or was fraudulently obtained or transferred to the person other than pursuant to section 406. A person that violates this section is guilty as follows:

- (a) In the case of a first violation, a misdemeanor punishable by a fine of not less than \$10,000.00 or more than \$25,000.00 or imprisonment of not more than 93 days, or both.
- (b) In the case of a second or subsequent violation, a misdemeanor punishable by a fine of not less than \$10,000.00 or more than \$25,000.00 or imprisonment of not more than 1 year, or both.
- (c) If the violation causes death or serious injury, a felony punishable by a fine of not less than \$10,000.00 or more than \$25,000.00 or imprisonment for not more than 4 years, or both.

History: Add. 2018, Act 582, Eff. Jan. 1, 2019

Compiler's Notes: For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27408 Proof of financial responsibility; liability insurance policy requirements; failure to maintain proof; suspension.

Sec. 408.

(1) Before the marijuana regulatory agency grants or renews any license under this act, the licensee or applicant shall file with the marijuana regulatory agency proof of financial responsibility for liability for bodily injury to lawful users resulting from the manufacture, distribution, transportation, or sale of adulterated marihuana or adulterated marihuana-infused product in an amount not less than \$100,000.00 for each license. The proof of financial responsibility must be a liability insurance policy that meets all of the following requirements:

- (a) Is issued by a licensed insurance company or licensed captive insurance company in this state.
- (b) Does not include a condition, provision, stipulation, or limitation contained in the policy, or any other endorsement, that relieves the insurer from liability for the payment of any claim for which the insured may be held liable under this act.
- (c) Covers bodily injuries to a qualifying patient including injuries that are caused by the intentional conduct of the licensee or its employee or agent. However, the proof of financial responsibility is not required to cover bodily injuries to qualifying patients caused by the licensee or its employee or agent if the licensee or its employee or agent acted with the intent to harm.

(2) A licensee or applicant must include with its filing under subsection (1) an attestation of compliance with this section on a form approved by the marijuana regulatory agency. An officer of the licensed insurance company or licensed captive insurance company that issues the policy described in subsection (1) must sign the attestation of compliance that the licensee or applicant is required to file under this subsection.

(3) A licensee or applicant may furnish proof of financial responsibility that exceeds the requirements of this section.

(4) If at any time a licensee fails to maintain proof of financial responsibility as required under this section, the marijuana regulatory agency shall immediately suspend the licensee's license until the licensee provides to the marijuana regulatory agency proof of financial responsibility as required under this section.

(5) As used in this section:

(a) "Adulterated marihuana" means a product sold as marihuana that contains any unintended substance or chemical or biological matter other than marihuana that causes adverse reaction after ingestion or consumption.

(b) "Bodily injury" does not include expected or intended effect or long-term adverse effect of smoking, ingestion, or consumption of marihuana or marihuana-infused product.

(6) An insured licensee shall not cancel liability insurance required under this section unless the licensee does both of the following:

(a) Gives 30 days' prior written notice to the marijuana regulatory agency.

(b) Procures new proof of financial responsibility required under this section and delivers that proof to the marijuana regulatory agency within 30 days after giving the marijuana regulatory agency the notice under subdivision (a).

History: 2016, Act 281, Eff. Dec. 20, 2016 ;-- Am. 2021, Act 160, Eff. Mar. 30, 2022

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

333.27409 State operating license as revocable privilege.

Sec. 409.

A state operating license is a revocable privilege granted by this state and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license.

History: 2016, Act 281, Eff. Dec. 20, 2016 ;-- Am. 2018, Act 582, Eff. Jan. 1, 2019

Compiler's Notes: Enacting section 2 of Act 281 of 2016 provides: "Enacting section 2. The legislature finds that the necessity for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements establish the need to promulgate emergency rules to preserve the public health, safety, or welfare." For transfer of powers and duties of the medical marihuana licensing board, marihuana advisory panel, and department of licensing and regulatory affairs, including its bureau of marijuana regulation, to the marijuana regulatory agency, and abolishment of the medical marihuana licensing board, marihuana advisory panel, and bureau of marijuana regulation, see ERO No. 2019-2, compiled at MCL 333.27001. For the renaming of the marijuana regulatory agency to the cannabis regulatory agency, see E.R.O. No. 2022-1, compiled at MCL 333.27002.