



CITY OF ALBION CITY COUNCIL MEETING AGENDA

Meetings: First and Third Mondays – 7:00 p.m.

City Council Chambers ♦ Second Floor ♦ 112 West Cass Street ♦ Albion, MI 49224

COUNCIL-MANAGER
GOVERNMENT

Council members and
other officials normally in
attendance.

Garrett Brown
Mayor

Maurice Barnes, Jr.
Council Member
1st Precinct

Lenn Reid
Council Member
2nd Precinct

Sonya Brown
Mayor Pro Tem
Council Member
3rd Precinct

Marcola Lawler
Council Member
4th Precinct

Jeanette Spicer
Council Member
5th Precinct

Andrew French
Council Member
6th Precinct

Sheryl L. Mitchell
City Manager

The Harkness Law Firm
Atty Cullen Harkness

Jill Domingo
City Clerk

NOTICE FOR PERSONS WITH
HEARING IMPAIRMENTS
WHO REQUIRE THE USE OF A
PORTABLE LISTENING DEVICE

Please contact the City
Clerk's office at
517.629.5535 and a listening
device will be provided
upon notification. If you
require a signer, please
notify City Hall at least five
(5) days prior to the posted
meeting time.

AGENDA

STUDY SESSION

**Albion City Hall
Council Chambers
112 West Cass Street
Albion, MI 49224**

**Monday, August 28, 2017
7:00 p.m.**

PLEASE TURN OFF CELL PHONES DURING MEETING

- I. CALL TO ORDER
- II. ROLL CALL
- III. ITEMS FOR INDIVIDUAL DISCUSSION
 - 1. Discussion-Medical Marijuana Regulations & Proposals

PRESENTATIONS:

- a. City Manager and City Attorney
- b. Prosecuting Attorney David Gilbert
- c. Peter Behncke (Comco), Andrew Bosinger (Comco) and Attorney Doug Mains (Honigman Miller)
- d. Kevin Chang, Oasis Wellness Centers)

- 2. PUBLIC COMMENTS (Persons addressing the City Council shall limit their comments to no more than three (3) minutes. Proper decorum is required.)

VI. ADJOURN



CITY OF ALBION
Office of the City Manager
Sheryl L. Mitchell

112 West Cass Street ♦ Albion, MI 49224
517.629.7172 ♦ smitchell@cityofalbionmi.gov

MEMO

TO: Honorable Mayor and City Council
FR: Sheryl L. Mitchell, City Manager
DA: August 28, 2017
RE: **Work Session Agenda Summary – Medicinal Marijuana Facilities Licensing**

Background

In September 2016, the Michigan Legislature passed and Gov. Snyder signed a package of bills (House Bills 4209, 4827 and 4210), which became 2016 Public Acts 281-283. This Michigan Medicinal Marijuana Act (MMMA) created the regulatory and licensing framework for medical marijuana (MM) (often spelled marihuana) facilities.

Statewide Monitoring System

The legislation created a state-wide monitoring system for tracking, inventory and verification of MM. Allows for verification of patient status as current and active. The regulations are to be implemented by December 15, 2017.

Licensing System

The State of Michigan's Medical Marihuana Licensing Board (MMLB) within the Licensing and Regulatory Affairs (LARA) has oversight of the system and regulatory responsibilities. The Medical Marihuana Licensing Board issues, revokes or suspends licenses; levies fines; and investigates individuals who are applying for licensure or complaints received about someone who holds a license.

The licenses that are permitted consist of:

- Growers
- Processors
- Secure Transporters
- Safety Compliance Facilities
- Provisioning Centers

Grower – State statute requires location in areas zoned for industrial or agricultural uses. A commercial entity located in Michigan that cultivates, dries, trims, or cures and packages marijuana for sale to a processor provisioning center.

Grower Classes

- Class A – 500 marijuana plants
- Class B – 1,000 marijuana plants
- Class C – 1,500 marijuana plants

Processor – Commercial entity that purchases marijuana from a grower and extracts the resin or creates a marijuana-infused product for sale in packaged form to a provisioning center.

Secure Transporters – Commercial Entity that stores marijuana and transports marijuana or money associated with its purchase or sale between marijuana facilities.

Safety Compliance Facility – Commercial Entity that receives marijuana from a marijuana facility or registered primary caregiver and tests it for contaminants, THC, and other cannabinoids.

Provisioning Center – Commercial Entity that purchases marijuana from a grower or processor and sells or provides marijuana to registered qualifying patients, directly or through the patients' registered caregivers. Includes any commercial property where MM is sold at retail to registered qualifying patients or registered primary caregivers. Does not include a noncommercial location used by a primary caregiver to assist a qualifying patient connected to that caregiver through the MMMA registration process.

Taxes and Fees

The State of Michigan taxes each provisioning center at the rate of three (3%) of the provisioning center's gross retail sales. This goes into the Medical Marijuana Excise Fund. The majority of the Excise Tax revenue generated (60%) will go to support local units of government and the statute requires distribution in proportion to the number of MM facilities in the municipality or county. According to the Senate Fiscal Analysis, it is estimated that municipalities with facilities will share an estimated \$5.3 million in annual revenue.

Medical Marijuana Excise Fund Earmark	Percentage	Amount
Local Municipalities – <i>in which a MM facility is located, allocated in proportion to the number of MM facilities within the municipality</i>	25%	\$ 5,335,500
Counties – <i>in which a MM facility is located, allocated in proportion to the number of MM facilities within the county</i>	30%	\$ 6,402,600
County Sheriffs – <i>in which a MM facility is located, allocated in proportion to the number of MM facilities within the county to support county Sheriffs.</i>	5%	\$ 1,067,100
Local Law Enforcement Training – <i>to MCOLES for training local law enforcement officers</i>	5%	\$ 1,067,100
State Police	5%	\$ 1,067,100
State General Fund – <i>to the State for the First Responder Presumed Coverage Fund</i>	30%	\$ 6,402,600
TOTAL	100%	\$21,342,000

Municipalities Roles and Power

(1) The City of Albion may:

- Adopt an ordinance that authorizes 1 or more facility types
- Limit the number of each type of facility
- Establish an annual, nonrefundable license fee, not exceeding \$5,000 for administrative and enforcement costs associated with the operation of facilities within the city.
- If ordinance limits the number of facilities, must create a competitive process to determine which applicants are best suited to operate in compliance with the initiative.
- Adopt ordinances relating to marijuana facilities, including zoning
 - o Cannot regulate purity or pricing or conflict with statutory regulation for facility licensing
- Marijuana facilities and all articles of property in that facility are subject to examination at any time by ADPS or Michigan State Police.

(2) Adopt a resolution or policy statement declining to adopt an ordinance.

(3) A municipality may take no action. The Statute does not require action.

License Eligibility

- The City may request information from those who apply for a facilities license. The approval of the license goes to the State.
- Applicants have to be a Michigan resident for 2 years. This requirement goes away in June 30, 2018.
- The following would be ineligible for a state license:
 - o Convicted of a felony in the US, or released from incarceration for felony, within the last 10 years.
 - o Convicted of a misdemeanor involving a controlled substance, theft, dishonesty or fraud in the last 5 years.
 - o Knowingly submitted an application with false information, or can't provide liability and casualty insurance.
 - o Holds office or is employed by a regulatory body of a governmental unit.

ACTIONS BY SURROUNDING COMMUNITIES

City of Marshall – Voted unanimously on June 5, 2017, to adopt an ordinance permitting 4 of the 5 types of licenses. Provisioning Centers (dispensaries) will be prohibited.

Emmett Township – Voted unanimously on July 13, 2017, to allow officials to finalize a draft ordinance. Have not yet ruled out permitting provisioning centers.

City of Kalamazoo – drafted sample ordinance for all 5 types of licenses. Requirements include: 500 ft separation from other MM licenses, 1,000 ft separation from schools (including colleges and universities); 500 ft separation from licensed child care centers, churches, recreation facilities, library, juvenile or adult half-way house, substance abuse rehabilitation or treatment center.

City of Battle Creek – held workshop on August 15, 2017.

STAFF RECOMMENDATIONS

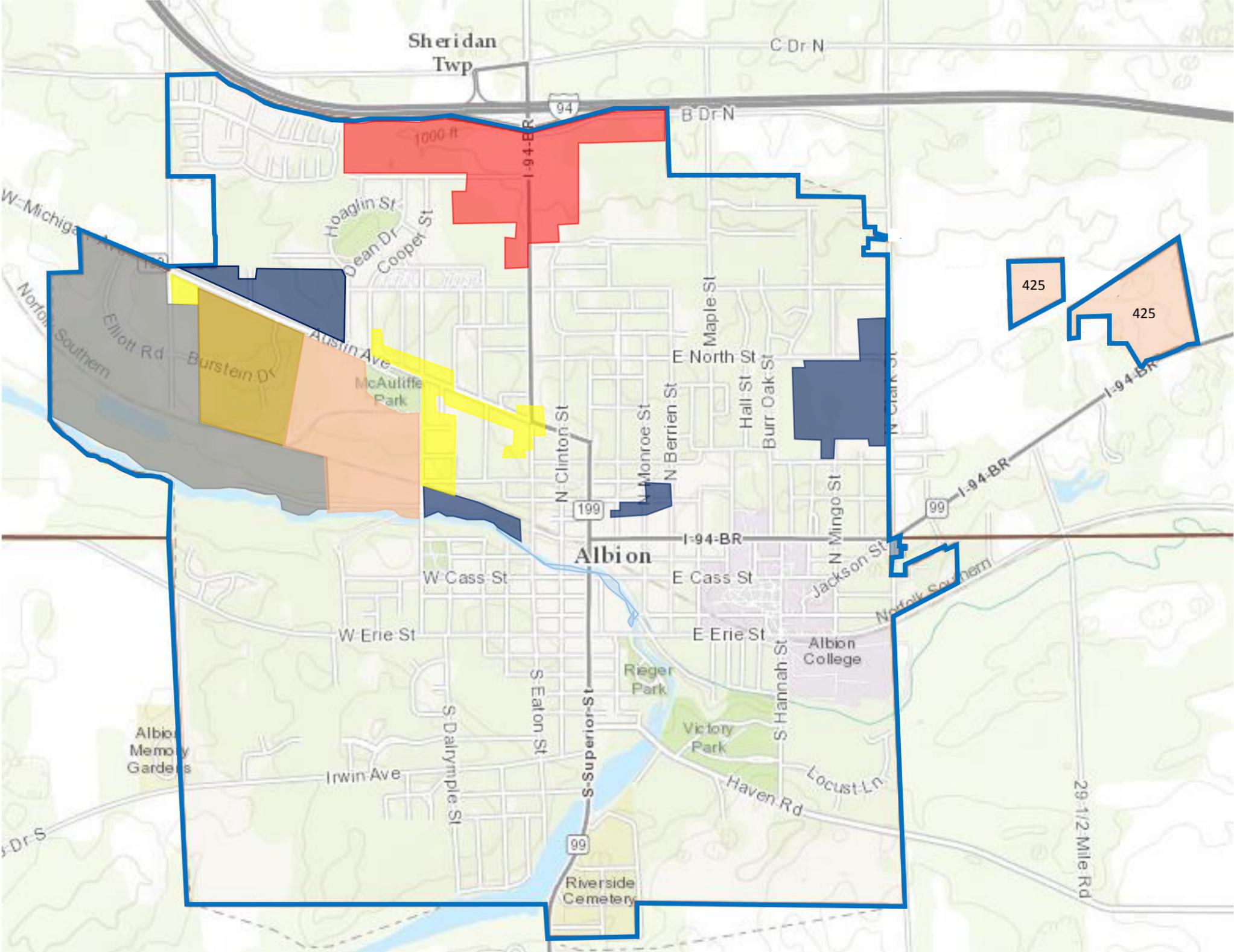
Should the City Council be interested in pursuing any of the facility licenses, recommendations should consider including:

- Growing and Processing Licenses only permitted in the Industrial (M-1, M-1-P, M-2, M-2-P)
- Growing sites should be inside and fully enclosed
- Keep 1,000 feet away from schools, churches, childcare and residential (measuring from the property line, not the structure)
- Secure Transporters; Safety Compliance Facilities; and/or Provisioning Centers – only permitted in the Industrial and B-1, B-3 districts
- Holding public hearings to get broader citizen input
- Work with staff and Planning Commission to draft appropriate ordinances

DIRECTION NEEDED FROM CITY COUNCIL

- What are the pros/cons to consider?
- Is there interest in enacting a MM ordinance?
- If so, for which of the 5 types of licenses?
- Do we want to limit the number of licenses available in those categories?

CITY OF ALBION



INDUSTRIAL & COMMERCIAL DISTRICTS

- B-1
- B-3
- M-1
- M-1-P
- M-2
- M-2-P
- CITY LIMIT

Current Zoning Classifications

B-1 Neighborhood Business District

This district is composed of certain land and structures used primarily to provide the retailing of commodities classed by merchants "convenience goods," such as groceries and drugs, and the furnishing of certain personal services, such as beauty shops, barber shops, and "pick-up" stations for laundry or dry cleaning, thus satisfying the daily and weekly household or personal needs of abutting residential neighborhoods. This district is small, usually located at the intersection of two (2) streets or highways, and almost always entirely surrounded by residential districts.

B-3 Highway Service Business District

This district is intended to provide for retail business and services in areas which abut federal and state highways, and major arterial streets designated as such on the "street plan" of the City of Albion of current adoption.

M-1 Light Industrial District

This district is composed of certain land so situated as to be suitable for light industrial development, but where the modes of operations of the industry may directly affect nearby nonindustrial development. The regulations are so designed as to permit the normal operations of almost all light industries, subject only to those needed for their mutual protection and the equitable preservation of nearby nonindustrial uses of land.

M-1 (P) Light Industrial Park District

Light industrial parks shall conform to all the requirements of the light industrial district. The difference between M-1 and M-1-P primarily is that a great distance is required for setbacks in the M-1-P district.

M-2 Heavy Industrial District

This district is composed of certain land so situated as to be suitable for industrial development, but where the modes of operation of the industry may directly affect nearby nonindustrial development. The regulations are so designed as to permit the normal operations of almost all industries, subject only to those needed for their mutual protection and the equitable preservation of nearby nonindustrial uses of land.

M-2 (P) Heavy Industrial Park District

Heavy industrial parks shall permit all uses allowed in light industrial districts, light industrial parks and heavy industrial districts. Difference between M-2 and M-2-P primarily is that a great distance is required for setbacks in the M-2-P district.

Sample Ordinances Regulating Medical Marijuana Facilities

DISCLAIMER: As with all materials made available by MSU Extension, this document is as an example prepared FOR EDUCATIONAL PURPOSES ONLY and is not intended to provide legal advice. You should consult an attorney experienced in municipal law before adopting any local ordinance. This sample ordinance, or any portion of it, must be adapted to local circumstances and may need to be updated as laws change. Use of these materials is at the sole risk of the user.

There are many ways other than those outlined in these samples to address the issues regarding medical marijuana facilities. Users of this document should first review the companion PDF, *Land Use Series*, "Sample Ordinances Regulating Medical Marijuana Facilities," found at:

http://msue.anr.msu.edu/topic/planning/zoning/medical_marihuana_facilities_licensing_act.

Please note that the text below includes various portions in brackets that require information to be inserted by the municipality.

The police power ordinance is intended to be adopted with the zoning ordinance amendments that follow to regulate the location of the facilities and establish standards for approval.

The sample zoning ordinance amendments were written with the following assumptions:

- **The municipality has adopted a separate police power ordinance authorizing one or more types of medical marijuana facilities.**
- The municipality already has a site plan review process in its zoning ordinance.
- The municipality's zoning ordinance already provides a definition for "person" that includes corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- The section numbering system follows the standard system of codification presented in MSU Extension's Land Use Series: "Organization and Codification of a Zoning Ordinance," which is available at lu.msue.msu.edu.

Sample Police Power Ordinance

AN ORDINANCE TO AUTHORIZE AND REGULATE THE ESTABLISHMENT OF MEDICAL MARIJUANA FACILITIES.

Section 1001. Purpose

- A. It is the intent of this ordinance to authorize the establishment of certain types of medical marijuana facilities in the [*municipality*] and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this ordinance to help defray administrative and enforcement costs associated with the operation of a marijuana facility in the [*municipality*] through imposition of an annual, nonrefundable fee of not more than \$5,000.00 on each medical marijuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.
- B. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marijuana, in any form, that is not in compliance with the Michigan Medical Marijuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marijuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
- C. As of the effective date of this ordinance, marijuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marijuana, or possess marijuana with intent to manufacture, distribute, or dispense marijuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws.

Section 1002. Definitions

For the purposes of this ordinance:

- A. Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.
- B. Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.
- C. Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.
- D. "Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- E. "Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- F. "Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.
- G. "Marijuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.
- H. "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.
- I. "Processor" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

- J. "Provisioning center" means a licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
- K. "Safety compliance facility" means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- L. "Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

Section 1003. Authorization of Facilities and Fee.

- A. The maximum number of each type of marijuana facility allowed in the [*municipality*] shall be as follows.

<u>Facility</u>	<u>Number</u>
Grower	[#]
Processor	[#]
Secure transporter	[#]
Provisioning center	[#]
Safety compliance facility	[#]

- B. At least every [#] years after adoption of this ordinance, [*council/board*] shall review the maximum number of each type of marijuana facility allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the [*council/board*].
- C. A nonrefundable fee shall be paid by each marijuana facility licensed under this ordinance in an annual amount of not more than \$5,000.00 as set by resolution of the [*municipality*] [*council/board*].

Section 1004. Requirements and Procedure for Issuing License

- A. No person shall operate a marijuana facility in [*municipality*] without a valid marijuana facility license issued by the [*municipality*] pursuant to the provisions of this ordinance.
- B. Every applicant for a license to operate a marijuana facility shall file an application in the [*municipal official's*] office upon a form provided by the [*municipality*]. [The application shall contain the following information:]
- C. Every applicant for a license to operate a marijuana facility shall submit with the application a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.
- D. Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the [*municipal official*] shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. The [*municipal official*] shall act to approve or deny an application not later than fourteen (14) days from the date the application was accepted. If approved, the [*municipal official*] shall issue the applicant a provisional license.
- E. A provisional license means only that the applicant has submitted a valid application for a marijuana facility license, and the applicant shall not locate or operate a marijuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the [*municipality*]. A provisional license will lapse and be void if such permits and approvals are not diligently pursued to completion.
- F. Within fourteen (14) days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the license fee, the [*municipal official*] shall approve or deny the marijuana facility license. The [*municipal official*] shall issue marijuana facility licenses in order of the sequential application number previously assigned.
- G. Maintaining a valid marijuana facility license issued by the state is a condition for the issuance and maintenance of a marijuana facility license under this ordinance and continued operation of any marijuana facility.

H. A marijuana facility license issued under this ordinance is not transferable.

Section 1005. License Renewal

- A. A marijuana facility license shall be valid for one year from the date of issuance, unless revoked as provided by law.
- B. A valid marijuana facility license may be renewed on an annual basis by submitting a renewal application upon a form provided by the [*municipality*] and payment of the annual license fee. Application to renew a marijuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.

Section 1006. Applicability

The provisions of this ordinance shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marijuana facility were established without authorization before the effective date of this ordinance.

Section 1007. Penalties and Enforcement.

- A. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of not more than [\$.##], plus costs. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- B. A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the [*municipality*] may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance.
- C. This Ordinance shall be enforced and administered by the [*municipal official*], or such other [*city/village/township*] official as may be designated from time to time by resolution of the [*council/board*].

Section 1008. Severability.

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

Section 1009. Effective Date

This Ordinance shall take effect [*insert provision applicable to municipality*] in accordance with law.

Sample Zoning Ordinance Amendments

Definitions

Add the following definitions to Section 503 (the section of the zoning ordinance for definitions of words).

"Grower" means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

"Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

"Marijuana" or "marihuana" means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

"Marijuana facility" means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

"Outdoor production" means growing marijuana in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting, including but not limited to electrical lighting sources.

"Processor" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

"Provisioning center" means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

"Safety compliance facility" means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

"Secure transporter" means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

Zoning Districts

Add, where appropriate, to each zoning district's list of possible special land uses the following, where wanted:

- A. A marijuana grower as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s);
- B. A marijuana processor as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s);
- C. A marijuana provisioning center as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s);
- D. A marijuana secure transporter as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s); and
- E. A marijuana safety compliance facility as authorized by [the municipality's police power authorizing ordinance] in the [insert zone] District(s).

Special Use Standards

Add a section to Article 16 (the part of the zoning ordinance for specific special use permit standards).

16XX. Marijuana grower, marijuana processor, marijuana provisioning center, Marijuana secure transporter, and Marijuana safety compliance facility:

- A. A marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, and marijuana safety compliance facility, in accordance with the provisions of state law, may be permitted through the issuance of a special use permit pursuant to Article 86 [*the article containing the procedural process for special use permits*] in the specified zone(s), provided that:
1. Any uses or activities found by the state of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the [*municipality*]. In the event that a court with jurisdiction declares some or all of this article invalid, then the [*municipality*] may suspend the acceptance of applications for special use permits pending the resolution of the legal issue in question.
 2. At the time of application for a special use permit the marijuana facility must be licensed by the state of Michigan and then must be at all times in compliance with the laws of the state of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
 3. At the time of application for a special use permit the marijuana facility must be licensed by [*municipality*], [or have the [*municipality*] license concurrently in process with the special use permit and site plan approval], and then must be at all times in compliance with [*the municipality's police power authorizing ordinance*].
 4. The use or facility must be at all times in compliance with all other applicable laws and ordinances of the [*municipality*].
 5. The [*municipality*] may suspend or revoke a special use permit based on a finding that the provisions of the special use standards in this section, all other applicable provisions of this zoning ordinance, [*the municipality's police power authorizing ordinance*], or the terms of the special use permit and approved site plan are not met.

6. A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this ordinance.
 7. Signage requirements for marijuana facilities, unless otherwise specified, are as provided in the [*the article or ordinance containing the sign regulations*].
- B. Marijuana growers and marijuana processors shall be subject to the following standards:
1. Minimum Lot Size. A minimum lot size standard shall apply as follows:
 - a. In the [*list the specific rural and agricultural district(s)*], the subject property shall be a minimum of [#] acres, except that if the majority of abutting properties are equal to or greater than [*lesser #*] acres, the subject property shall be a minimum of [*lesser #*] acres. Abutting properties include properties that are contiguous to the subject property, as well as properties directly across any access drive, or private, public, or road.
 - b. In the [*list the specific industrial district(s)*], the subject property shall be a minimum of [#] acres, except that if outdoor production is proposed, the subject property shall be a minimum of [*greater #*] acres.
 2. Minimum Yard Depth/Distance from Lot Lines. The minimum front, rear, and side yard setbacks for any structure used for marijuana production shall be 50 feet. The minimum front, rear, and side yard setbacks for outdoor production shall be a minimum of 100 feet from all lot lines. _The minimum water front setback for any structure or outdoor production shall be a minimum of 100 feet from the ordinary high water mark.
 3. Indoor Production and Processing. In the [*list the specific industrial district(s)*], marijuana production shall be located entirely within one or more completely enclosed buildings. In the [*list the specific industrial district(s)*], marijuana processing shall be located entirely within a fully enclosed, secure, indoor facility or greenhouse with rigid walls, a roof, and doors.
 4. Maximum Building Floor Space. The following standards apply in the [*list the specific industrial district(s)*]:
 - a. A maximum of [#] square feet of building floor space may be used for all activities associated with marijuana production on the subject property.
 - b. If only a portion of a building is authorized for use in marijuana production, a partition wall at least seven feet in height, or a height as required by the

applicable building codes, whichever is greater, shall separate the marijuana production space from the remainder of the building. A partition wall must include a door, capable of being closed and locked, for ingress and egress between the marijuana production space and the remainder of the building.

5. Lighting. Lighting shall be regulated as follows:
 - a. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
 - b. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day.
6. Odor. As used in this subsection, building means the building, or portion thereof, used for marijuana production or marijuana processing.
 - a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 - b. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 - c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - d. Negative air pressure shall be maintained inside the building.
 - e. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - f. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
7. Security Cameras. If used, security cameras shall be directed to record only the subject property and may not be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the state of Michigan.

8. Residency. In the [*list specific rural or agricultural district(s)*], an owner of the subject property, or the licensee associated with the subject property shall reside in a dwelling unit on the subject property unless there is a 24-hour, seven-days-a-week staffed security presence on the property with a direct phone number supplied to local law enforcement,

C. Provisioning centers shall be subject to the following standards:

1. Hours. A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center between the hours of 9:00 a.m. and 9:00 p.m.
2. Indoor Activities. All activities of a provisioning center, including all transfers of marijuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive-thru window service.
3. Other Activities. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.
4. Nonconforming Uses. A provisioning center may not locate in a building in which a nonconforming retail use has been established in any district.
5. Physical Appearance. The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
6. Buffer Zones. A provisioning center may not be located within the distance specified from the uses below as determined by the [municipality]. The distance shall be measured as the shortest straight line distance between the property line of the location of the following uses to the property line of the parcel on which provisioning center premises is located, whichever is less .
 - a. A provisioning center may not be located within [#] feet of the real property comprising or used by a public or private elementary, vocational, or secondary school; a public or private college, junior college, or university; a licensed child care center or preschool; a public playground, public swimming pool, or public or private youth activity facility; a public park, public outdoor recreation area, or public recreation facility; or a public library .
 - b. A provisioning center may not be located within [#] feet of a religious institution or a residentially zoned property.

7. Odor. As used in this subsection, building means the building, or portion thereof, used for a provisioning center.
 - a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 - b. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 - c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - d. Negative air pressure shall be maintained inside the building.
 - e. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
 - f. An alternative odor control system is permitted if the special use applicant submits and the municipality accepts a report by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted

D. Marijuana Safety Compliance Facility shall be subject to the following standards:

1. A marijuana safety compliance facility shall be subject to the special regulations and standards applicable to [*medical laboratories and medical testing facilities*] in the ordinance.
2. All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.

E. Marijuana Secure transporter shall be subject to the following standards:

1. A marijuana secure transporter shall be subject to the special regulations and standards applicable to [*transportation and warehousing*] uses in the [ordinance] and the following standards.
2. Any buildings or structures used for the containment of stored materials shall be located no closer than [#] feet from any property line.

Nonconformities

Add a section to Article 80 (the part of the zoning ordinance about nonconforming uses).

- A. No marijuana facility operating or purporting to operate prior to December 15, 2017, shall be deemed to have been a legally existing use nor shall the operation of such marijuana facility be deemed a legal nonconforming use under this [ordinance].
- B. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this [ordinance] or any amendment thereto.
- C. Discontinuation of a state medical marijuana facility license shall constitute prima facie evidence that a nonconformity has been discontinued.

New Medical Marijuana Laws Q&A

By Catherine Mullhaupt, MTA Staff Attorney

October 20, 2016

Note: *This guidance has been written for townships, but the statutes discussed apply to cities, villages and townships in the same way. A county cannot adopt an ordinance allowing any of the facilities authorized by these statutes.*

Q. Has marijuana been legalized?

A. No. Marijuana has not been legalized in Michigan. It is still an illegal drug under federal and state law.

The [Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421, et seq.](#), allows qualified patients and registered caregivers identified with those patients to use marijuana for specified medical conditions. That law did not legalize marijuana, but it prohibits prosecuting or penalizing qualified patients and registered caregivers who use marijuana for those purposes as long as they comply with the MMMA.

Subsequent court opinions clarified that only those persons who were qualified patients and registered caregivers (and persons who met the requirements of Section 8 of the MMMA, even if not registered with the state) could exchange or use medical marijuana. A third party--a person providing or selling marijuana to a qualified patient who is not that person's registered caregiver--does not have the protection from prosecution under the MMMA. Any arrangement outside of the patient-caregiver relationship, including "dispensaries," does not comply with the MMMA and is illegal.

Q. Don't you know how to spell "marijuana"?

A. Yes, but for some reason, that is how the word is spelled in the Michigan Medical Marihuana Act and in the Medical Marihuana Facilities Licensing Act and Medical Marihuana Licensing Act. But everyone else, including the courts, uses the more common spelling with the "j".

Q. What is legal today?

A. Only a patient-caregiver relationship conducted in compliance with the Michigan Medical Marihuana Act is legal today. Note that the MMMA was recently amended by PA 283 of 2016 to include certain marijuana-infused products, or "edibles," and to clarify what plants and parts of plants are allowed within the limits imposed by the Act.

Q. What is illegal today?

A. Anything that is not authorized by the Michigan Medical Marihuana Act is illegal today.

Q. So how come we see medical marijuana dispensaries all over?

A. Because the local jurisdiction has chosen to not enforce state or federal laws that make marijuana illegal outside of the patient-caregiver relationship protected by the MMMA. In most cases, the city, village or township has "decriminalized" certain uses of marijuana and/or chosen to not utilize enforcement resources for small amounts or certain levels of activity. But that is a forbearance, not legalization.

Q. Wait a minute—didn't a law just get passed that makes marijuana dispensaries legal?

A. No. Marijuana “dispensaries” or grow operations or any other activity involved with marijuana that does not comply with the Michigan Medical Marihuana Act are still unlawful.

Q. No, it did—the Medical Marihuana Facilities Licensing Act. The Governor signed it!

A. Yes. But the [Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101, et seq.](#), does not take effect until December 20, 2016.

And the MMFLA includes an additional delay in implementation of 360 days to enable the Michigan Department of Licensing and Regulatory Affairs (LARA) to establish the licensing system required by the Act. **A person cannot apply to the state for a license of any kind under the MMFLA until December 15, 2017.**

And no one can apply to the state for a license of any kind under the MMFLA UNLESS the township has already adopted an ordinance that authorizes that type of facility.

So even after December 15, 2017, any marijuana provisioning center or other activity involving marijuana that does not comply with the Michigan Medical Marihuana Act **will still be illegal**, unless that township has adopted an ordinance that authorizes that type of facility under the Medical Marihuana Facilities Licensing Act.

(Note that the word “dispensary” has been commonly used to refer to a variety of medical marijuana activities, but the new laws do not refer to “dispensaries.” Under the MMFLA, “provisioning centers” are what many people would describe as a “dispensary.”)

Q. What if an applicant comes to our meeting now and demands that we adopt an ordinance or approve their license?

If a township is approached by an applicant stating that the board must adopt an ordinance, then that applicant has misunderstood the law.

A township cannot be required to adopt an ordinance to allow facilities authorized under the MMFLA now or at any time.

If a township is approached by an applicant demanding that the township consider their application or stating that the board must authorize their facility:

- Before December 15, 2017, no township can be required to consider an application. Even if a township adopts an ordinance to allow the facilities authorized by the MMFLA, the licensing system is not in place, and no applications will be considered by LARA until December 15, 2017.
- After December 15, 2017, if a township **has not** adopted an ordinance allowing any of the facilities authorized by the MMFLA, then the township is not required to consider any applications for MMFLA licenses, because no licenses will be approved by LARA.
- After December 15, 2017, if a township **has** adopted an ordinance allowing any of the facilities authorized by the MMFLA, **and** the application involves one of the type(s) of facilities that the township allows in its ordinance, **and** the cap on the number of that type of facility imposed by the township's ordinance has not been reached, then the township will be asked to provide information to LARA as part of the licensing approval process.

Q. What do we need to do if we do NOT want any of the facilities authorized under the new Medical Marijuana Facilities Licensing Act in our township (or city or village)?

A. Do nothing. Literally. Do. Nothing. Period.

You do not need to adopt an ordinance to prohibit the types of facilities authorized under the MMFLA. They are already prohibited by state and federal law, unless the township adopts an ordinance to allow them (“opt in”) under the MMFLA.

You would only adopt an ordinance dealing with the types of facilities authorized under the MMFLA if the township WANTS to allow one or more type of facilities authorized under the MMFLA.

A township cannot be required to adopt an ordinance allowing the facilities authorized by the MMFLA.

You do not have to consider any application for any facilities currently because no application will be considered by the state until December 15, 2017. And even after that date, if the township has not adopted an ordinance allowing that type of facility, that application will not be considered by the state.

Note that, because dispensaries and other marijuana facilities or operations outside of the patient/caregiver relationship are NOT currently lawful (even where marijuana has been decriminalized locally), existing dispensaries or other marijuana facilities or operations are not currently lawful non-conforming uses for zoning ordinance purposes.

Q. What do we need to do if we DO want any of the facilities authorized under the new Medical Marijuana Facilities Licensing Act in our township (or city or village)?

A. Any time before December 15, 2017, a township that wants to allow medical marijuana facilities to operate within the township could adopt an ordinance allowing one or more of the specific types of facilities authorized by the new Medical Marijuana Facilities Licensing Act. ***Note that adopting such an ordinance before December 15, 2017 does NOT make a facility lawful!***

December 15, 2017 is the earliest an applicant may submit an application to the Medical Marijuana Licensing Board (MMLB) for consideration.

Any time after December 15, 2017, a township that wants to allow medical marijuana facilities to operate within the township would adopt an ordinance allowing one or more of the specific types of facilities authorized by the new Medical Marijuana Facilities Licensing Act.

The ordinance should specify which type(s) of facilities—and how many of each type—the township is choosing to allow. If a township “opts in” with an ordinance that does not specify a cap on the type(s) or number of each, applications for any of the types and any number of a type within the township will be considered by LARA.

But a license from the state is still required before a specific facility is authorized to legally operate under the MMFLA. The township board’s adoption of the ordinance allowing medical marijuana facilities does not automatically make all facilities lawful.

Also note that, because dispensaries and other marijuana facilities or operations outside of the patient/caregiver relationship are NOT currently lawful (even where marijuana has been decriminalized locally), existing dispensaries or other marijuana facilities or operations are not currently lawful non-conforming uses for zoning ordinance purposes.

Q. What types of facilities may be authorized under the new Medical Marihuana Facilities Licensing Act if a township allows them by ordinance?

A. The following types of medical marijuana facilities are authorized by the MMFLA. One or more types may be allowed by a township ordinance:

Class A, B, or C Grower—“A licensee that is a commercial entity located in this State that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.”

Class A: 500 plants -- Class B: 1,000 plants -- Class C: 1,500 plants

Processor—“A licensee that is a commercial entity located in this State that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana infused product for sale and transfer in packaged form to a provisioning center.”

Provisioning Center—“A licensee that is a commercial entity located in this State that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through their registered primary caregivers. The term includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the marihuana registration process of the Department of Licensing and Regulation in accordance with the Michigan Medical Marihuana Act will not be a provisioning center for purposes of the Licensing Act.”

Secure Transporter—“A licensee that is a commercial entity located in this State that stores marihuana and transports it between marihuana facilities for a fee.”

Safety Compliance Facility—“A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol (THC) and other cannabinoids, returns the test results, and may return the marihuana to the facility.”

Q. Why would a township consider allowing one or more of the types of facilities authorized under the new Medical Marihuana Facilities Licensing Act?

A. Some communities accept medical marijuana use for compassionate reasons, and believe that the Medical Marihuana Facilities Licensing Act will better facilitate the spirit and the actual practice of the patient-caregiver relationship authorized by the statewide initiative that created the Medical Marihuana Act in 2008.

Other communities may be responding to a real demand or broad support locally for providing medical marijuana facilities and business opportunities.

And it may be a revenue source:

- **Annual administrative fee:** Once a township adopts an ordinance allowing one or more of the types of facilities authorized by the Medical Marihuana Facilities Licensing Act, the township may in that ordinance require “an annual, nonrefundable fee of not more than \$5,000.00 on a licensee to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.” (“Nonrefundable” as in not returned if the application is not approved by the state or if a license is not renewed.)
- **Property tax revenues:** These facilities are businesses and may actually be quite profitable. And in some communities medical marijuana facilities will utilize commercial properties that are currently vacant or even off the tax roll due to foreclosure.

- **State shared revenues, as appropriated:** A state tax will be imposed on each provisioning center at the rate of 3% of the provisioning center's gross retail receipts, which will go to the state Medical Marijuana Excise Fund. The money in the fund will be allocated, *upon appropriation*, to the state, counties and municipalities in which a marijuana facility is located, with “25% to municipalities in which a marijuana facility is located, allocated in proportion to the number of marijuana facilities within the municipality.”

Q. How will the state manage this licensing system and track compliance?

A. The MMFLA requires licensees to “adopt and use a third-party inventory control and tracking system that is capable of interfacing with the statewide monitoring system to allow the licensee to enter or access information in the statewide monitoring system as required under this act and rules.” Yes, there already are such third-party software systems commercially available.

The [Marijuana Tracking Act, Public 282 of 2016, MCL 333.27901, et seq.](#), enacted at the same time as the MMFLA, requires LARA to establish a confidential statewide internet-based monitoring system for integrated tracking, inventory, and verification. It will be a system “established, implemented, and maintained directly or indirectly by the department [LARA] that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (i) Verifying registry identification cards.
- (ii) Tracking marijuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (iii) Verifying in a commercially reasonable time that a transfer will not exceed the limit that the registered qualifying patient or registered primary caregiver is authorized to receive under section 4 of the Michigan medical marijuana act, 2008 IL 1, MCL 333.26424.”

Q. The information on who is a qualified patient or a registered caregiver is currently confidential and exempt from public disclosure under the MMMA. How will the license process be treated—is that information going to be confidential?

A. The MMFLA requires that:

“Except as otherwise provided in this act, all information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board [MMFL Board] are subject to the freedom of information act, ..., except for the following:

- (i) Unless presented during a public hearing or requested by the licensee or applicant who is the sole subject of the data, all of the information, records, interviews, reports, statements, memoranda, or other data supplied to, created by, or used by the board related to background investigation of applicants or licensees and to trade secrets, internal controls, and security measures of the licensees or applicants.
- (ii) All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board that have been received from another jurisdiction or local, state, or federal agency under a promise of confidentiality or if the release of the information is otherwise barred by the statutes, rules, or regulations of that jurisdiction or agency or by an intergovernmental agreement.
- (iii) All information in the statewide monitoring system.”

So the Medical Marihuana Facility Licensing Board's records **are** subject to the FOIA and public disclosure, with some specific exceptions.

Here are the records that will be **exempt** from disclosure:

- The data, all of the information, records, interviews, reports, statements, memoranda, or other data supplied to, created by, or used by the board *related to background investigation of applicants or licensees and to trade secrets, internal controls, and security measures of the licensees or applicants* **is exempt from disclosure, UNLESS:**
 1. That data, information, record, etc. was presented during a public hearing (of the MMFLB), in which case it is NOT exempt from disclosure.
OR
 2. The licensee or applicant who is the sole subject of that data, information, record, etc. requests it, in which case it may be released to that licensee or applicant.
- All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the MMLFB that have been received from another jurisdiction or local, state, or federal agency (including a township) **is exempt from disclosure BUT ONLY IF:**
 1. The other jurisdiction or local, state, or federal agency (including a township) supplied it to the MMFLB *under a promise of confidentiality.*
OR
 2. The release of the information is otherwise *barred by the statutes, rules, or regulations of that jurisdiction or agency or by an intergovernmental agreement.*
- All information in the statewide monitoring system is **exempt from disclosure.**

The Marihuana Tracking Act states that “the information in the system is confidential and is exempt from disclosure under the freedom of information act. Information in the system may be disclosed for purposes of enforcing this act; the Michigan medical marihuana act; and the medical marihuana facilities licensing act.”

For more information on the three Michigan laws governing medical marijuana use, see the statutes online (click on the linked titles of the Acts in this fact sheet) or review the [Senate Fiscal Analysis of September 23, 2016](#), which outlines all the provisions of the three bills as they were enacted.

This fact sheet is not intended as a legal opinion, and a township should consult with its attorney before taking any steps to adopt an ordinance under these statutes, and for specific legal guidance on how the Acts interact with the individual township's other ordinances, including a zoning ordinance.

Michigan Association of Municipal Clerks

Thursday, June 22, 2017

Regulating Medical Marihuana In Your Community and in Your Workplace

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Medical Marihuana

First permitted in Michigan by a 2008 voter initiative, the Michigan Medical Marihuana Act (“MMMA”) established rules and regulations to permit limited medical cultivation, distribution, and use of marihuana for a debilitating medical condition. Since then, the legislature enacted the Medical Marihuana Facilities Licensing Act (“MMFLA”) in September 2016. The MMFLA allows commercial medical marihuana facilities for the first time, but licenses and taxes them. Additionally, the MMFLA clarifies some of the issues that arose under the MMMA, permits municipalities to choose whether they want commercial medical marihuana businesses within their borders, and gives municipalities the right to adopt ordinances, levy regulatory fees and receive a share of the taxes.

A. Nationwide Trends

1. Support for medical and recreational marihuana has grown considerably in recent years. As of 2017, 28 states, including Michigan, have adopted some form of legislation enabling the use of medical marihuana. Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, Washington and the District of Columbia have enacted legislation allowing recreational marihuana use.
2. The increased legislative support for marihuana use likely reflects the widely shifting cultural attitudes towards the substance. A Gallup Poll conducted in August of 2016 showed that 13% of adults in the United States identified themselves as current marihuana users. This is almost double the number

reported in 2013, which was 7%. The same poll revealed that 43% of adults in the United States admitted to trying marihuana at least one time. According to this poll, age and religion are key determinants of marihuana use and experimentation.

B. Medical Marihuana Patients and Caregivers

1. *Statutory Authority.* Michigan voters approved the MMMA in 2008. MMMA established rules and regulations to prohibit the prosecution or penalization of a person distributing or using marihuana for debilitating medical conditions. The MMMA also established the terms of use by “qualifying patients” and “primary caregivers.”
2. *Debilitating Medical Conditions.* To be eligible for registration as a qualifying patient, an applicant must obtain a written opinion from a primary physician stating that the applicant is both suffering from a debilitating medical condition and is likely to receive a palliative or therapeutic benefit from the use of marihuana. A qualifying patient may obtain a medical marihuana card for medical conditions such as Alzheimer’s, ALS, anxiety, Crohn’s, seizure, cancer, glaucoma, HIV, Hepatitis C, severe chronic pain, and nausea. The State of Michigan has issued more than 216,000 of these cards (valid for a year), with the vast majority of patients (93%) qualifying to use medical marihuana based on “severe and chronic pain.”
3. *Qualifying Patient.* A qualifying patient is issued an ID card by the State upon successful registration and is allowed to possess not more than 2.5 ounces of usable marihuana and to cultivate up to 12 marihuana plants within an enclosed, locked facility. An enclosed, lock facility could be constructed within a building or even an area surrounded by a slatted chain-length fence preventing observation within the fencing.
4. *Primary Caregiver.* A primary caregiver is issued an ID card by the State, allowing an individual to grow and provide marihuana for five or fewer qualifying patients who designate that person as their primary caregiver. A primary caregiver may provide 2.5 ounces of usable marihuana and grow 12 marihuana plants for each of his qualifying patients. A primary caregiver may also register as a qualifying patient, allowing an additional 12 plants grown for his or her personal use. This means a primary caregiver can grow up to 72 plants if he or she has five qualifying patients and is registered as a qualifying patient).
5. *Uses Permitted.* A qualifying patient or primary caregiver can use medical marihuana as that term is defined in the Michigan Public Health Code. A 2016 amendment to the MMMA permits the use of certain marihuana-infused

products, including topical formulas, tinctures, beverages, edible substances and similar products available for human consumption.

6. *Court Decisions Impacting Uses Permitted.* Despite the popular misconception, the MMMA did not authorize dispensaries or provisioning centers, which are still unlawful. Collective or cooperative grow operations, and patient-to-patient transfers are also not permitted under the MMMA. See *Michigan v McQueen*, Michigan Supreme Court (2013); *People v Bylsma*, Michigan Supreme Court (2012).
7. *Issues Related to the Use.* The demands of growing marihuana can require higher-capacity electric circuits and breakers (to operate fans, lights, pumps, etc.), plumbing and a supply of water, odor control, locations for storage of fertilizers, alterations to a structure to avoid space and height limitations, and humidity and mold control.
8. *Municipality Regulation.* The MMMA is silent regarding municipal authority over qualifying patients and primary caregivers. Court decisions have permitted narrow regulation of these uses, if not in conflict with the MMMA.
 - a. *Statutory Defense:* The statutory defense provided in Section 4(b) of the MMMA states broadly that “a primary caregiver who has been issued and possesses a registry identification card shall not be subject to . . . prosecution, **or penalty in any manner, or denied any right or privilege** . . . for assisting a qualifying patient to whom he or she is connected through the department’s registration process with the medical use of marihuana in accordance with this act.”
 - b. *Complete Ban Prohibited:* The Michigan Supreme Court invalidated a municipality’s total ban on medical marihuana. *Ter Beek v City of Wyoming*, Michigan Supreme Court (February 6, 2014). The municipal ordinance banned any use of marihuana that was prohibited by other federal or state laws. The ordinance thus totally banned medical marihuana because the federal controlled substances act prohibits the use, manufacture or cultivation of marihuana. Despite this, however, the MMMA provides state-law immunity from arrest and prosecution for medical marihuana use in compliance with the MMMA.
 - c. *Supreme Court’s Pronouncement on Scope of Regulation:* The Supreme Court was careful to explain that, although local governments may not totally ban uses permitted by the MMMA, they may still reasonably regulate the use of medical marihuana. The Court stated:

“Contrary to the City’s concern, this outcome does not ‘create a situation in the State of Michigan where a person, caregiver or a

group of caregivers would be able to operate with no local regulation of their cultivation and distribution of marijuana.’ Ter Beek does not argue, and we do not hold, that the MMMA forecloses all local regulation of marijuana”

C. Commercial Medical Marijuana Facilities

1. *Statutory Authority.* Medical marijuana was recently expanded from a “personal” service to commercial-scale growing and distribution under the Michigan Medical Marijuana Facilities Act. The MMFLA created 5 new license categories for commercial medical marijuana growth, distribution and sale. In passage of the related bills, \$8,500,000 was appropriated to the Department of Licensing and Regulatory Affairs for its initial costs of implementing the Act.
2. *License categories:*
 - a. *Growers (including classes A, B and C):* A grower may grow marijuana and sell seeds and plants to another grower, or sell plants to a processor or provisioning center. There are three classes of growers:
 - Class A – 500 marijuana plants
 - Class B – 1,000 marijuana plants
 - Class C – 1,500 marijuana plants
 - b. *Processors.* A processor may purchase marijuana from growers and sell marijuana (and marijuana-infused products) to provisioning centers.
 - c. *Secure Transporters.* A secure transporter may store and transport marijuana and money associated with the purchase or sale of marijuana. All movement of marijuana or seeds between other licensees must be done by a secure transporter.
 - d. *Provisioning Centers.* A provisioning center may purchase or transfer marijuana only from growers and processors and sell or transfer marijuana *only to registered qualifying patients or registered primary caregivers.* Before a provisioning center may sell marijuana, it must transport the marijuana to a safety compliance facility for testing and labeling.
 - e. *Safety Compliance Facilities.* A safety compliance facility may receive and test marijuana from another marijuana facility.
3. *Municipality Choice.* A municipality is not required to allow commercial medical marijuana facilities within its boundaries. The new facilities licensed under the MMFLA may not operate within a municipality, unless the

municipality passes an authorizing ordinance. See Section 205(1) of the MMFLA.

4. *Operation Commencement:* Anyone seeking a state license under the MMFLA can submit an application ***beginning on December 15, 2017***. This timeline does not apply to local ordinances, however. If the municipality enacts an ordinance before December 2017, it could start processing zoning and other applications for local commercial medical marihuana operations prior to that date. Note that no facility authorized under the MMFLA may commence operation until it is licensed by the State on or after December 2017.
5. *Issuance of License:* In addition to any local regulations, all State applications must be submitted to the Medical Marihuana Licensing Board (the “MMLB”), a State body with rule-making authority created under the MMFLA within the Michigan Department of Licensing and Regulatory Affairs.

A municipality will receive notification of any applications regarding the intended operation of facilities within its jurisdiction. The municipality then has 90 days to respond with the required information requested by the MMFLA.

6. *State Revenue-Sharing:*
 - a. A state tax will be imposed on each provisioning center at the rate of 3% of the provisioning center's gross retail receipts, which will go into the state Medical Marihuana Excise Fund.
 - b. All revenue raised from the tax is placed into a separate fund administered by the State Treasurer, with 25% of the taxes returning to municipalities in proportion to the number of commercial medical marihuana facilities located within each.
 - c. This suggests that an apportionment will be provided regardless of whether provisions centers are permitted. There also is not language addressing whether the size of a facility changes the tax apportionment.
 - d. Since no taxes have been disbursed, many questions remain unanswered.
7. *Reasons Some Municipalities are Considering Permitting Marihuana Facilities:*
 - a. Local patient need for marihuana
 - b. Safer process and more regulated framework for acquiring marihuana
 - c. Employment and economics
 - d. Neighboring jurisdictions’ authorization of use
 - e. Annual administrative fee charged by the municipality

- f. Property tax revenues from construction and development of commercial and industrial parcels. This is especially true for some rural municipalities that may not otherwise experience such growth.
- g. State revenue-sharing:

8. *Key Distinctions between the MMMA and MMFLA*

<i>MMMA</i>	<i>MMFLA</i>
2 types of licenses	5 types of licenses
Noncommercial	Commercial operations
Cost	Profit
Cannot ban	Complete local control to prohibit
Unclear scope of regulation	Clearer scope of local regulation

D. The regulatory scheme for controlling medical marijuana use and operation in the municipality can be broken down into the following alternatives

1. No regulation
2. Zoning Ordinance (authority provided under the Michigan Zoning Enabling Act and Planning Act)
3. Non-Zoning Ordinance (authority provided under MCL 41.181 to protect the public health, safety, general welfare of municipality residents, and the MMFLA itself)
4. Combined Approach (using both a zoning ordinance and non-zoning ordinance)

E. No Regulation

1. MMMA: If a municipality imposes no regulation related to MMMA activity, qualifying patients and primary caregivers are still permitted to operate within the parameters of the MMMA.
2. MMFLA: If a municipality imposes no regulation authorizing MMFLA activity, no commercial facilities may operate within the municipality’s jurisdiction.

F. Zoning Approach

1. The power to adopt and amend zoning ordinances is governed by the Zoning Act, which was comprehensively amended in 2006. The Zoning Act provides the municipality with authority to regulate land uses and buildings by districts, locations and areas.
2. Municipalities that choose to regulate marijuana under the zoning approach must have (or create) a planning commission and a zoning ordinance.

G. Non-zoning Approach

1. The MMFLA provides express authority to regulate MMFLA facilities through a police power ordinance.
2. Municipalities that do not currently have a planning commission or zoning ordinance may find that a non-zoning ordinance best suits its needs.
3. Non-zoning medical marihuana ordinances are not subject to referendum and regulate current and future facilities. “Grandfathering” of nonconforming uses does not apply.
4. Non-zoning regulations can be comprehensive, addressing most concerns that may be lawfully addressed under the MMMA and MMFLA.

H. Combined Approach

1. Those municipalities that also have a zoning ordinance may find that a combined approach of adopting a non-zoning ordinance and medical marihuana provisions in a zoning ordinance provides a flexible and defensible approach.
2. This approach provides a method for a municipality to address specific concerns that arise in each land use district, but also create general standards that regulate the operation of any medical marihuana use, operation or facility within its boundaries.

I. MMMA Zoning and Non-zoning Considerations

1. Registered patients as accessory use in residential district.

Accessory use is a supplemental building or structure on the same lot as the main building occupied by or devoted exclusively to an accessory use, but not for dwelling, lodging, or sleeping purposes. Conditions can be imposed to ensure the use is naturally and normally incidental and subordinate to the main use of the land or building.

2. Primary caregivers as accessory use or home occupation in residential district.

Home Occupation Ordinance imposes limitations to prevent impact on other neighboring homes from the conduct of a business in a residential area. Treated as an accessory use to the home, which is the principal use.

3. Primary caregivers in other districts (agricultural, commercial, industrial).

4. Conditions for Registered Patient's Use:

- a. Restrict growth by the registered patient to his or her primary residence (or to the residential districts generally)
- b. Amount of marihuana may not exceed State law (12 plants per patient)
- c. Require operations to be conducted indoors in principal residence or secondary accessory structure
- d. Require permitting for any alterations to the property, such as building, electrical, plumbing and mechanical changes

5. Conditions for Primary Caregiver Operation:

- a. Limitations on number of primary caregivers operating in single facility.
- b. Spacing requirements from other operations, facilities, schools, churches, parks, etc.
- c. Amount of marihuana may not exceed State law (60 plants per caregiver/ 12 additional plants if also qualified patient).
- d. Storage requirements and security measures
- e. Limitations on use or transfer of marihuana on site
- f. Require operations to be conducted indoors
- g. Require permitting for any alterations to the property, such as building, electrical, plumbing and mechanical changes
- h. Inspection of the facilities to ensure compliance

J. MMFLA Zoning and Non-zoning Considerations

1. MMFLA allows growers to *operate only in agricultural or industrial zones, or in unzoned areas.*
2. Use the Zoning Ordinance to define the different licensees permitted to operate within the municipality and designate in which districts each specific permitted type of licensee may operate.
3. Use a Non-zoning Ordinance to establish a permitting framework for review and approval of each facility within the municipality.
4. Consider the following issues when developing ordinances:
 - Types of commercial facilities.
 - Number of each type of authorized facility.
 - Distances of buffer zones around schools, parks, churches, etc.
 - Minimum distances between commercial medical marihuana facilities.
 - The amount of the annual fee to be imposed (\$5,000.00 or less).
 - Minimum security measures.
 - Restrictions on how, when and where facilities may operate.

- Restriction on what is visible from the outside of the facility.
- Require operations to be conducted indoors.
- Require permitting for any alterations to the property, such as building, electrical, plumbing and mechanical changes.
- Inspection of facilities to ensure compliance.
- Waste disposal of by-products or other materials created in the facility.

K. Laws Impacting Employment Decisions of Public Employers

Many of your duties involve handling the political aspects of your municipality, and include duties such as managing elections, maintaining records, recording meeting minutes, and handling the municipality's finances. But it is important to remember, that, in addition to these functions, you need to be aware of the municipality's status as an employer. As a public employer, municipalities are required to adhere to a number of employment law statutes.

1. Michigan

- Wage and Fringe Benefits Act
- Elliott-Larsen Civil Rights Act
- Persons with Disabilities Civil Rights Act
- Michigan Occupational Safety and Health Act (MIOSHA)
- Public Employment Relations Act (PERA)
- Compulsory Arbitration of Labor Disputes in Police and Fire Departments (Act 312).
- Worker's Disability Compensation Act (WCA)
- Whistleblowers' Protection Act

2. Federal

- Americans with Disabilities Act (ADA)
- Age Discrimination in Employment Act (ADEA)
- Fair Labor Standards Act (FLSA)
- Family Medical Leave Act (FMLA)
- National Labor Relations Act (NLRA)
- Occupational Safety and Health Act (OSHA)

Today, we limit our focus to only two of these laws, the federal ADA and Michigan's Workers' Compensation Act. Although this discussion will provide examples of how medical marijuana can complicate your workplace, it is important to remember that our presentation today does not address every aspect of marijuana as it relates to your municipality as an employer. Please reach out to your municipal labor and employment attorneys with any specific issues you may be facing.

L. MMMA Cases

1. *Wrongful Termination*: A Wal-Mart employee in Battle Creek was terminated after testing positive for marihuana in violation of the company's zero tolerance policy. Although the employee had obtained a medical marihuana registry card prior to the testing, and had never used marihuana at work or came to work under the influence, the Court of Appeals for the Sixth Circuit held that the MMMA does not restrict a private employer's right to terminate an employee for marihuana use. The protections of the MMMA were deemed only to extend to criminal prosecutions and adverse actions by the state. See *Casias v Wal-Mart Stores, Inc.*, U.S. Court of Appeals, 6th Circuit (2012).
2. *Unemployment Benefits*: Three medical marihuana card holders filed claims for unemployment benefits after being terminated for failing a drug test. The Michigan Court of Appeals held that denying benefits based merely on medical marihuana use constituted an improper "penalty" under the MMMA, concluding that the employer could not withhold unemployment benefits unless the former employees had engaged in workplace misconduct by using, possessing, or being under the influence of marihuana at work. See *Braska v Challenge Mfg. Co.*, Michigan Court of Appeals (2014).

M. Overview of Workers' Compensation Law

1. "Every employer, *public and private*, and every employee...." MCL 418.11.
 - a. Irrespective of the number of employees a municipality must provide workers' compensation coverage. MCL 418.115(c).
 - b. NOTE: There are special rules for first responders: MCL 418.405.
2. *What does it do?*
 - a. Establishes process for handling on-the-job injuries.
 - b. Eliminates lawsuits by employees for on-the-job injuries, while requiring employers to provide guaranteed compensation for wages lost due to those injuries.
 - i. Excluded: deliberate acts by employer causing injury
3. *When is it triggered?*
 - a. Personal injury "arising out of and in the course of employment by an employer."

- i. Includes disabilities (including mental disabilities) and “aging conditions” (like arthritis) if work contributes to, aggravates, or accelerates the condition significantly.
 - ii. Includes traveling to and from work, while at the workplace within a reasonable time before and after work.
 - b. Injury must incapacitate an employee from earning full wages for at least 1 week (7 calendar days).
4. *What is a disability?*
 - a. “[A] limitation of an employee’s wage earning capacity in work suitable to his or her qualifications and training resulting from a personal injury or work-related disease.” MCL 418.301(4)(a).
 - b. Wage earning capacity is “limited” if an employee can’t perform all of the jobs that employee is qualified for.
 - c. Disability becomes total if the employee can’t earn any wages in jobs for which he or she is qualified.
 - d. Extremely broad—if it happens on the job, it probably falls within the statute!
5. *What benefits are provided?*
 - a. 80% of the difference between the injured employee’s after-tax weekly wage before injury and the after-tax weekly wage earned after the date of injury.
 - b. Benefits are capped at 90% of the states average weekly wage. In 2017, this is \$870.00.
 - c. Employer must furnish reasonable medical services “recognized by the laws of this state as legal....” MCL 418.315.
6. *Administrative Process* at the Bureau of Workers’ Disability Compensation, a State agency, begins early:
 - a. Employee provides notice of injury to employer.
 - i. Oral or written.
 - ii. Provide a form to an employee whenever an injury is reported, or you may otherwise aware of it.
 - iii. Insurance carrier should provide a form.

- b. Notify municipal insurance carrier.
 - c. If it appears an employee's disability will last for more than a week, the employer (or the carrier) must also file an Employer's Basic Report of Injury form (available online) with the Bureau of Workers' Disability Compensation.
 - d. Request an employee undergo a physical examination when notice of injury is provided. MCL 418.385.
 - i. Employee must comply within 15 days.
 - ii. The longer the delay, the greater chance that important medical evidence is lost.
 - e. If the employee has been off of work for 7 days, the employer's insurance company begins the payment of workers' compensation benefits.
 - f. Insurance counsel will handle the case and work with the carrier to determine if the benefits should be disputed.
7. *Recordkeeping*. Employers must maintain records of *all* injuries that cause death or disability. MCL 418.805. These include:
- | | |
|---------------------------------------|--|
| • Name | • Time and cause of the accident |
| • Address | • Nature and extent of the injury or disability. MCL 418.805 |
| • Age | |
| • Wages of diseased/disabled employee | |

8. *Interaction with Medical Marijuana*

- a. Must the employer pay for an employee's medical marijuana treatments prescribed due to an on-the-job injury?
- b. No. MCL 418.315a expressly excludes medical marijuana treatment from an employer's workers' compensation expenses.
- c. BUT this is not the only view on this issue.
 - i. *Maine*: The illegality of marijuana under the federal Controlled Substances Act did not preclude employers from paying for the costs of medical marijuana treatment. Such treatment was deemed "reasonable, necessary and proper." See *Noll v Lepage Bakeries*, Maine Workers' Compensation Board, Appellate Division (2016); *Bourgoin v Twin Rivers*

Paper Co., Maine Workers' Compensation Board, Appellate Division (2016).

- ii. *Iowa*: An Iowa-based employer was ordered to pay costs for a former employee's medical marijuana treatment after the employee moved to Oregon, even though Iowa had no medical marijuana laws. See *McKinney v Labor Ready*, Iowa Workers' Compensation Commission (2002).
- iii. *New Mexico*: An employer was ordered to reimburse an employee's certified purchases of medical marijuana; the court found that the medical marijuana certifications were the functional equivalent of prescriptions, and that it was reasonable and necessary treatment. See *Lewis v American General Media*, New Mexico Court of Appeals (2015).
- iv. *New Jersey*: An employee received a referral for medical marijuana after narcotic pain medications did not offer sufficient relief. The employer disputed the costs, but the court deferred to the judgment of the medical expert, finding that marijuana treatment was reasonable, necessary, and in the best interest of the employee. See *Watson v 84 Lumber Co.* New Jersey Division of Workers' Compensation (2016).

N. Overview of the Americans with Disabilities Act (“ADA”)

1. ADA prevents discrimination against individuals with disabilities. Discrimination includes not reasonably accommodating an employee's known physical or mental limitations if the employee is a “qualified individual” under the ADA. 42 USC § 12112.
2. There is no requirement to provide reasonable accommodation if it would impose “an undue hardship on the operation of the business” of the employer. 42 USC § 12112.
 - a. This is a hard thing to demonstrate. Typically, this would involve hiring significant additional staff and supervision, at significant cost. *Talk to labor counsel if you believe you will be relying on undue burden to avoid an accommodation request.*
 - b. NOTE: “Reasonable Accommodation” does not necessarily mean the employee's preferred accommodation. If you can come up with a different accommodation that would still allow the employee to perform their job duties, you may do so. This is often cheaper than using an employee's requested accommodation!

3. This applies to job applicants, as well as employees. You may, however, make pre-employment inquiries into the ability of a job applicant to perform job-related functions.

4. Definitions Matter

a. What is a Disability?

i. “A physical or mental impairment that substantially limits one or more major life activities of [an] individual.” 42 USC §12102. That means...

- caring for oneself
- performing manual tasks
- seeing
- hearing
- eating
- sleeping
- walking
- standing
- lifting
- bending
- speaking
- breathing
- learning
- reading
- concentrating
- thinking
- communicating
- working
- operations of major bodily functions

ii. To qualify for the ADA’s protection, an impairment must last for over 6 months.

iii. Disability is construed broadly. In other words, it is best to assume a disability absent a reason to believe otherwise.

iv. That medication or medical equipment can help to alleviate the effects of a disability does not prevent an individual from being considered disabled under the act.

b. Who is a Qualified Individual?

i. Definition: “an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.” 42 USC § 12111.

ii. A qualified individual with a disability does NOT include “any employee or applicant who is currently engaging in the illegal use of drugs....” 42 USC § 12114. *More on this later.*

c. What is a Reasonable Accommodation?

- i. Definition: “making existing facilities used by employees readily accessible to and usable by individuals with disabilities” OR any of the following:
- ii. Examples provided in the ADA:
 - Job restructuring,
 - Part-time or modified work schedules,
 - Reassignment to a vacant position,
 - Acquisition or modification of equipment or devices,
 - Appropriate adjustment or modifications of examinations,
 - Training materials or policies,
 - The provision of qualified readers or interpreters, and
 - Other similar accommodations for individuals with disabilities. 42 USC § 12111.
- iii. The ADA is not limited to these listed examples. Essentially, any changes to the workplace or job that would allow an employee to perform his or her duties is an accommodation. As long as that accommodation is reasonable, and not an undue hardship, an employee is entitled to an accommodation.

d. What is an Undue Hardship?

- i. Definition: “An action requiring significant difficult or expense,” when considered in light of certain factors. 42 USC § 12111.
- ii. These factors include:
 - The nature and cost of the accommodation;
 - The employers overall financial resources at the particular location in question;
 - The number of employees at the particular location in question;
 - The impact of the accommodation on the operation of the location in question, including the effect on expenses and resources;
 - The overall financial resources of the employer;
 - The size of the employer (i.e. number of employees, type, number, and location of an employer’s facilities, etc.); and
 - The type of the employer’s operations, including the workforce, the geographic location(s), and the

relationship between the location in question and the employer's activities a whole.

5. What are an employer's obligations under the ADA?
 - a. Prepare written job descriptions for each position, including what functions of each job is considered essential.
 - b. Grant disabled employees reasonable accommodations allowing them to perform their job duties, unless doing so would be an undue hardship.

O. How does medical marihuana interact with the ADA?

1. The ADA does not protect individuals "currently engaging in the illegal use of drugs," so long as an employer's action is taken based on the use of illegal drugs, as opposed to being based on the disability. 42 USC § 12114.
2. But what does it mean to be engaged in the illegal use of drugs? After all, medical marihuana use is legal here, right?
 - a. The ADA defines "illegal use of drugs" as: "the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 USC §801). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substance Act or other provisions of Federal law." 42 USC § 12210.
3. The Controlled Substance Act divides drugs into schedules, based upon a number of factors, including their potential for abuse, and their medical uses.
 - a. The strictest schedule is "Schedule 1." Schedule 1 drugs:
 - i. Have a high potential for abuse;
 - ii. Have no currently accepted medical use in treatment in the United States; and
 - iii. Lack accepted safety for use, even under medical supervision. 21 USC § 812.
 - b. Marihuana is a Schedule 1 drug. The argument is that because marihuana is unlawful under the Controlled Substances Act," it is therefore "illegal use of drugs under the ADA."
 - i. This means the use of marihuana, even medical marihuana, prevents an individual from being a "qualified individual" under the ADA.

- ii. This, in turn, means that the ADA does not protect disabled individuals using marihuana as part of the treatment for their disability.

P. Real World Example

Your municipality has a strict zero-tolerance policy for the use of illegal drugs, including marihuana. After conducting a drug test, you discover that one of your employees has tested positive for the use of marihuana. You call the employee into your office in order to terminate her. As you begin to explain to the employee that she has tested positive for the use of marihuana in violation of municipal policy, the employee explains that she has been diagnosed with an inoperable brain tumor, and has been using medical marihuana, as recommended and prescribed by her doctor, to combat severe headaches and chemo-related nausea. She is a registered patient. These impairments would leave her unable to perform her duties if left untreated.

The employee goes on to explain that she only uses medical marihuana on days on which she does not work, or in the evenings after work. She states that she has never been high at work, and is responsible with her medical use. Except for today's observation, you have had no reports that this employee has been acting in a way that suggests impairment, and all of her performance reviews have been positive. The employee asks that she be permitted to continue to use medical marihuana off-duty so that she can perform her job duties.

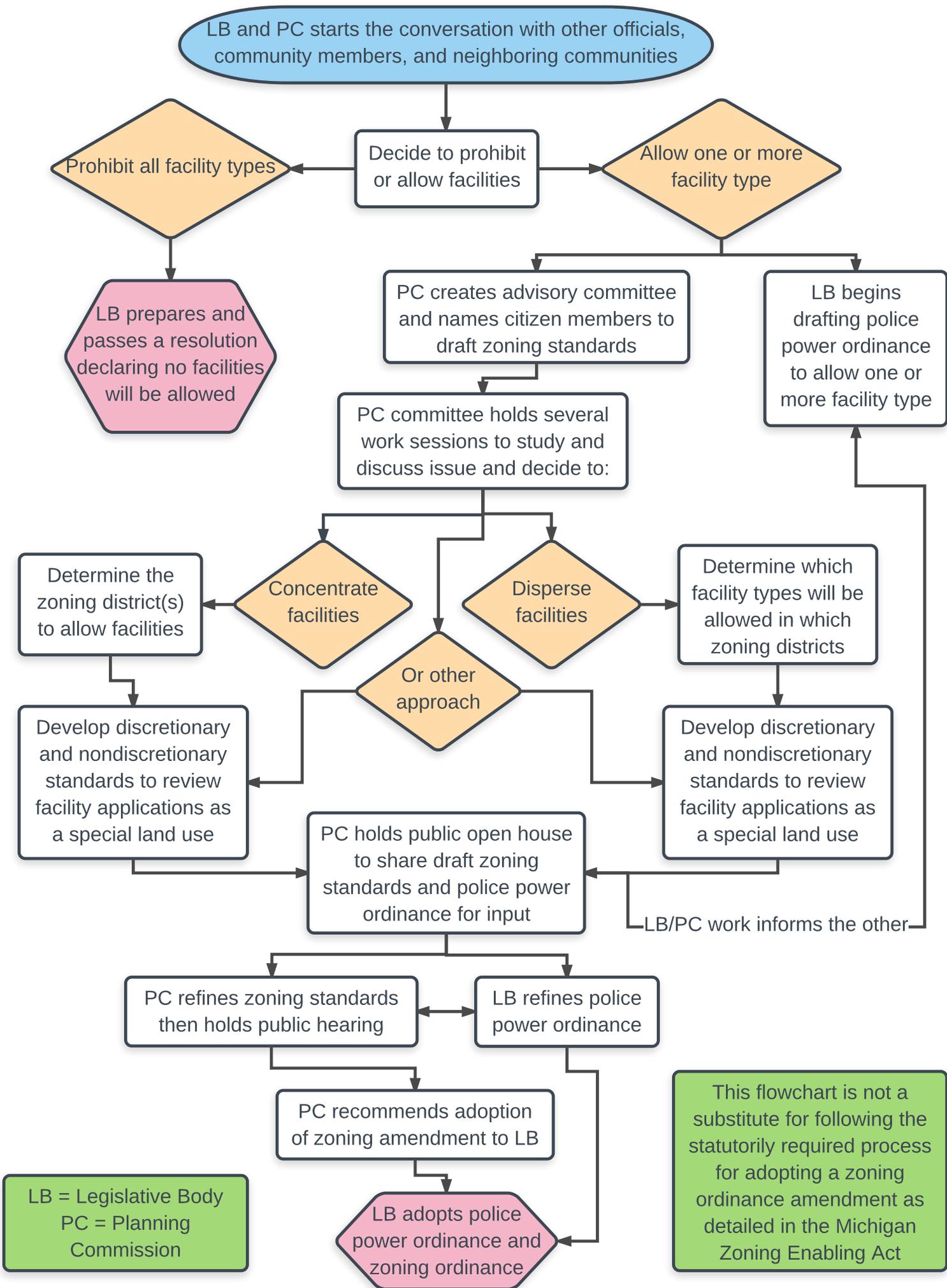
Would terminating the employee be illegal? Let's Review

1. MMMA does not require an employer to accommodate ingestion of marihuana in the workplace or any employee working while under the influence of marijuana.
2. Is the employee disabled?
 - a. 42 USC §12102: "a physical or mental impairment that substantially limits one or more major life activities of [an] individual."
 - b. The employee has severe headaches and nausea that, without an accommodation, keep her from being able to work.
3. Is the employee a qualified individual under the ADA?
4. Is the employee's disability the result of a workplace injury?
5. What if her injuries were workplace related? Would you be required to pay for medical marijuana treatments?
 - a. No, you would not be required to pay for medical marihuana treatments. MCL 418.315a.

- b. You would, however, have to pay for other medical treatments, and be sure that you report the injury to your insurance carrier as previously discussed.
6. Post-Termination: Unemployment Benefits.
- a. Positive marihuana test by a qualifying patient who is terminated for that result is not an automatic disqualification for purposes of unemployment benefit eligibility. This is true even with a zero tolerance policy, unless an employer takes significant other steps.
 - b. If an unemployment benefits claimant asserts medical marihuana use to avoid disqualification, the Unemployment Insurance Agency will
 - i. request a copy of the registry card
 - ii. seek material facts demonstrating whether the claimant's use of medical marihuana put the safety of persons or property at risk.

Q. How to manage medical marihuana use in the workplace?

- 1. Have a policy in place, and apply it uniformly.
 - a. This can include a zero-tolerance policy. Be aware, however, that the law in this area is changing rapidly.
 - b. If you do not implement a zero-tolerance policy, be aware of the limitations of current drug testing technology and the potential for abuse of your policy.
- 2. Be aware that allowing for medical, but not recreational marihuana, poses a number of challenges.
 - a. How can you distinguish medical use from recreational use based merely on a positive drug test?
 - b. Will you require an employee to report medical marihuana use, and provide you a copy of their medical marihuana card, before they are exempted from discipline for marihuana use? (Be careful here!)
 - c. How does impairment from alcohol, for instance, vary from impairment by marihuana?
- 3. Ensure that all employees are aware of your policy, and be sure to explain that it extends to medical marihuana.



LB = Legislative Body
PC = Planning Commission

This flowchart is not a substitute for following the statutorily required process for adopting a zoning ordinance amendment as detailed in the Michigan Zoning Enabling Act

Medical Marihuana Facilities Licensing Act

Introduction

On September 21, Governor Snyder signed a package of bills (2016 PA 281-283) that significantly expand the types of medical marihuana facilities permitted under state law, and establishes a licensing scheme similar to the scheme for liquor licenses. Notably, these bills do not require a state license to operate as a primary caregiver under the Michigan Medical Marihuana Act, nor do they allow municipalities to prohibit operation as a primary caregiver. The existing regulatory scheme regarding primary caregivers remains in effect.

Requirements under the new Act

Among other things, the legislation:

1. Legalizes the medical use of marihuana-infused products, commonly known as “edibles,” for purposes of state law.
2. Creates the Medical Marihuana Licensing Board within the Michigan Department of Licensing and Regulatory Affairs (LARA) to issue licenses for various medical marihuana facilities.
3. Requires an annual license for any of the following entities to operate a marihuana facility:
 - Growers—licensees that cultivate, dry, trim, or cure and package marihuana for sale to a processor or provisioning center. Registered patients and primary caregivers who lawfully cultivate marihuana in the quantities and for the purposes permitted under the Medical Marihuana Act are not considered “growers” under the new legislation.
 - Processors—licensees that purchase marijuana from a grower and extract resin from the marijuana or create a marijuana-infused product for sale and transfer in packaged form to a provisioning center.
 - Provisioning centers—licensees that purchase marihuana from a grower or processor and sell, supply, or provide marihuana to patients, directly or through the patient’s caregiver.
 - Secure transporters—licensees that store marihuana and transport it between marihuana facilities for a fee.
 - Safety compliance facilities—licensees that receive marihuana from a marihuana facility or primary caregiver and test it for contaminants and other substances.
4. **Allows municipalities to choose whether to allow any of these marijuana facilities within their jurisdictions.** If the municipality takes no action, none of the facilities are allowed. A municipality that wishes to allow these facilities must enact an ordinance explicitly authorizing them.
5. Authorizes municipalities to charge an annual fee of up to \$5,000 on licensed marihuana facilities to defray administrative and enforcement costs.
6. Authorizes municipalities to adopt ordinances relating to marihuana facilities within their jurisdiction, including zoning ordinances.
7. Prohibits municipalities from imposing regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulations for licensing marihuana facilities.
8. Requires municipalities to provide to the Medical Marihuana Licensing Board within 90 days after notice that a license application was filed: (a) a copy of any ordinance authorizing the marihuana facility, (b) a copy of any zoning regulation applicable to the facility, and (c) a description of any previous medical-marihuana related ordinance violation.
9. Exempts from FOIA disclosure any information a municipality obtains in connection with a license application.
10. Requires the state to establish a “seed to sale” computer tracking system to compile data regarding marihuana plants throughout the chain of custody from grower to patient. The system will be able to provide this data in real-time to local law enforcement agencies.

This publication was written by the law firm of Dickinson Wright.

New Medical Marijuana Laws Q&A

By Catherine Mullhaupt, MTA Staff Attorney

October 20, 2016

Note: *This guidance has been written for townships, but the statutes discussed apply to cities, villages and townships in the same way. A county cannot adopt an ordinance allowing any of the facilities authorized by these statutes.*

Q. Has marijuana been legalized?

A. No. Marijuana has not been legalized in Michigan. It is still an illegal drug under federal and state law.

The [Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421, et seq.](#), allows qualified patients and registered caregivers identified with those patients to use marijuana for specified medical conditions. That law did not legalize marijuana, but it prohibits prosecuting or penalizing qualified patients and registered caregivers who use marijuana for those purposes as long as they comply with the MMMA.

Subsequent court opinions clarified that only those persons who were qualified patients and registered caregivers (and persons who met the requirements of Section 8 of the MMMA, even if not registered with the state) could exchange or use medical marijuana. A third party--a person providing or selling marijuana to a qualified patient who is not that person's registered caregiver--does not have the protection from prosecution under the MMMA. Any arrangement outside of the patient-caregiver relationship, including "dispensaries," does not comply with the MMMA and is illegal.

Q. Don't you know how to spell "marijuana"?

A. Yes. But the word was originally spelled with an "h," and that is how the word is spelled in federal law and the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act and Medical Marihuana Licensing Act. But everyone else today, including the courts, uses the more common spelling with the "j".

Q. What is legal today?

A. Only a patient-caregiver relationship conducted in compliance with the Michigan Medical Marihuana Act is legal today. Note that the MMMA was recently amended by PA 283 of 2016 to include certain marijuana-infused products, or "edibles," and to clarify what plants and parts of plants are allowed within the limits imposed by the Act.

Q. What is illegal today?

A. Anything that is not authorized by the Michigan Medical Marihuana Act is illegal today.

Q. So how come we see medical marijuana dispensaries all over?

A. Because the local jurisdiction has chosen to not enforce state or federal laws that make marijuana illegal outside of the patient-caregiver relationship protected by the MMMA. In most cases, the city, village or township has "decriminalized" certain uses of marijuana and/or chosen to not utilize enforcement resources for small amounts or certain levels of activity. But that is a forbearance, not legalization.

Q. Wait a minute—didn't a law just get passed that makes marijuana dispensaries legal?

A. No. Marijuana “dispensaries” or grow operations or any other activity involved with marijuana that does not comply with the Michigan Medical Marihuana Act are still unlawful.

Q. No, it did—the Medical Marihuana Facilities Licensing Act. The Governor signed it!

A. Yes. But the [Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101, et seq.](#), does not take effect until December 20, 2016.

And the MMFLA includes an additional delay in implementation of 360 days to enable the Michigan Department of Licensing and Regulatory Affairs (LARA) to establish the licensing system required by the Act. **A person cannot apply to the state for a license of any kind under the MMFLA until December 15, 2017.**

And no one can apply to the state for a license of any kind under the MMFLA UNLESS the township has already adopted an ordinance that authorizes that type of facility.

So even after December 15, 2017, any marijuana provisioning center or other activity involving marijuana that does not comply with the Michigan Medical Marihuana Act **will still be illegal**, unless that township has adopted an ordinance that authorizes that type of facility under the Medical Marihuana Facilities Licensing Act.

(Note that the word “dispensary” has been commonly used to refer to a variety of medical marijuana activities, but the new laws do not refer to “dispensaries.” Under the MMFLA, “provisioning centers” are what many people would describe as a “dispensary.”)

Q. What if an applicant comes to our meeting now and demands that we adopt an ordinance or approve their license?

If a township is approached by an applicant stating that the board must adopt an ordinance, then that applicant has misunderstood the law.

A township cannot be required to adopt an ordinance to allow facilities authorized under the MMFLA now or at any time.

If a township is approached by an applicant demanding that the township consider their application or stating that the board must authorize their facility:

- Before December 15, 2017, no township can be required to consider an application. Even if a township adopts an ordinance to allow the facilities authorized by the MMFLA, the licensing system is not in place, and no applications will be considered by LARA until December 15, 2017.
- After December 15, 2017, if a township **has not** adopted an ordinance allowing any of the facilities authorized by the MMFLA, then the township is not required to consider any applications for MMFLA licenses, because no licenses will be approved by LARA.
- After December 15, 2017, if a township **has** adopted an ordinance allowing any of the facilities authorized by the MMFLA, **and** the application involves one of the type(s) of facilities that the township allows in its ordinance, **and** the cap on the number of that type of facility imposed by the township's ordinance has not been reached, then the township will be asked to provide information to LARA as part of the licensing approval process.

Q. What do we need to do if we do NOT want any of the facilities authorized under the new Medical Marijuana Facilities Licensing Act in our township (or city or village)?

A. Do nothing. Literally. Do. Nothing. Period.

You do not need to adopt an ordinance to prohibit the types of facilities authorized under the MMFLA. They are already prohibited by state and federal law, unless the township adopts an ordinance to allow them (“opt in”) under the MMFLA.

You would only adopt an ordinance dealing with the types of facilities authorized under the MMFLA if the township WANTS to allow one or more type of facilities authorized under the MMFLA.

A township cannot be required to adopt an ordinance allowing the facilities authorized by the MMFLA.

You do not have to consider any application for any facilities currently because no application will be considered by the state until December 15, 2017. And even after that date, if the township has not adopted an ordinance allowing that type of facility, that application will not be considered by the state.

Note that, because dispensaries and other marijuana facilities or operations outside of the patient/caregiver relationship are NOT currently lawful (even where marijuana has been decriminalized locally), existing dispensaries or other marijuana facilities or operations are not currently lawful non-conforming uses for zoning ordinance purposes.

Q. What do we need to do if we DO want any of the facilities authorized under the new Medical Marijuana Facilities Licensing Act in our township (or city or village)?

A. Any time before December 15, 2017, a township that wants to allow medical marijuana facilities to operate within the township could adopt an ordinance allowing one or more of the specific types of facilities authorized by the new Medical Marijuana Facilities Licensing Act. ***Note that adopting such an ordinance before December 15, 2017 does NOT make a facility lawful!***

December 15, 2017 is the earliest an applicant may submit an application to the Medical Marijuana Licensing Board (MMLB) for consideration.

Any time after December 15, 2017, a township that wants to allow medical marijuana facilities to operate within the township would adopt an ordinance allowing one or more of the specific types of facilities authorized by the new Medical Marijuana Facilities Licensing Act.

The ordinance should specify which type(s) of facilities—and how many of each type—the township is choosing to allow. If a township “opts in” with an ordinance that does not specify a cap on the type(s) or number of each, applications for any of the types and any number of a type within the township will be considered by LARA.

But a license from the state is still required before a specific facility is authorized to legally operate under the MMFLA. The township board’s adoption of the ordinance allowing medical marijuana facilities does not automatically make all facilities lawful.

Also note that, because dispensaries and other marijuana facilities or operations outside of the patient/caregiver relationship are NOT currently lawful (even where marijuana has been decriminalized locally), existing dispensaries or other marijuana facilities or operations are not currently lawful non-conforming uses for zoning ordinance purposes.

Q. What types of facilities may be authorized under the new Medical Marihuana Facilities Licensing Act if a township allows them by ordinance?

A. The following types of medical marijuana facilities are authorized by the MMFLA. One or more types may be allowed by a township ordinance:

Class A, B, or C Grower—“A licensee that is a commercial entity located in this State that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.”

Class A: 500 plants -- Class B: 1,000 plants -- Class C: 1,500 plants

Processor—“A licensee that is a commercial entity located in this State that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana infused product for sale and transfer in packaged form to a provisioning center.”

Provisioning Center—“A licensee that is a commercial entity located in this State that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through their registered primary caregivers. The term includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the marihuana registration process of the Department of Licensing and Regulation in accordance with the Michigan Medical Marihuana Act will not be a provisioning center for purposes of the Licensing Act.”

Secure Transporter—“A licensee that is a commercial entity located in this State that stores marihuana and transports it between marihuana facilities for a fee.”

Safety Compliance Facility—“A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol (THC) and other cannabinoids, returns the test results, and may return the marihuana to the facility.”

Q. Why would a township consider allowing one or more of the types of facilities authorized under the new Medical Marihuana Facilities Licensing Act?

A. Some communities accept medical marijuana use for compassionate reasons, and believe that the Medical Marihuana Facilities Licensing Act will better facilitate the spirit and the actual practice of the patient-caregiver relationship authorized by the statewide initiative that created the Medical Marihuana Act in 2008.

Other communities may be responding to a real demand or broad support locally for providing medical marijuana facilities and business opportunities.

And it may be a revenue source:

- **Annual administrative fee:** Once a township adopts an ordinance allowing one or more of the types of facilities authorized by the Medical Marihuana Facilities Licensing Act, the township may in that ordinance require “an annual, nonrefundable fee of not more than \$5,000.00 on a licensee to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.” (“Nonrefundable” as in not returned if the application is not approved by the state or if a license is not renewed.)
- **Property tax revenues:** These facilities are businesses and may actually be quite profitable. And in some communities medical marijuana facilities will utilize commercial properties that are currently vacant or even off the tax roll due to foreclosure.

- **State shared revenues, as appropriated:** A state tax will be imposed on each provisioning center at the rate of 3% of the provisioning center's gross retail receipts, which will go to the state Medical Marijuana Excise Fund. The money in the fund will be allocated, *upon appropriation*, to the state, counties and municipalities in which a marijuana facility is located, with “25% to municipalities in which a marijuana facility is located, allocated in proportion to the number of marijuana facilities within the municipality.”

Q. How will the state manage this licensing system and track compliance?

A. The MMFLA requires licensees to “adopt and use a third-party inventory control and tracking system that is capable of interfacing with the statewide monitoring system to allow the licensee to enter or access information in the statewide monitoring system as required under this act and rules.” Yes, there already are such third-party software systems commercially available.

The [Marijuana Tracking Act, Public 282 of 2016, MCL 333.27901, et seq.](#), enacted at the same time as the MMFLA, requires LARA to establish a confidential statewide internet-based monitoring system for integrated tracking, inventory, and verification. It will be a system “established, implemented, and maintained directly or indirectly by the department [LARA] that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (i) Verifying registry identification cards.
- (ii) Tracking marijuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (iii) Verifying in a commercially reasonable time that a transfer will not exceed the limit that the registered qualifying patient or registered primary caregiver is authorized to receive under section 4 of the Michigan medical marijuana act, 2008 IL 1, MCL 333.26424.”

Q. The information on who is a qualified patient or a registered caregiver is currently confidential and exempt from public disclosure under the MMMA. How will the license process be treated—is that information going to be confidential?

A. The MMFLA requires that:

“Except as otherwise provided in this act, all information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board [MMFL Board] are subject to the freedom of information act, ..., except for the following:

- (i) Unless presented during a public hearing or requested by the licensee or applicant who is the sole subject of the data, all of the information, records, interviews, reports, statements, memoranda, or other data supplied to, created by, or used by the board related to background investigation of applicants or licensees and to trade secrets, internal controls, and security measures of the licensees or applicants.
- (ii) All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board that have been received from another jurisdiction or local, state, or federal agency under a promise of confidentiality or if the release of the information is otherwise barred by the statutes, rules, or regulations of that jurisdiction or agency or by an intergovernmental agreement.
- (iii) All information in the statewide monitoring system.”

So the Medical Marihuana Facility Licensing Board's records **are** subject to the FOIA and public disclosure, with some specific exceptions.

Here are the records that will be **exempt** from disclosure:

- The data, all of the information, records, interviews, reports, statements, memoranda, or other data supplied to, created by, or used by the board *related to background investigation of applicants or licensees and to trade secrets, internal controls, and security measures of the licensees or applicants* **is exempt from disclosure, UNLESS:**
 1. That data, information, record, etc. was presented during a public hearing (of the MMFLB), in which case it is NOT exempt from disclosure.
OR
 2. The licensee or applicant who is the sole subject of that data, information, record, etc. requests it, in which case it may be released to that licensee or applicant.
- All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the MMLFB that have been received from another jurisdiction or local, state, or federal agency (including a township) **is exempt from disclosure BUT ONLY IF:**
 1. The other jurisdiction or local, state, or federal agency (including a township) supplied it to the MMFLB *under a promise of confidentiality.*
OR
 2. The release of the information is otherwise *barred by the statutes, rules, or regulations of that jurisdiction or agency or by an intergovernmental agreement.*
- All information in the statewide monitoring system is **exempt from disclosure.**

The Marihuana Tracking Act states that “the information in the system is confidential and is exempt from disclosure under the freedom of information act. Information in the system may be disclosed for purposes of enforcing this act; the Michigan medical marihuana act; and the medical marihuana facilities licensing act.”

For more information on the three Michigan laws governing medical marijuana use, see the statutes online (click on the linked titles of the Acts in this fact sheet) or review the [Senate Fiscal Analysis of September 23, 2016](#), which outlines all the provisions of the three bills as they were enacted.

This fact sheet is not intended as a legal opinion, and a township should consult with its attorney before taking any steps to adopt an ordinance under these statutes, and for specific legal guidance on how the Acts interact with the individual township's other ordinances, including a zoning ordinance.



Frequently Asked Questions

Bureau of Medical Marihuana Regulation Marihuana Facilities Licensing

When can I apply for my license?

After December 15, 2017.

What does the Medical Marihuana Licensing Board (“the board”) do?

The Medical Marihuana Licensing Board is comprised of 5 members, appointed by the Governor (with input from the Senate Majority Leader and the Speaker of the House), to administer the Medical Marihuana Facilities Licensing Act. This includes reviewing applications, issuing licenses, revoking/suspending licenses, renewing licenses, and investigating individuals who are applying for licensure or complaints received about someone who holds a license.

What are the different licenses I can apply for?

You may apply for the following licenses:

- Grower;
- Processor;
- Transporter;
- Provisioning Center;
- Safety Compliance Facility

Where can I find more information on each type of license?

Details on each license category can be found in Part 5 of the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281. See

<http://legislature.mi.gov/doc.aspx?mcl-281-2016-PART-5-LICENSEES>

What costs are associated with a license?

- Payment to secure transporters for transferring marihuana, as needed;
- Annual, nonrefundable fee (of up to \$5,000) to be set by, and paid to, your local municipality. These fees are used to offset administrative and enforcement costs associated with the operation of a marihuana facility in the municipality;
- An application fee per category and class of license;

- Investigation and processing fees not covered by the application fee;
- An annual regulatory assessment fee;
- A renewal fee;
- Late fees if renewal fee is not paid on time;
- Provisioning centers will pay 3% on gross retail receipts

Does my municipality have any involvement with my license?

Yes, a municipality (city, township or village) has the following involvement:

- Must pass an ordinance which authorizes the type of facility you wish to open;
- May limit the number of each type of facility within the municipality’s boundaries;
- Any other ordinances relating to marijuana facilities;
- May adopt zoning regulations relating to facilities within its jurisdiction;
- The municipality must receive notice from you that you have applied for any one of the five licenses;
- May establish an annual fee to be paid by you; the fee can be as much as \$5,000.00;
- Must approve your request to have your license transferred, sold or purchased.

Does my criminal history prevent me from obtaining a license?

It depends on whether the following are true:

- The applicant is ineligible if he or she has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States (federal law) within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years.
- The applicant is ineligible if he or she has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state within the past 5 years.
- The applicant is ineligible if he or she has 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 within the past 5 years.

The Board may take into consideration the following:

- 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.

What prohibits a person from obtaining a license?

An applicant cannot obtain a license if any of the following is true:

- The applicant is ineligible if he or she has knowingly submitted an application for a license under this act that contains false information.
- The applicant cannot be a member of the Medical Marijuana Licensing Board.

- The applicant is ineligible if he or she fails to demonstrate the ability to maintain adequate premises liability and casualty insurance for its proposed marijuana facility (an insurance policy that covers at a minimum of \$100,000).
- The applicant cannot hold an elective office of a governmental unit of this state, another state, or the federal government; 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 an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.
- The applicant, if an individual, is ineligible if he or she has been a resident of this state for less than a continuous 2-year period immediately preceding the date of filing the application. This requirement does not apply after June 30, 2018.
- The applicant is ineligible if the Board determines he or she failed comply with section 205(1).
- The applicant fails to meet other criteria established by rule.
- The applicant is ineligible if he or she has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States (federal law) within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years.
- The applicant is ineligible if he or she has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state within the past 5 years.
- The applicant is ineligible if he or she has 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 within the past 5 years.

What other things may potentially prevent an applicant from getting approved for a license?

The Board may take into consideration the following:

- The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a marijuana facility of the applicant and of any other person that either:
 - 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.
- The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
- The sources and total amount of the applicant's capitalization to operate and maintain the proposed marijuana facility.
- Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past 7 years.
- 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.
- Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction.

- Whether at the time of application the applicant is a defendant in litigation involving its business practices.
- Whether the applicant meets other standards in rules applicable to the license category.
- 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.

Will an application be submitted anonymously?

The Department of Licensing and Regulatory Affairs (LARA) is currently reviewing the application process to determine what identifying information connected with the application will be available.

Will the department be reorganized again?

The Bureau of Medical Marijuana Regulation (BMMR) was created by the LARA Director within the Department of Licensing and Regulatory Affairs (LARA) in April 2017 to cover all aspects of medical marijuana regulation. The new Bureau combines the existing oversight functions of the state's patient and caregiver registry with the newly established statutory requirements for medical marijuana facility licensing. The Bureau's centralized services will enhance patient protections and make regulations more efficient for Michigan patients and the future commercial entities. Any future reorganization of the Department is under the purview of the LARA Director. The reorganization of an entire State Department is an executive function under the discretion of the Governor.

Will co-location of facilities be allowed?

This is to be determined and information will be forthcoming. The Department, in consultation with the Medical Marijuana Licensing Board, is diligently reviewing this issue.

Will the department issue guidance for townships?

Presently, the Department is working diligently to develop the application process and regulations will be forthcoming. There will also likely be guidance to municipalities on the submittal of the ordinance documents as described in the Medical Marijuana Facilities Licensing Act.

What does seed-to-sale tracking mean, at what point does the tracking start?

The Marijuana Tracking Act, 2016 PA 282, requires the Department to establish a statewide monitoring system for use as an integrated marijuana tracking, inventory, and verification system. The Department has contracted with Franwell, Inc. to use METRC for the statewide monitoring system. For information on the Statewide Monitoring System please refer to the following link for information: <https://www.metrc.com/michigan>.

How will information be disseminated to the public and other interested parties?

The Department has a website devoted to medical marijuana regulation at the www.michigan.gov/medicalmarihuana. Interested parties can view updated information, find a list of scheduled public board meetings, and sign up for email communications from the Department on the website.

How will the law help people working with patients who want to make their livelihood as a small business? How will the law help people to make their livelihood as caregivers?

The Department of Licensing and Regulatory Affairs (LARA) was chosen by the Michigan Legislature to implement the new medical marijuana licensing program. The Department is responsible for the state's regulatory environment and makes the delivery of services more efficient for consumers and business customers. The Legislature provided for a tiered grower license category: class A - 500 plants, class B - 1000 plants, class C - 1500 plants. One of the provisions of the Medical Marijuana Facilities Licensing Act is that the regulatory assessment for a class A grower license shall not exceed \$10,000. In addition, both grower and processor licenses require that an applicant be a caregiver or employ a caregiver who has a minimum of 2 years' experience.

What will the costs be for a license?

The Section 401(5) of the Medical Marijuana Facilities Licensing Act (MMFLA) requires the Department, in consultation with the Board, to set the application fee amounts for each category and class of license by rule. The Department is diligently working with the Board to set the application fees and information will be forthcoming. Presently, there is no estimation but there will likely be guidance as soon as possible. If you have not already done so, you may wish to sign up for email updates and Board hearing notifications in the box provided at www.michigan.gov/medicalmarihuana. In the meantime, the following are some of the costs of a future state license based on the statutory language:

- Payment to secure transporters for transferring marijuana, as needed;
- Annual, nonrefundable fee (of up to \$5,000.00) to be set by and paid to your local municipality (city, village or township), these costs are to offset administrative and enforcement costs associated with the operation of a marijuana facility in the municipality;
- An application fee per category and class of license;
- Investigation and processing fees not covered by the application fee;
- An annual regulatory assessment fee; (MMFLA has a limit on the regulatory assessment fee for one license type - the fee cannot be more than \$10,000 for a Class A (500 plants) grower license.)
- Late fees if renewal fee not paid on time;
- Provisioning centers will pay 3% on gross retail receipts;
- Proof of financial responsibility for liability for bodily injury such as liability insurance (see Section 408 of the MMFLA).

What will the cost be for transportation and will there be limits on charges?

The Medical Marihuana Facilities Licensing Act requires the use of a licensed secured transporter to transfer marihuana. It is unknown at this juncture what the costs will be for the secured transportation of marihuana.

Can the department clarify sales of up to 1% interest in a license?

Presently, the Department is diligently reviewing the statute and will consult with the Board to provide guidance on statutory provisions.

What is the impact on caregiver center applicants in the pipeline in Detroit?

The Department does not currently license caregiver centers. However, the Department will begin taking license applications for future provisioning centers on December 15, 2017. The Medical Marihuana Facilities Licensing Act specifies that a municipality (village, township or city) may adopt an ordinance that authorized 1 or more types of marihuana facilities for a marihuana facility to operate.

How can people get information from the board and department?

The Department's website has information available on the Medical Marihuana Facilities Licensing Act and a person can sign up for updates at: www.michigan.gov/medicalmarihuana. In addition, a person may contact the Bureau of Medical Marihuana Regulation (BMMR) by email at: LARA-MedicalMarihuana@michigan.gov.

What will the fees be for the regulatory assessment and license applications?

The regulatory assessment fees are to be determined. The Department and the Board are working diligently to establish the regulatory assessments and information will be forthcoming.

Can a person apply for a license prior to a municipality adopting the ordinance?

The Department is working diligently to establish the application procedure and guidance will be forthcoming.

How will the growing of marihuana interact with current agricultural practices?

The Department is researching this area and will likely provide future guidance.

Will the process include input from medical professionals?

The Medical Marihuana Facilities Licensing Act (MMFLA) created a Marihuana Advisory Panel within the Department that may make recommendations to the Board. The MMFLA provides that governor will appoint specific members to the panel, one of which is a physician licensed under article 15 of the Public Health Code.

What will be the amount of the license fees?

The license fees are to be determined and information will be forthcoming.

Who are the rules being created by?

The Department in consultation with the Board. Section 206 of the Medical Marihuana Facilities Licensing Act (MMFLA), requires the Department, in consultation with the Medical Marihuana Licensing Board, to promulgate rules to implement, administer, and enforce the MMFLA. This section also requires that the rules ensure the safety, security, and integrity of the operation of marihuana facilities, by including specific regulations.

What banks will do business with medical marihuana businesses?

The Department, in consultation with the Board, is researching this issue but it is an unknown at this juncture whether banks that are federally regulated financial institutions will establish business relationships with the future state licensed medical marihuana facilities.

For more information visit: www.michigan.gov/medicalmarihuana

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

333.27205 Marihuana facility; ordinance; requirements.

Sec. 205. (1) A marihuana facility shall not operate in a municipality unless the municipality has adopted an ordinance that authorizes that type of facility. A municipality may adopt an ordinance to authorize 1 or more types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility. A municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulations for licensing marihuana facilities. A municipality shall provide the following information to the board within 90 days after the municipality receives notification from the applicant that he or she has applied for a license under this act:

- (a) A copy of the local ordinance that authorizes the marihuana facility.
 - (b) A copy of any zoning regulations that apply to the proposed marihuana facility within the municipality.
 - (c) A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the applicant, but only if those violations relate to activities licensed under this act or the Michigan medical marihuana act.
- (2) The board may consider the information provided under subsection (1) in the application process. However, the municipality's failure to provide information to the board shall not be used against the applicant.
- (3) A municipal ordinance may establish an annual, nonrefundable fee of not more than \$5,000.00 on a licensee to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.
- (4) Information a municipality obtains from an applicant related to licensure under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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

Compiler's note: 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."

Act No. 283
Public Acts of 2016
Approved by the Governor
September 21, 2016
Filed with the Secretary of State
September 21, 2016
EFFECTIVE DATE: December 20, 2016

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Reps. Lyons, Goike, Bumstead, Yonker, Kelly, Pettalia, Callton, Pscholka, Potvin, Dillon, Irwin, Hoadley, Maturen, Singh, Sarah Roberts and Kosowski

ENROLLED HOUSE BILL No. 4210

AN ACT to amend 2008 IL 1, entitled “An initiation of Legislation to allow under state law the medical use of marihuana; to provide protections for the medical use of marihuana; to provide for a system of registry identification cards for qualifying patients and primary caregivers; to impose a fee for registry application and renewal; to provide for the promulgation of rules; to provide for the administration of this act; to provide for enforcement of this act; to provide for affirmative defenses; and to provide for penalties for violations of this act,” by amending the title and sections 3, 4, 6, and 7 (MCL 333.26423, 333.26424, 333.26426, and 333.26427), sections 3 and 4 as amended by 2012 PA 512 and section 6 as amended by 2012 PA 514, and by adding sections 4a and 4b.

The People of the State of Michigan enact:

TITLE

An initiation of Legislation to allow under state law the medical use of marihuana; to provide protections for the medical use of marihuana; to provide for a system of registry identification cards for qualifying patients and primary caregivers; to impose a fee for registry application and renewal; to make an appropriation; to provide for the promulgation of rules; to provide for the administration of this act; to provide for enforcement of this act; to provide for affirmative defenses; and to provide for penalties for violations of this act.

3. Definitions.

Sec. 3. As used in this act:

(a) “Bona fide physician-patient relationship” means a treatment or counseling relationship between a physician and patient in which all of the following are present:

(1) The physician has reviewed the patient’s relevant medical records and completed a full assessment of the patient’s medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.

(2) The physician has created and maintained records of the patient’s condition in accord with medically accepted standards.

(3) The physician has a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of medical marihuana as a treatment of the patient’s debilitating medical condition.

(4) If the patient has given permission, the physician has notified the patient’s primary care physician of the patient’s debilitating medical condition and certification for the medical use of marihuana to treat that condition.

(b) “Debilitating medical condition” means 1 or more of the following:

(1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn’s disease, agitation of Alzheimer’s disease, nail patella, or the treatment of these conditions.

(2) A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis.

(3) Any other medical condition or its treatment approved by the department, as provided for in section 6(k).

(c) "Department" means the department of licensing and regulatory affairs.

(d) "Enclosed, locked facility" means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a registered primary caregiver or registered qualifying patient. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either the registered qualifying patient or a person designated through the departmental registration process as the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:

(1) The vehicle is being used temporarily to transport living marihuana plants from 1 location to another with the intent to permanently retain those plants at the second location.

(2) An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marihuana plants belong or the individual designated through the departmental registration process as the primary caregiver for the registered qualifying patient.

(e) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(f) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

(g) "Marihuana plant" means any plant of the species *Cannabis sativa* L.

(h) "Medical use of marihuana" means the acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of marihuana, marihuana-infused products, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

(i) "Physician" means an individual licensed as a physician under part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(j) "Plant" means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

(k) "Primary caregiver" or "caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(l) "Qualifying patient" or "patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

(m) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.

(n) "Usable marihuana" means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant.

(o) "Usable marihuana equivalent" means the amount of usable marihuana in a marihuana-infused product that is calculated as provided in section 4(c).

(p) "Visiting qualifying patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days.

(q) "Written certification" means a document signed by a physician, stating all of the following:

(1) The patient's debilitating medical condition.

(2) The physician has completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation.

(3) In the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

4. Protections for the Medical Use of Marihuana.

Sec. 4. (a) A qualifying patient who has been issued and possesses a registry identification card is not subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marihuana in accordance with this act, provided that the qualifying patient possesses an amount of marihuana that does not exceed a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents, and, if the qualifying patient has not specified that a primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount. The privilege from arrest under this subsection applies only if the qualifying patient presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the qualifying patient.

(b) A primary caregiver who has been issued and possesses a registry identification card is not subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marihuana in accordance with this act. The privilege from arrest under this subsection applies only if the primary caregiver presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the primary caregiver. This subsection applies only if the primary caregiver possesses marihuana in forms and amounts that do not exceed any of the following:

(1) For each qualifying patient to whom he or she is connected through the department's registration process, a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents.

(2) For each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility.

(3) Any incidental amount of seeds, stalks, and unusable roots.

(c) For purposes of determining usable marihuana equivalency, the following shall be considered equivalent to 1 ounce of usable marihuana:

(1) 16 ounces of marihuana-infused product if in a solid form.

(2) 7 grams of marihuana-infused product if in a gaseous form.

(3) 36 fluid ounces of marihuana-infused product if in a liquid form.

(d) A person shall not be denied custody or visitation of a minor for acting in accordance with this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(e) There is a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marihuana in accordance with this act if the qualifying patient or primary caregiver complies with both of the following:

(1) Is in possession of a registry identification card.

(2) Is in possession of an amount of marihuana that does not exceed the amount allowed under this act. The presumption may be rebutted by evidence that conduct related to marihuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this act.

(f) A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana. Any such compensation does not constitute the sale of controlled substances.

(g) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, or any other business or occupational or professional licensing board or bureau, solely for providing written certifications, in the course of a bona fide physician-patient relationship and after the physician has completed a full assessment of the qualifying patient's medical history, or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use

of marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

(h) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered primary caregiver with marijuana paraphernalia for purposes of a qualifying patient's medical use of marijuana.

(i) Any marijuana, marijuana paraphernalia, or licit property that is possessed, owned, or used in connection with the medical use of marijuana, as allowed under this act, or acts incidental to such use, shall not be seized or forfeited.

(j) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for being in the presence or vicinity of the medical use of marijuana in accordance with this act, or for assisting a registered qualifying patient with using or administering marijuana.

(k) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marijuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marijuana, shall have the same force and effect as a registry identification card issued by the department.

(l) Any registered qualifying patient or registered primary caregiver who sells marijuana to someone who is not allowed the medical use of marijuana under this act shall have his or her registry identification card revoked and is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both, in addition to any other penalties for the distribution of marijuana.

(m) A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for manufacturing a marijuana-infused product if the person is any of the following:

(1) A registered qualifying patient, manufacturing for his or her own personal use.

(2) A registered primary caregiver, manufacturing for the use of a patient to whom he or she is connected through the department's registration process.

(n) A qualifying patient shall not transfer a marijuana-infused product or marijuana to any individual.

(o) A primary caregiver shall not transfer a marijuana-infused product to any individual who is not a qualifying patient to whom he or she is connected through the department's registration process.

Sec. 4a. (1) This section does not apply unless the medical marijuana facilities licensing act is enacted.

(2) A registered qualifying patient or registered primary caregiver shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for any of the following:

(a) Transferring or purchasing marijuana in an amount authorized by this act from a provisioning center licensed under the medical marijuana facilities licensing act.

(b) Transferring or selling marijuana seeds or seedlings to a grower licensed under the medical marijuana facilities licensing act.

(c) Transferring marijuana for testing to and from a safety compliance facility licensed under the medical marijuana facilities licensing act.

Sec. 4b. (1) Except as provided in subsections (2) to (4), a qualifying patient or primary caregiver shall not transport or possess a marijuana-infused product in or upon a motor vehicle.

(2) This section does not prohibit a qualifying patient from transporting or possessing a marijuana-infused product in or upon a motor vehicle if the marijuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is carried so as not to be readily accessible from the interior of the vehicle. The label must state the weight of the marijuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the person from whom the marijuana-infused product was received, and date of receipt.

(3) This section does not prohibit a primary caregiver from transporting or possessing a marijuana-infused product in or upon a motor vehicle if the marijuana-infused product is accompanied by an accurate marijuana transportation manifest and enclosed in a case carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is enclosed in a case and carried so as not to be readily accessible from the interior of the vehicle. The manifest form must state the

weight of each marihuana-infused product in ounces, name and address of the manufacturer, date of manufacture, destination name and address, date and time of departure, estimated date and time of arrival, and, if applicable, name and address of the person from whom the product was received and date of receipt.

(4) This section does not prohibit a primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle for the use of his or her child, spouse, or parent who is a qualifying patient if the marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is carried so as not to be readily accessible from the interior of the vehicle. The label must state the weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the qualifying patient, and, if applicable, name of the person from whom the marihuana-infused product was received and date of receipt.

(5) For purposes of determining compliance with quantity limitations under section 4, there is a rebuttable presumption that the weight of a marihuana-infused product listed on its package label or on a marihuana transportation manifest is accurate.

(6) A qualifying patient or primary caregiver who violates this section is responsible for a civil fine of not more than \$250.00.

6. Administering the Department's Rules.

Sec. 6. (a) The department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's rules:

(1) A written certification;

(2) Application or renewal fee;

(3) Name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

(4) Name, address, and telephone number of the qualifying patient's physician;

(5) Name, address, and date of birth of the qualifying patient's primary caregiver, if any;

(6) Proof of Michigan residency. For the purposes of this subdivision, a person shall be considered to have proved legal residency in this state if any of the following apply:

(i) The person provides a copy of a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(ii) The person provides a copy of a valid Michigan voter registration.

(7) If the qualifying patient designates a primary caregiver, a designation as to whether the qualifying patient or primary caregiver will be allowed under state law to possess marihuana plants for the qualifying patient's medical use.

(b) The department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless:

(1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marihuana to the qualifying patient and to his or her parent or legal guardian;

(2) The qualifying patient's parent or legal guardian submits a written certification from 2 physicians; and

(3) The qualifying patient's parent or legal guardian consents in writing to:

(A) Allow the qualifying patient's medical use of marihuana;

(B) Serve as the qualifying patient's primary caregiver; and

(C) Control the acquisition of the marihuana, the dosage, and the frequency of the medical use of marihuana by the qualifying patient.

(c) The department shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within 15 business days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or if the department determines that the information provided was falsified. Rejection of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the circuit court for the county of Ingham.

(d) The department shall issue a registry identification card to the primary caregiver, if any, who is named in a qualifying patient's approved application; provided that each qualifying patient can have no more than 1 primary caregiver, and a primary caregiver may assist no more than 5 qualifying patients with their medical use of marihuana.

(e) The department shall issue registry identification cards within 5 business days of approving an application or renewal, which shall expire 2 years after the date of issuance. Registry identification cards shall contain all of the following:

- (1) Name, address, and date of birth of the qualifying patient.
- (2) Name, address, and date of birth of the primary caregiver, if any, of the qualifying patient.
- (3) The date of issuance and expiration date of the registry identification card.
- (4) A random identification number.
- (5) A photograph, if the department requires one by rule.

(6) A clear designation showing whether the primary caregiver or the qualifying patient will be allowed under state law to possess the marijuana plants for the qualifying patient's medical use, which shall be determined based solely on the qualifying patient's preference.

(f) If a registered qualifying patient's certifying physician notifies the department in writing that the patient has ceased to suffer from a debilitating medical condition, the card shall become null and void upon notification by the department to the patient.

(g) Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any local, county or state governmental agency.

(h) The following confidentiality rules shall apply:

(1) Subject to subdivisions (3) and (4), applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and physicians, are confidential.

(2) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Except as provided in subdivisions (3) and (4), individual names and other identifying information on the list are confidential and are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) The department shall verify to law enforcement personnel and to the necessary database created in the marijuana tracking act as established by the medical marijuana facilities licensing act whether a registry identification card is valid, without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4) A person, including an employee, contractor, or official of the department or another state agency or local unit of government, who discloses confidential information in violation of this act is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than \$1,000.00, or both. Notwithstanding this provision, department employees may notify law enforcement about falsified or fraudulent information submitted to the department.

(i) The department shall submit to the legislature an annual report that does not disclose any identifying information about qualifying patients, primary caregivers, or physicians, but does contain, at a minimum, all of the following information:

- (1) The number of applications filed for registry identification cards.
- (2) The number of qualifying patients and primary caregivers approved in each county.
- (3) The nature of the debilitating medical conditions of the qualifying patients.
- (4) The number of registry identification cards revoked.
- (5) The number of physicians providing written certifications for qualifying patients.

(j) The department may enter into a contract with a private contractor to assist the department in performing its duties under this section. The contract may provide for assistance in processing and issuing registry identification cards, but the department shall retain the authority to make the final determination as to issuing the registry identification card. Any contract shall include a provision requiring the contractor to preserve the confidentiality of information in conformity with subsection (h).

(k) Not later than 6 months after the effective date of the amendatory act that added this subsection, the department shall appoint a panel to review petitions to approve medical conditions or treatments for addition to the list of debilitating medical conditions under the administrative rules. The panel shall meet at least twice each year and shall review and make a recommendation to the department concerning any petitions that have been submitted that are completed and include any documentation required by administrative rule.

(1) A majority of the panel members shall be licensed physicians, and the panel shall provide recommendations to the department regarding whether the petitions should be approved or denied.

(2) All meetings of the panel are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(l) The marihuana registry fund is created within the state treasury. All fees collected under this act shall be deposited into the fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of licensing and regulatory affairs shall be the administrator of the fund for auditing purposes. The department shall expend money from the fund, upon appropriation, for the operation and oversight of the Michigan medical marihuana program. For the fiscal year ending September 30, 2016, \$8,500,000.00 is appropriated from the marihuana registry fund to the department for its initial costs of implementing the medical marihuana facilities licensing act and the marihuana tracking act.

7. Scope of Act.

Sec. 7. (a) The medical use of marihuana is allowed under state law to the extent that it is carried out in accordance with the provisions of this act.

(b) This act does not permit any person to do any of the following:

(1) Undertake any task under the influence of marihuana, when doing so would constitute negligence or professional malpractice.

(2) Possess marihuana, or otherwise engage in the medical use of marihuana at any of the following locations:

(A) In a school bus.

(B) On the grounds of any preschool or primary or secondary school.

(C) In any correctional facility.

(3) Smoke marihuana at any of the following locations:

(A) On any form of public transportation.

(B) In any public place.

(4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marihuana.

(5) Use marihuana if that person does not have a serious or debilitating medical condition.

(6) Separate plant resin from a marihuana plant by butane extraction in any public place or motor vehicle, or inside or within the curtilage of any residential structure.

(7) Separate plant resin from a marihuana plant by butane extraction in a manner that demonstrates a failure to exercise reasonable care or reckless disregard for the safety of others.

(c) Nothing in this act shall be construed to require any of the following:

(1) A government medical assistance program or commercial or non-profit health insurer to reimburse a person for costs associated with the medical use of marihuana.

(2) An employer to accommodate the ingestion of marihuana in any workplace or any employee working while under the influence of marihuana.

(d) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marihuana to avoid arrest or prosecution is punishable by a fine of \$500.00, which is in addition to any other penalties that may apply for making a false statement or for the use of marihuana other than use undertaken pursuant to this act.

(e) All other acts and parts of acts inconsistent with this act do not apply to the medical use of marihuana as provided for by this act.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act clarifies ambiguities in the law in accordance with the original intent of the people, as expressed in section 2(b) of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26422:

“(b) Data from the Federal Bureau of Investigation Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marihuana arrests in the United States are made under state law, rather than under federal law. *Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need to use marihuana.*” [Emphasis added.]

This amendatory act is curative and applies retroactively as to the following: clarifying the quantities and forms of marihuana for which a person is protected from arrest, precluding an interpretation of “weight” as aggregate weight, and excluding an added inactive substrate component of a preparation in determining the amount of marihuana, medical marihuana, or usable marihuana that constitutes an offense. Retroactive application of this amendatory act does not create a cause of action against a law enforcement officer or any other state or local governmental officer, employee, department, or agency that enforced this act under a good-faith interpretation of its provisions at the time of enforcement.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Act No. 282
Public Acts of 2016
Approved by the Governor
September 21, 2016
Filed with the Secretary of State
September 21, 2016
EFFECTIVE DATE: December 20, 2016

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Rep. Kesto

ENROLLED HOUSE BILL No. 4827

AN ACT to establish a statewide monitoring system to track marihuana and marihuana products in commercial trade; to monitor compliance with laws authorizing commercial traffic in medical marihuana; to identify threats to health from particular batches of marihuana or medical marihuana; to require persons engaged in commercial marihuana trade to submit certain information for entry into the system; to provide the powers and duties of certain state departments and agencies; to provide for remedies; and to provide for the promulgation of rules.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the “marihuana tracking act”.

Sec. 2. As used in this act:

- (a) “Department” means the department of licensing and regulatory affairs.
- (b) “Licensee” means that term as defined in section 102 of the medical marihuana facilities licensing act.
- (c) “Marihuana” means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (d) “Registered primary caregiver” means that term as defined in section 102 of the medical marihuana facilities licensing act.

(e) "Registered qualifying patient" means that term as defined in section 102 of the medical marihuana facilities licensing act.

(f) "Registry identification card" means that term as defined in section 3 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26423.

(g) "Statewide monitoring system" or "system" means an internet-based, statewide database established, implemented, and maintained directly or indirectly by the department that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

(i) Verifying registry identification cards.

(ii) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.

(iii) Verifying in a commercially reasonable time that a transfer will not exceed the limit that the registered qualifying patient or registered primary caregiver is authorized to receive under section 4 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26424.

Sec. 3. (1) The department shall establish a statewide monitoring system for use as an integrated marihuana tracking, inventory, and verification system. The system must allow for interface with third-party inventory and tracking systems as described in section 207 of the medical marihuana facilities licensing act to provide for access by this state, licensees, and law enforcement personnel, to the extent that they need and are authorized to receive or submit the information, to comply with, enforce, or administer this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; or the medical marihuana facilities licensing act.

(2) At a minimum, the system must be capable of storing and providing access to information that, in conjunction with 1 or more third-party inventory control and tracking systems under section 207 of the medical marihuana facilities licensing act, allows all of the following:

(a) Verification that a registry identification card is current and valid and has not been suspended, revoked, or denied.

(b) Retention of a record of the date, time, quantity, and price of each sale or transfer of marihuana to a registered qualifying patient or registered primary caregiver.

(c) Determination of whether a particular sale or transfer transaction will exceed the permissible limit established under the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

(d) Effective monitoring of marihuana seed-to-sale transfers.

(e) Receipt and integration of information from third-party inventory control and tracking systems under section 207 of the medical marihuana facilities licensing act.

(3) The department shall promulgate rules to govern the process for incorporating information concerning registry identification card renewal, revocation, suspension, and changes and other information applicable to licensees, registered primary caregivers, and registered qualifying patients that must be included and maintained in the statewide monitoring system.

(4) The department shall seek bids to establish, operate, and maintain the statewide monitoring system under this section. The department shall do all of the following:

(a) Evaluate bidders based on the cost of the service and the ability to meet all of the requirements of this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; and the medical marihuana facilities licensing act.

(b) Give strong consideration to the bidder's ability to prevent fraud, abuse, and other unlawful or prohibited activities associated with the commercial trade in marihuana in this state, and the ability to provide additional tools for the administration and enforcement of this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; and the medical marihuana facilities licensing act.

(c) Institute procedures to ensure that the contract awardee does not disclose or use the information in the system for any use or purpose except for the enforcement, oversight, and implementation of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430, or the medical marihuana facilities licensing act.

(d) Require the contract awardee to deliver the functioning system by 180 days after award of the contract.

(5) The department may terminate a contract with a contract awardee under this act for a violation of this act. A contract awardee may be debarred from award of other state contracts under this act for a violation of this act.

Sec. 4. The information in the system is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Information in the system may be disclosed for purposes of enforcing this act; the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430; and the medical marihuana facilities licensing act.

Enacting section 1. This act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This act does not take effect unless House Bill No. 4209 of the 98th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Act No. 281
Public Acts of 2016
Approved by the Governor
September 21, 2016
Filed with the Secretary of State
September 21, 2016
EFFECTIVE DATE: December 20, 2016

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Reps. Callton, Kivela, Howrylak, Durhal, Lyons, Pettalia, Hovey-Wright, Dianda, Chang, Neeley, Irwin, Pscholka, Bumstead, Yonker, Canfield, Kelly, Lucido, Maturen, Schor, Brinks, Faris, Banks, Byrd, Garrett, Gay-Dagnogo, Hoadley, Kesto, Kosowski, LaVoy, Love, Phelps, Potvin, Robinson, Runestad, Singh, Tedder and Webber

ENROLLED HOUSE BILL No. 4209

AN ACT to license and regulate medical marihuana growers, processors, provisioning centers, secure transporters, and safety compliance facilities; to provide for the powers and duties of certain state and local governmental officers and entities; to create a medical marihuana licensing board; to provide for interaction with the statewide monitoring system for commercial marihuana transactions; to create an advisory panel; to provide immunity from prosecution for marihuana-related offenses for persons engaging in marihuana-related activities in compliance with this act; to prescribe civil fines and sanctions and provide remedies; to provide for forfeiture of contraband; to provide for taxes, fees, and assessments; and to require the promulgation of rules.

The People of the State of Michigan enact:

PART 1. GENERAL PROVISIONS

Sec. 101. This act shall be known and may be cited as the “medical marihuana facilities licensing act”.

Sec. 102. As used in this act:

(a) “Advisory panel” or “panel” means the marihuana advisory panel created in section 801.

(b) “Affiliate” means any person that controls, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, a co-member of a limited liability company, or a co-partner in a limited liability partnership with a licensee or applicant.

(c) “Applicant” means a person who applies for a state operating license. With respect to disclosures in an application, or for purposes of ineligibility for a license under section 402, the term applicant includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.

(d) “Board” means the medical marihuana licensing board created in section 301.

(e) “Department” means the department of licensing and regulatory affairs.

(f) “Grower” means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

(g) “Licensee” means a person holding a state operating license.

(h) “Marihuana” means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(i) “Marihuana facility” means a location at which a license holder is licensed to operate under this act.

(j) “Marihuana plant” means any plant of the species *Cannabis sativa* L.

(k) “Marihuana-infused product” means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

(l) “Michigan medical marihuana act” means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

(m) “Municipality” means a city, township, or village.

(n) “Paraphernalia” means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

(o) “Person” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

(p) “Plant” means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

(q) “Processor” means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

(r) “Provisioning center” means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department’s marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this act.

(s) “Registered primary caregiver” means a primary caregiver who has been issued a current registry identification card under the Michigan medical marihuana act.

(t) “Registered qualifying patient” means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(u) “Registry identification card” means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(v) “Rules” means rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the department in consultation with the board to implement this act.

(w) “Safety compliance facility” means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

(x) “Secure transporter” means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

(y) “State operating license” or, unless the context requires a different meaning, “license” means a license that is issued under this act that allows the licensee to operate as 1 of the following, specified in the license:

(i) A grower.

(ii) A processor.

(iii) A secure transporter.

(iv) A provisioning center.

(v) A safety compliance facility.

(z) “Statewide monitoring system” or, unless the context requires a different meaning, “system” means an internet-based, statewide database established, implemented, and maintained by the department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

(i) Verifying registry identification cards.

(ii) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.

(iii) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act, MCL 333.26424.

(aa) “Usable marihuana” means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant.

PART 2. APPLICATION OF OTHER LAWS

Sec. 201. (1) Except as otherwise provided in this act, if a person has been granted a state operating license and is operating within the scope of the license, the licensee and its agents are not subject to any of the following for engaging in activities described in subsection (2):

(a) Criminal penalties under state law or local ordinances regulating marihuana.

(b) State or local criminal prosecution for a marihuana-related offense.

(c) State or local civil prosecution for a marihuana-related offense.

(d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.

(e) Seizure of marihuana, real property, personal property, or anything of value based on a marihuana-related offense.

(f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau based on a marihuana-related offense.

(2) The following activities are protected under subsection (1) if performed under a state operating license within the scope of that license and in accord with this act, rules, and any ordinance adopted under section 205:

(a) Growing marihuana.

(b) Purchasing, receiving, selling, transporting, or transferring marihuana from or to a licensee, a licensee's agent, a registered qualifying patient, or a registered primary caregiver.

(c) Possessing marihuana.

(d) Possessing or manufacturing marihuana paraphernalia for medical use.

(e) Processing marihuana.

(f) Transporting marihuana.

(g) Testing, transferring, infusing, extracting, altering, or studying marihuana.

(h) Receiving or providing compensation for products or services.

(3) Except as otherwise provided in this act, a person who owns or leases real property upon which a marihuana facility is located and who has no knowledge that the licensee violated this act is not subject to any of the following for owning, leasing, or permitting the operation of a marihuana facility on the real property:

(a) Criminal penalties under state law or local ordinances regulating marihuana.

(b) State or local civil prosecution based on a marihuana-related offense.

(c) State or local criminal prosecution based on a marihuana-related offense.

(d) Search or inspection, except for an inspection authorized under this act by law enforcement officers, the municipality, or the department.

(e) Seizure of any real or personal property or anything of value based on a marihuana-related offense.

(f) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau.

(4) For the purposes of regulating the commercial entities established under this act, any provisions of the following acts that are inconsistent with this act do not apply to a grower, processor, secure transporter, provisioning center, or safety compliance facility operating in compliance with this act:

(a) The business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

(b) The nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(c) 1931 PA 327, MCL 450.98 to 450.192.

(d) The Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.

(e) The Michigan limited liability company act, 1993 PA 23, MCL 450.4101 to 450.5200.

(f) 1907 PA 101, MCL 445.1 to 445.5.

(g) 1913 PA 164, MCL 449.101 to 449.106.

(h) The uniform partnership act, 1917 PA 72, MCL 449.1 to 449.48.

Sec. 203. A registered qualifying patient or registered primary caregiver is not subject to criminal prosecution or sanctions for purchasing marihuana from a provisioning center if the quantity purchased is within the limits established under the Michigan medical marihuana act. A registered primary caregiver is not subject to criminal prosecution or sanctions for any transfer of 2.5 ounces or less of marihuana to a safety compliance facility for testing.

Sec. 204. This act does not limit the medical purpose defense provided in section 8 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26428, to any prosecution involving marihuana.

Sec. 205. (1) A marihuana facility shall not operate in a municipality unless the municipality has adopted an ordinance that authorizes that type of facility. A municipality may adopt an ordinance to authorize 1 or more types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility. A municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulations for licensing marihuana facilities. A municipality shall provide the following information to the board within 90 days after the municipality receives notification from the applicant that he or she has applied for a license under this act:

(a) A copy of the local ordinance that authorizes the marihuana facility.

(b) A copy of any zoning regulations that apply to the proposed marihuana facility within the municipality.

(c) A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the applicant, but only if those violations relate to activities licensed under this act or the Michigan medical marihuana act.

(2) The board may consider the information provided under subsection (1) in the application process. However, the municipality's failure to provide information to the board shall not be used against the applicant.

(3) A municipal ordinance may establish an annual, nonrefundable fee of not more than \$5,000.00 on a licensee to help defray administrative and enforcement costs associated with the operation of a marihuana facility in the municipality.

(4) Information a municipality obtains from an applicant related to licensure under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 206. The department, in consultation with the board, shall promulgate rules and emergency rules as necessary to implement, administer, and enforce this act. The rules shall ensure the safety, security, and integrity of the operation of marihuana facilities, and shall include rules to do the following:

(a) Set appropriate standards for marihuana facilities and associated equipment.

(b) Subject to section 408, establish minimum levels of insurance that licensees must maintain.

(c) Establish operating regulations for each category of license to ensure the health, safety, and security of the public and the integrity of marihuana facility operations.

(d) Establish qualifications and restrictions for persons participating in or involved with operating marihuana facilities.

(e) Establish testing standards, procedures, and requirements for marihuana sold through provisioning centers.

(f) Provide for the levy and collection of fines for a violation of this act or rules.

(g) Prescribe use of the statewide monitoring system to track all marihuana transfers, as provided in the marihuana tracking act and this act and provide for a funding mechanism to support the system.

(h) Establish quality control standards, procedures, and requirements for marihuana facilities.

(i) Establish chain of custody standards, procedures, and requirements for marihuana facilities.

(j) Establish standards, procedures, and requirements for waste product disposal and storage by marihuana facilities.

(k) Establish chemical storage standards, procedures, and requirements for marihuana facilities.

(l) Establish standards, procedures, and requirements for securely and safely transporting marihuana between marihuana facilities.

(m) Establish standards, procedures, and requirements for the storage of marihuana by marihuana facilities.

(n) Establish labeling and packaging standards, procedures, and requirements for marihuana sold or transferred through provisioning centers, including a prohibition on labeling or packaging that is intended to appeal to or has the effect of appealing to minors.

(o) Establish daily purchasing limits at provisioning centers for registered qualifying patients and registered primary caregivers to ensure compliance with the Michigan medical marihuana act.

(p) Establish marketing and advertising restrictions for marihuana products and marihuana facilities.

(q) Establish maximum tetrahydrocannabinol levels for marihuana-infused products sold or transferred through provisioning centers.

(r) Establish health standards to ensure the safe preparation of products containing marihuana that are intended for human consumption in a manner other than smoke inhalation.

(s) Establish restrictions on edible marihuana-infused products to prohibit shapes that would appeal to minors.

Sec. 207. A licensee shall adopt and use a third-party inventory control and tracking system that is capable of interfacing with the statewide monitoring system to allow the licensee to enter or access information in the statewide monitoring system as required under this act and rules. The third-party inventory control and tracking system must

have all of the following capabilities necessary for the licensee to comply with the requirements applicable to the licensee's license type:

- (a) Tracking all marihuana plants, products, packages, patient and primary caregiver purchase totals, waste, transfers, conversions, sales, and returns that are linked to unique identification numbers.
- (b) Tracking lot and batch information throughout the entire chain of custody.
- (c) Tracking all products, conversions, and derivatives throughout the entire chain of custody.
- (d) Tracking marihuana plant, batch, and product destruction.
- (e) Tracking transportation of product.
- (f) Performing complete batch recall tracking that clearly identifies all of the following details relating to the specific batch subject to the recall:
 - (i) Sold product.
 - (ii) Product inventory that is finished and available for sale.
 - (iii) Product that is in the process of transfer.
 - (iv) Product being processed into another form.
 - (v) Postharvest raw product, such as product that is in the drying, trimming, or curing process.
 - (g) Reporting and tracking loss, theft, or diversion of product containing marihuana.
 - (h) Reporting and tracking all inventory discrepancies.
 - (i) Reporting and tracking adverse patient responses or dose-related efficacy issues.
 - (j) Reporting and tracking all sales and refunds.
 - (k) Electronically receiving and transmitting information as required under this act, the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430, and the marihuana tracking act.
 - (l) Receiving testing results electronically from a safety compliance facility via a secured application program interface into the system and directly linking the testing results to each applicable source batch and sample.
 - (m) Identifying test results that may have been altered.
 - (n) Providing the licensee with access to information in the tracking system that is necessary to verify that the licensee is carrying out the marihuana transactions authorized under the licensee's license in accordance with this act.
 - (o) Providing information to cross-check that product sales are made to a registered qualifying patient or a registered primary caregiver on behalf of a registered qualifying patient and that the product received the required testing.
 - (p) Providing the department and state agencies with access to information in the database that they are authorized to access.
 - (q) Providing law enforcement agencies with access to only the information in the database that is necessary to verify that an individual possesses a valid and current registry identification card.
 - (r) Providing licensees with access only to the information in the system that they are required to receive before a sale, transfer, transport, or other activity authorized under a license issued under this act.
 - (s) Securing the confidentiality of information in the database by preventing access by a person who is not authorized to access the statewide monitoring system or is not authorized to access the particular information.
 - (t) Providing analytics to the department regarding key performance indicators such as the following:
 - (i) Total daily sales.
 - (ii) Total marihuana plants in production.
 - (iii) Total marihuana plants destroyed.
 - (iv) Total inventory adjustments.

Sec. 208. A marihuana facility and all articles of property in that facility are subject to examination at any time by a local police agency or the department of state police.

PART 3. MEDICAL MARIHUANA LICENSING BOARD

Sec. 301. (1) The medical marihuana licensing board is created within the department of licensing and regulatory affairs.

(2) The board consists of 5 members who are residents of this state, not more than 3 of whom are members of the same political party. The governor shall appoint the members. One of the members shall be appointed from 3 nominees submitted by the senate majority leader and 1 from 3 nominees submitted by the speaker of the house. The governor shall designate 1 of the members as chairperson.

(3) The members shall be appointed for terms of 4 years, except, of those who are first appointed, 1 member shall be appointed for a term of 2 years and 2 members shall be appointed for a term of 3 years. A member's term expires on December 31 of the last year of the member's term. If a vacancy occurs, the governor shall appoint a successor to fill the unexpired term in the manner of the original appointment.

(4) Each member of the board shall be reimbursed for all actual and necessary expenses and disbursements incurred in carrying out official duties.

(5) A board member shall not hold any other public office for which he or she receives compensation other than necessary travel or other incidental expenses.

(6) A person who is not of good moral character or who has been indicted for, charged with, or convicted of, pled guilty or nolo contendere to, or forfeited bail concerning any felony or a misdemeanor involving a controlled substance violation, theft, dishonesty, or fraud under the laws of this state, any other state, or the United States or a local ordinance in any state involving a controlled substance violation, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state is not eligible to serve on the board.

(7) The governor may remove any member of the board for neglect of duty, misfeasance, malfeasance, nonfeasance, or any other just cause.

(8) The department in conjunction with the board shall employ an executive director and other personnel as necessary to assist the board in carrying out its duties. The executive director shall devote his or her full time to the duties of the office and shall not hold any other office or employment.

(9) The board shall not appoint or employ an individual if any of the following circumstances exist:

(a) During the 3 years immediately preceding appointment or employment, the individual held any direct or indirect interest in, or was employed by, a person who is licensed to operate under this act or under a corresponding license in another jurisdiction or a person with an application for an operating license pending before the board or in any other jurisdiction. The board shall not employ an individual who has a direct or indirect interest in a licensee or a marihuana facility.

(b) The individual or his or her spouse, parent, child, child's spouse, sibling, or spouse of a sibling has an application for a license pending before the board or is a member of the board of directors of, or an individual financially interested in, any licensee or marihuana facility.

(10) Each member of the board, the executive director, and each key employee as determined by the department shall file with the governor a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the member, executive director, and key employee and his or her spouse, if any, affirming that the member, executive director, and key employee are in compliance with subsection (9)(a) and (b). The financial disclosure statement shall be made under oath and filed at the time of employment and annually thereafter.

(11) Each employee of the board shall file with the board a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the employee and his or her spouse. This subsection does not apply to the executive director or a key employee.

(12) A member of the board, executive director, or key employee shall not hold any direct or indirect interest in, be employed by, or enter into a contract for services with an applicant, a board licensee, or a marihuana facility for a period of 4 years after the date his or her employment or membership on the board terminates. The department in consultation with the board shall define the term "direct or indirect interest" by rule.

(13) For 2 years after the date his or her employment with the board is terminated, an employee of the board shall not acquire any direct or indirect interest in, be employed by, or enter into a contract for services with any applicant, licensee, or marihuana facility.

(14) For 2 years after the termination of his or her office or employment with the board, a board member or an individual employed by the board shall not represent any person or party other than this state before or against the board.

(15) A business entity in which a former board member or employee or agent has an interest, or any partner, officer, or employee of the business entity, shall not make any appearance or represent a party that the former member, employee, or agent is prohibited from appearing for or representing. As used in this subsection, "business entity" means a corporation, limited liability company, partnership, limited liability partnership, association, trust, or other form of legal entity.

Sec. 302. The board has general responsibility for implementing this act. The board has the powers and duties specified in this act and all other powers necessary and proper to fully and effectively implement and administer this act for the purpose of licensing, regulating, and enforcing the licensing and regulation system established under this act for marihuana growth, processing, testing, and transporting. The board is subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The board's duties include all of the following:

(a) Granting or denying each application for a state operating license within a reasonable time.

(b) Deciding all license applications in reasonable order.

(c) Conducting its public meetings in compliance with the open meetings act, 1976 PA 267, MCL 15.231 to 15.246.

(d) Consulting with the department in promulgating rules and emergency rules as necessary to implement, administer, and enforce this act. The board shall not promulgate a rule establishing a limit on the number or type of marihuana facility licenses that may be granted.

(e) Implementing and collecting the application fee described in section 401 and, in conjunction with the department of treasury, the tax described in section 601 and regulatory assessment described in section 603.

(f) Providing for the levy and collection of fines for a violation of this act or rules.

(g) Providing oversight of a marihuana facility through the board's inspectors, agents, and auditors and through the state police or attorney general for the purpose of certifying the revenue, receiving complaints from the public, or conducting investigations into the operation of the marihuana facility as the board considers necessary and proper to ensure compliance with this act and rules and to protect and promote the overall safety, security, and integrity of the operation of a marihuana facility.

(h) Providing oversight of marihuana facilities to ensure that marihuana-infused products meet health and safety standards that protect the public to a degree comparable to state and federal standards applicable to similar food and drugs.

(i) Reviewing and ruling on any complaint by a licensee regarding any investigative procedures of this state that are believed to be unnecessarily disruptive of marihuana facility operations. The need to inspect and investigate is presumed at all times. The board may delegate authority to hear, review, or rule on licensee complaints to a subcommittee of the board. To prevail on the complaint, a licensee must establish by a preponderance of the evidence that the procedures unreasonably disrupted its marihuana facility operations.

(j) Holding at least 2 public meetings each year. Upon 72 hours' written notice to each member, the chairperson or any 2 board members may call a special meeting. Three members of the board constitute a quorum, including when making determinations on an application for a license. Three votes are required in support of final determinations of the board on applications for licenses and all other licensing determinations, except that 4 votes are required in support of a determination to suspend or revoke a license. The board shall keep a complete and accurate record of all of its meetings and hearings. Upon order of the board, 1 of the board members or a hearing officer designated by the board may conduct any hearing provided for under this act or by rules and may recommend findings and decisions to the board. The board member or hearing officer conducting the hearing has all powers and rights regarding the conduct of hearings granted to the board under this act. The record made at the time of the hearing shall be reviewed by the board or a majority of the board, and the findings and decision of the majority of the board are the order of the board in the case.

(k) Maintaining records that are separate and distinct from the records of any other state board. The records shall be made available for public inspection subject to the limitations of this act and shall accurately reflect all board proceedings.

(l) Reviewing the patterns of marihuana transfers by the licensees under this act as recorded in a statewide database established for use in administering and enforcing this act and making recommendations to the governor and the legislature in a written annual report to the governor and the legislature and additional reports that the governor requests. The annual report shall be submitted by April 15 of each year and shall include the report required under section 702, a statement of receipts and disbursements by the board, the actions taken by the board, and any additional information and recommendations that the board considers appropriate or that the governor requests.

(m) Except as otherwise provided in this act, all information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board are subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except for the following:

(i) Unless presented during a public hearing or requested by the licensee or applicant who is the sole subject of the data, all of the information, records, interviews, reports, statements, memoranda, or other data supplied to, created by, or used by the board related to background investigation of applicants or licensees and to trade secrets, internal controls, and security measures of the licensees or applicants.

(ii) All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board that have been received from another jurisdiction or local, state, or federal agency under a promise of confidentiality or if the release of the information is otherwise barred by the statutes, rules, or regulations of that jurisdiction or agency or by an intergovernmental agreement.

(iii) All information in the statewide monitoring system.

Sec. 303. (1) The board has jurisdiction over the operation of all marihuana facilities. The board has all powers necessary and proper to fully and effectively oversee the operation of marihuana facilities, including the authority to do all of the following:

(a) Investigate applicants for state operating licenses, determine the eligibility for licenses, and grant licenses to applicants in accordance with this act and the rules.

(b) Investigate all individuals employed by marihuana facilities.

(c) At any time, through its investigators, agents, auditors, or the state police, without a warrant and without notice to the licensee, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or noncompliance with this act or rules is likely to be found and consistent with constitutional limitations, for the following purposes:

(i) To inspect and examine all premises of marihuana facilities.

(ii) To inspect, examine, and audit relevant records of the licensee and, if the licensee fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.

(iii) To inspect the person, and inspect or examine personal effects present in a marihuana facility, of any holder of a state operating license while that person is present in a marihuana facility.

(iv) To investigate alleged violations of this act or rules.

(d) Investigate alleged violations of this act or rules and take appropriate disciplinary action against a licensee.

(e) Consult with the department in adopting rules to establish appropriate standards for marihuana facilities and associated equipment.

(f) Require all relevant records of licensees, including financial or other statements, to be kept on the premises authorized for operation of the marihuana facility of the licensee or in the manner prescribed by the board.

(g) Require that each licensee of a marihuana facility submit to the board a list of the stockholders or other persons having a 1% or greater beneficial interest in the facility in addition to any other information the board considers necessary to effectively administer this act and rules, orders, and final decisions made under this act.

(h) Eject, or exclude or authorize the ejection or exclusion of, an individual from a marihuana facility if the individual violates this act, rules, or final orders of the board. However, the propriety of the ejection or exclusion is subject to a subsequent hearing by the board.

(i) Conduct periodic audits of marihuana facilities licensed under this act.

(j) Consult with the department as to appropriate minimum levels of insurance for licensees in addition to the minimum established under section 408 for liability insurance.

(k) Delegate the execution of any of its powers that are not specifically and exclusively reserved to the board under this act for the purpose of administering and enforcing this act and rules.

(l) Take disciplinary action as the board considers appropriate to prevent practices that violate this act and rules.

(m) Review a licensee if that licensee is under review or the subject of discipline by a regulatory body in any other jurisdiction for a violation of a controlled substance or marihuana law or regulation in that jurisdiction.

(n) Take any other reasonable or appropriate action to enforce this act and rules.

(2) The board may seek and shall receive the cooperation and assistance of the department of state police in conducting background investigations of applicants and in fulfilling its responsibilities under this act. The department of state police may recover its costs of cooperation under this subsection.

Sec. 305. (1) By January 31 of each year, each member of the board shall prepare and file with the governor's office and the board a disclosure form in which the member does all of the following:

(a) Affirms that the member or the member's spouse, parent, child, or child's spouse is not a member of the board of directors of, financially interested in, or employed by a licensee or applicant.

(b) Affirms that the member continues to meet any other criteria for board membership under this act or the rules promulgated by the board.

(c) Discloses any legal or beneficial interests in any real property that is or that may be directly or indirectly involved with operations authorized by this act.

(d) Discloses any other information as may be required to ensure that the integrity of the board and its work is maintained.

(2) By January 31 of each year, each employee of the board shall prepare and file with the board an employee disclosure form in which the employee does all of the following:

(a) Affirms the absence of financial interests prohibited by this act.

(b) Discloses any legal or beneficial interests in any real property that is or that may be directly or indirectly involved with operations authorized by this act.

(c) Discloses whether the employee or the employee's spouse, parent, child, or child's spouse is financially interested in or employed by a licensee or an applicant for a license under this act.

(d) Discloses such other matters as may be required to ensure that the integrity of the board and its work is maintained.

(3) A member, employee, or agent of the board who becomes aware that the member, employee, or agent of the board or his or her spouse, parent, or child is a member of the board of directors of, financially interested in, or employed by a licensee or an applicant shall immediately provide detailed written notice thereof to the chairperson.

(4) A member, employee, or agent of the board who within the previous 10 years has been indicted for, charged with, or convicted of, pled guilty or nolo contendere to, or forfeited bail concerning a misdemeanor involving controlled substances, dishonesty, theft, or fraud or a local ordinance in any state involving controlled substances, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state, or a felony under Michigan law, the laws of any other state, or the laws of the United States or any other jurisdiction shall immediately provide detailed written notice of the conviction or charge to the chairperson.

(5) Any member, employee, or agent of the board who is negotiating for, or acquires by any means, any interest in any person who is a licensee or an applicant, or any person affiliated with such a person, shall immediately provide written notice of the details of the interest to the chairperson. The member, employee, or agent of the board shall not act on behalf of the board with respect to that person.

(6) A member, employee, or agent of the board shall not enter into any negotiations for employment with any person or affiliate of any person who is a licensee or an applicant and shall immediately provide written notice of the details of any such negotiations or discussions in progress to the chairperson. The member, employee, or agent of the board shall not take action on behalf of the board with respect to that person.

(7) Any member, employee, or agent of the board who receives an invitation, written or oral, to initiate a discussion concerning employment or the possibility of employment with a person or affiliate of a person who is a licensee or an applicant shall immediately report that he or she received the invitation to the chairperson. The member, employee, or agent of the board shall not take action on behalf of the board with respect to the person.

(8) A licensee or applicant shall not knowingly initiate a negotiation for or discussion of employment with a member, employee, or agent of the board. A licensee or applicant who initiates a negotiation or discussion about employment shall immediately provide written notice of the details of the negotiation or discussion to the chairperson as soon as he or she becomes aware that the negotiation or discussion has been initiated with a member, employee, or agent of the board.

(9) A member, employee, or agent of the board, or former member, employee, or agent of the board, shall not disseminate or otherwise disclose any material or information in the possession of the board that the board considers confidential unless specifically authorized to do so by the chairperson or the board.

(10) A member, employee, or agent of the board or a parent, spouse, sibling, spouse of a sibling, child, or spouse of a child of a member, employee, or agent of the board shall not accept any gift, gratuity, compensation, travel, lodging, or anything of value, directly or indirectly, from any licensee or any applicant or affiliate or representative of a licensee or applicant, unless the acceptance conforms to a written policy or directive that is issued by the chairperson or the board. Any member, employee, or agent of the board who is offered or receives any gift, gratuity, compensation, travel, lodging, or anything of value, directly or indirectly, from any licensee or any applicant or affiliate or representative of an applicant or licensee shall immediately provide written notification of the details to the chairperson.

(11) A licensee or applicant, or an affiliate or representative of an applicant or licensee, shall not, directly or indirectly, give or offer to give any gift, gratuity, compensation, travel, lodging, or anything of value to any member, employee, or agent of the board that the member, employee, or agent of the board is prohibited from accepting under subsection (10).

(12) A member, employee, or agent of the board shall not engage in any conduct that constitutes a conflict of interest and shall immediately advise the chairperson in writing of the details of any incident or circumstances that would present the existence of a conflict of interest with respect to performing board-related work or duties.

(13) A member, employee, or agent of the board who is approached and offered a bribe as described in section 118 of the Michigan penal code, 1931 PA 328, MCL 750.118, or this act shall immediately provide written account of the details of the incident to the chairperson and to a law enforcement officer of a law enforcement agency having jurisdiction.

(14) A member, employee, or agent of the board shall disclose his or her past involvement with any marihuana enterprise in the past 5 years and shall not engage in political activity or politically related activity during the duration of his or her appointment or employment.

(15) A former member, employee, or agent of the board may appear before the board as a fact witness about matters or actions handled by the member, employee, or agent during his or her tenure as a member, employee, or agent of the board. The member, employee, or agent of the board shall not receive compensation for such an appearance other than a standard witness fee and reimbursement for travel expenses as established by statute or court rule.

(16) A licensee or applicant or any affiliate or representative of an applicant or licensee shall not engage in ex parte communications with a member of the board. A member of the board shall not engage in any ex parte communications with a licensee or an applicant or with any affiliate or representative of an applicant or licensee.

(17) Any board member, licensee, or applicant or affiliate or representative of a board member, licensee, or applicant who receives any ex parte communication in violation of subsection (16), or who is aware of an attempted communication in violation of subsection (16), shall immediately report details of the communication or attempted communication in writing to the chairperson.

(18) Any member of the board who receives an ex parte communication in an attempt to influence that member's official action shall disclose the source and content of the communication to the chairperson. The chairperson may investigate or initiate an investigation of the matter with the assistance of the attorney general and state police to determine if the communication violates subsection (16) or subsection (17) or other state law. The disclosure under this section and the investigation are confidential. Following an investigation, the chairperson shall advise the governor or the board, or both, of the results of the investigation and may recommend action as the chairperson considers appropriate. If the chairperson receives such an ex parte communication, he or she shall report the communication to the governor's office for appropriate action.

(19) A new or current employee or agent of the board shall obtain written permission from the executive director before continuing outside employment held at the time the employee begins to work for the board. Permission shall be denied, or permission previously granted shall be revoked, if the executive director considers the nature of the work to create a possible conflict of interest or if it would otherwise interfere with the duties of the employee or agent for the board.

(20) An employee or agent of the board granted permission for outside employment shall not conduct any business or perform any activities, including solicitation, related to outside employment on premises used by the board or during the employee's working hours for the board.

(21) The chairperson shall report any action he or she has taken or proposes to take under this section with respect to an employee or agent or former employee or former agent to the board at the next meeting of the board. The board may direct the executive director to take additional or different action.

(22) Except as allowed under the Michigan medical marijuana act, a member, employee, or agent of the board shall not enter into any personal transaction involving marijuana with a licensee or applicant.

(23) If a licensee or applicant, or an affiliate or representative of a licensee or applicant, violates this section, the board may deny a license application, revoke or suspend a license, or take other disciplinary action as provided in section 407.

(24) Violation of this section by a member of the board may result in disqualification or constitute cause for removal under section 301(7) or other disciplinary action as recommended by the board to the governor.

(25) A violation of this section by an employee or agent of the board need not result in termination of employment if the board determines that the conduct involved does not violate the purpose of this act. However, all of the following apply:

(a) If, after being offered employment or beginning employment with the board, the employee or agent intentionally acquires a financial interest in a licensee or an applicant, or an affiliate or representative of a licensee or applicant, the offer or employment with the board shall be terminated.

(b) If a financial interest in a licensee or an applicant, or an affiliate or representative of a licensee or applicant, is acquired by an employee or agent that has been offered employment with the board, an employee of the board, or the employee's or agent's spouse, parent, or child, through no intentional action of the employee or agent, the individual shall have up to 30 days to divest or terminate the financial interest. Employment may be terminated if the interest has not been divested after 30 days.

(c) Employment shall be terminated if the employee or agent is a spouse, parent, child, or spouse of a child of a board member.

(26) Violation of this section does not create a civil cause of action.

(27) As used in this section:

(a) "Outside employment", in addition to employment by a third party, includes, but is not limited to, the following:

(i) Operation of a proprietorship.

(ii) Participation in a partnership or group business enterprise.

(iii) Performance as a director or corporate officer of any for-profit or nonprofit corporation or banking or credit institution.

(iv) Performance as a manager of a limited liability company.

(b) "Political activity" or "politically related activity" includes all of the following:

(i) Using his or her official authority or influence for the purpose of interfering with or affecting the result of an election.

(ii) Knowingly soliciting, accepting, or receiving a political contribution from any person.

(iii) Running for the nomination or as a candidate for election to a partisan political office.

(iv) Knowingly soliciting or discouraging the participation in any political activity of any person who is either of the following:

(A) Applying for any compensation, grant, contract, ruling, license, permit, or certificate pending before the board.

(B) The subject of or a participant in an ongoing audit, investigation, or enforcement action being carried out by the board.

PART 4. LICENSING

Sec. 401. (1) Beginning 360 days after the effective date of this act, a person may apply to the board 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 board and shall contain information as prescribed by the board, 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 any 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 corporation, the names and addresses of all shareholders, 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 marijuana, 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 marijuana 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 marijuana facility; anticipated or actual number of employees; and projected or actual gross receipts.

(i) Financial information in the manner and form prescribed by the board.

(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 marijuana 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 board.

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

(2) The board 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 board to deny a license. The board 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 board 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 board 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 board 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 board. The department in consultation with the board 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 board. All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board 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 board.

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

Sec. 402. (1) The board shall issue a license to an applicant who submits a complete application and pays both the nonrefundable application fee required under section 401(5) and the regulatory assessment established by the board for the first year of operation, if the board 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.

(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.

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

(d) The applicant is a member of the board.

(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; 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 an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

(g) The applicant, if an individual, has been a resident of this state for less than a continuous 2-year period immediately preceding the date of filing the application. The requirements in this subdivision do not apply after June 30, 2018.

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

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

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

(a) The integrity, moral character, and reputation; personal and 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 either:

(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.

(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 submit with its application, on forms provided by the board, a passport quality photograph and 1 set of fingerprints for each person having any ownership interest in the marihuana facility and each person who is an officer, director, or managerial employee of the applicant. The department may designate an entity or agent to collect the fingerprints, and the applicant is responsible for the cost associated with the fingerprint collection.

(5) The board shall review all applications for licenses and shall inform each applicant of the board's decision.

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

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

(b) The application is received by the board 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.

(7) The department shall notify the licensee by mail or electronic mail at the last known address on file with the board advising of the time, procedure, and 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.

(8) 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.

(9) License expiration does not terminate the board's authority to impose sanctions on a licensee whose license has expired.

(10) In its decision on an application for renewal, the board 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.

(11) 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.

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

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.

Sec. 404. (1) The board shall issue a license only in the name of the true party of interest.

(2) For the following true parties of interest, information concerning the indicated individuals must be included in the disclosures required of an applicant or licensee:

(a) For an individual or sole proprietorship: the proprietor and spouse.

(b) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners and their spouses. For a limited liability company: all members, managers, and their spouses.

(c) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses and all stockholders and their spouses.

(d) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses.

(e) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive a percentage of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(f) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(3) For purposes of this section, “true party of interest” does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee’s prebonus annual compensation or if the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

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.

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 of more than 1% 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.

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 executive director or his or her designee may issue subpoenas and administer oaths and affirmations to witnesses.

Sec. 408. (1) Before the board grants or renews any license under this act, the licensee or applicant shall file with the department 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. The proof of financial responsibility may be in the form of cash, unencumbered securities, a liability insurance policy, or a constant value bond executed by a surety company authorized to do business in this state. 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.

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

(a) Gives 30 days’ prior written notice to the department.

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

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. Each license is exclusive to the licensee, and a licensee or any other person must apply for and receive the board’s and municipality’s approval before a license is transferred, sold, or purchased. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license. 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.

PART 5. LICENSEES

Sec. 501. (1) A grower license authorizes the grower to grow not more than the following number of marihuana plants under the indicated license class for each license the grower holds in that class:

(a) Class A – 500 marihuana plants.

(b) Class B – 1,000 marihuana plants.

(c) Class C – 1,500 marihuana plants.

(2) A grower license authorizes sale of marihuana seeds or marihuana plants only to a grower by means of a secure transporter.

(3) A grower license authorizes sale of marihuana, other than seeds, only to a processor or provisioning center.

(4) A grower license authorizes the grower to transfer marihuana only by means of a secure transporter.

(5) To be eligible for a grower license, the applicant and each investor in the grower must not have an interest in a secure transporter or safety compliance facility.

(6) A grower shall comply with all of the following:

(a) Until December 31, 2021, have, or have as an active employee an individual who has, a minimum of 2 years’ experience as a registered primary caregiver.

(b) While holding a license as a grower, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

(c) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(7) A grower license does not authorize the grower to operate in an area unless the area is zoned for industrial or agricultural uses or is unzoned and otherwise meets the requirements established in section 205(1).

Sec. 502. (1) A processor license authorizes purchase of marihuana only from a grower and sale of marihuana-infused products or marihuana only to a provisioning center.

(2) A processor license authorizes the processor to transfer marihuana only by means of a secure transporter.

(3) To be eligible for a processor license, the applicant and each investor in the processor must not have an interest in a secure transporter or safety compliance facility.

(4) A processor shall comply with all of the following:

(a) Until December 31, 2021, have, or have as an active employee an individual who has, a minimum of 2 years’ experience as a registered primary caregiver.

(b) While holding a license as a processor, not be a registered primary caregiver and not employ an individual who is simultaneously a registered primary caregiver.

(c) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

Sec. 503. (1) A secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver.

(2) To be eligible for a secure transporter license, the applicant and each investor with an interest in the secure transporter must not have an interest in a grower, processor, provisioning center, or safety compliance facility and must not be a registered qualifying patient or a registered primary caregiver.

(3) A secure transporter shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(4) A secure transporter shall comply with all of the following:

(a) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(b) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have 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 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(c) Each vehicle shall be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(d) A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(e) The marihuana shall be transported in 1 or more sealed containers and not be accessible while in transit.

(f) A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(5) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with this act.

Sec. 504. (1) A provisioning center license authorizes the purchase or transfer of marihuana only from a grower or processor and sale or transfer to only a registered qualifying patient or registered primary caregiver. All transfers of marihuana to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.

(2) A provisioning center license authorizes the provisioning center to transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter.

(3) To be eligible for a provisioning center license, the applicant and each investor in the provisioning center must not have an interest in a secure transporter or safety compliance facility.

(4) A provisioning center shall comply with all of the following:

(a) Sell or transfer marihuana to a registered qualifying patient or registered primary caregiver only after it has been tested and bears the label required for retail sale.

(b) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

(c) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily purchasing limit established by the medical marihuana licensing board under this act.

(d) Not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

(e) Not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.

Sec. 505. (1) In addition to transfer and testing authorized in section 203, a safety compliance facility license authorizes the facility to receive marihuana from, test marihuana for, and return marihuana to only a marihuana facility.

(2) A safety compliance facility must be accredited by an entity approved by the board by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The board may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(3) To be eligible for a safety compliance facility license, the applicant and each investor with any interest in the safety compliance facility must not have an interest in a grower, secure transporter, processor, or provisioning center.

(4) A safety compliance facility shall comply with all of the following:

(a) Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.

(b) Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.

(c) Perform tests that determine whether marihuana complies with the standards the board establishes for microbial and mycotoxin contents.

(d) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.

(e) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.

- (f) Have a secured laboratory space that cannot be accessed by the general public.
- (g) Retain and employ at least 1 staff member with a relevant advanced degree in a medical or laboratory science.

PART 6. TAXES AND FEES

Sec. 601. (1) A tax is imposed on each provisioning center at the rate of 3% of the provisioning center's gross retail receipts. By 30 days after the end of the calendar quarter, a provisioning center shall remit the tax for the preceding calendar quarter to the department of treasury accompanied by a form prescribed by the department of treasury that shows the gross quarterly retail income of the provisioning center and the amount of tax due, and shall submit a copy of the form to the department. If a law authorizing the recreational or nonmedical use of marihuana in this state is enacted, this section does not apply beginning 90 days after the effective date of that law.

(2) The taxes imposed under this section shall be administered by the department of treasury in accordance with 1941 PA 122, MCL 205.1 to 205.31, and this act. In case of conflict between the provisions of 1941 PA 122, MCL 205.1 to 205.31, and this act, the provisions of this act prevail.

Sec. 602. (1) The medical marihuana excise fund is created in the state treasury.

(2) Except for the application fee under section 401, the regulatory assessment under section 603, and any local licensing fees, all money collected under section 601 and all other fees, fines, and charges, imposed under this act shall be deposited in the medical marihuana excise fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the medical marihuana excise fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The state treasurer shall be the administrator of the medical marihuana excise fund for auditing purposes.

(5) The money in the medical marihuana excise fund shall be allocated, upon appropriation, as follows:

(a) 25% to municipalities in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the municipality.

(b) 30% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county.

(c) 5% to counties in which a marihuana facility is located, allocated in proportion to the number of marihuana facilities within the county. Money allocated under this subdivision shall be used exclusively to support the county sheriffs and shall be in addition to and not in replacement of any other funding received by the county sheriffs.

(d) 30% to this state for the following:

(i) Until September 30, 2017, for deposit in the general fund of the state treasury.

(ii) Beginning October 1, 2017, for deposit in the first responder presumed coverage fund created in section 405 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.405.

(e) 5% to the Michigan commission on law enforcement standards for training local law enforcement officers.

(f) 5% to the department of state police.

Sec. 603. (1) A regulatory assessment is imposed on certain licensees as provided in this section. All of the following shall be included in establishing the total amount of the regulatory assessment established under this section:

(a) The department's costs to implement, administer, and enforce this act, except for the costs to process and investigate applications for licenses supported with the application fee described in section 401.

(b) Expenses of medical-marihuana-related legal services provided to the department by the department of attorney general.

(c) Expenses of medical-marihuana-related services provided to the department by the department of state police.

(d) Expenses of medical-marihuana-related services provided by the department of treasury.

(e) \$500,000.00 to be allocated to the department for expenditures of the department for licensing substance use disorder programs.

(f) An amount equal to 5% of the sum of the amounts provided for under subdivisions (a) to (d) to be allocated to the department of health and human services for substance-abuse-related expenditures including, but not limited to, substance use disorder prevention, education, and treatment programs.

(g) Expenses related to the standardized field sobriety tests administered in enforcing the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(h) An amount sufficient to provide for the administrative costs of the Michigan commission on law enforcement standards.

(2) The regulatory assessment is in addition to the application fee described in section 401, the tax described in section 601, and any local licensing fees.

(3) The regulatory assessment shall be collected annually from licensed growers, processors, provisioning centers, and secure transporters. The regulatory assessment for a class A grower license shall not exceed \$10,000.00.

(4) Beginning in the first year marihuana facilities are authorized to operate in this state, and annually thereafter, the department, in consultation with the board, shall establish the total regulatory assessment at an amount that is estimated to be sufficient to cover the actual costs and support the expenditures listed in subsection (1).

(5) On or before the date the licensee begins operating and annually thereafter, each grower, processor, provisioning center, and secure transporter shall pay to the state treasurer an amount determined by the department to reasonably reflect the licensee's share of the total regulatory assessment established under subsection (4).

Sec. 604. (1) The marihuana regulatory fund is created in the state treasury.

(2) The application fee collected under section 401 and the regulatory assessment collected under section 603 shall be deposited in the marihuana regulatory fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the marihuana regulatory fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the marihuana regulatory fund for auditing purposes.

(5) Except as provided in section 603(1)(d) and (e), the department shall expend money from the marihuana regulatory fund, upon appropriation, only for implementing, administering, and enforcing this act.

Sec. 605. The department may use any money appropriated to it from the marihuana registry fund created in section 6 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26426, for the purpose of funding the operations of the department and the board in the initial implementation and subsequent administration and enforcement of this act.

PART 7. REPORTS

Sec. 701. By 30 days after the end of each state fiscal year, each licensee shall transmit to the board and to the municipality financial statements of the licensee's total operations. The financial statements shall be reviewed by a certified public accountant in a manner and form prescribed by the board. The certified public accountant must be licensed in this state under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736. The compensation for the certified public accountant shall be paid directly by the licensee to the certified public accountant.

Sec. 702. The board shall submit with the annual report to the governor under section 302(k) and to the chairs of the legislative committees that govern issues related to marihuana facilities a report covering the previous year. The report shall include an account of the board actions, its financial position, results of operation under this act, and any recommendations for legislation that the board considers advisable.

PART 8. MARIHUANA ADVISORY PANEL

Sec. 801. (1) The marihuana advisory panel is created within the department.

(2) The marihuana advisory panel shall consist of 17 members, including the director of state police or his or her designee, the director of this state's department of health and human services or his or her designee, the director of the department of licensing and regulatory affairs or his or her designee, the attorney general or his or her designee, the director of the department of agriculture and rural development or his or her designee, and the following members appointed by the governor:

(a) One registered medical marihuana patient or medical marihuana primary caregiver.

(b) One representative of growers.

(c) One representative of processors.

(d) One representative of provisioning centers.

(e) One representative of safety compliance facilities.

(f) One representative of townships.

(g) One representative of cities and villages.

(h) One representative of counties.

(i) One representative of sheriffs.

(j) One representative of local police.

(k) One physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(l) One representative of a secure transporter.

(3) The members first appointed to the panel shall be appointed within 3 months after the effective date of this act and shall serve at the pleasure of the governor. Appointed members of the panel shall serve for terms of 3 years or until a successor is appointed, whichever is later.

(4) If a vacancy occurs on the advisory panel, the governor shall make an appointment for the unexpired term in the same manner as the original appointment.

(5) The first meeting of the panel shall be called by the director of the department or his or her designee within 1 month after the advisory panel is appointed. At the first meeting, the panel shall elect from among its members a chairperson and any other officers it considers necessary or appropriate. After the first meeting, the panel shall meet at least 2 times each year, or more frequently at the call of the chairperson.

(6) A majority of the members of the panel constitute a quorum for the transaction of business. A majority of the members present and serving are required for official action of the panel.

(7) The business that the panel performs shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) A writing prepared, owned, used, in the possession of, or retained by the panel in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) Members of the panel shall serve without compensation. However, members of the panel may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the panel.

(10) The panel may make recommendations to the board concerning promulgation of rules and, as requested by the board or the department, the administration, implementation, and enforcement of this act and the marihuana tracking act.

(11) State departments and agencies shall cooperate with the panel and, upon request, provide it with meeting space and other necessary resources to assist it in the performance of its duties.

Enacting section 1. This act takes effect 90 days after the date it is enacted into law.

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.

Enacting section 3. This act does not take effect unless House Bill No. 4827 of the 98th Legislature is enacted into law.

This act is ordered to take immediate effect.



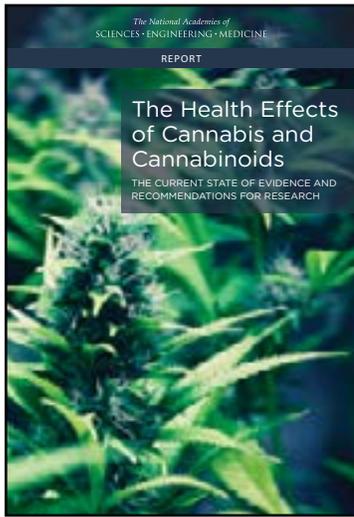
Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor



In the report *The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research*, an expert, ad hoc committee of the National Academies of Sciences, Engineering, and Medicine presents nearly 100 conclusions related to the health effects of cannabis and cannabinoid use.

The committee developed standard language to categorize the weight of the evidence regarding whether cannabis or cannabinoids used for *therapeutic* purposes are an effective or ineffective treatment for certain prioritized health conditions, or whether cannabis or cannabinoids used primarily for *recreational* purposes are statistically associated with certain prioritized health conditions. The box on the next page describes these categories and the general parameters for the types of evidence supporting each category.

The numbers in parentheses after each conclusion correspond to chapter conclusion numbers. Each blue header below links to the corresponding chapter in the report, providing much more detail regarding the committee's findings and conclusions. To read the full report, please visit nationalacademies.org/CannabisHealthEffects.

CONCLUSIONS FOR: THERAPEUTIC EFFECTS

There is **conclusive or substantial evidence that cannabis or cannabinoids are effective:**

- For the treatment for chronic pain in adults (cannabis) (4-1)
- Antiemetics in the treatment of chemotherapy-induced nausea and vomiting (oral cannabinoids) (4-3)
- For improving patient-reported multiple sclerosis spasticity symptoms (oral cannabinoids) (4-7a)

There is **moderate evidence that cannabis or cannabinoids are effective for:**

- Improving short-term sleep outcomes in individuals with sleep disturbance associated with obstructive sleep apnea syndrome, fibromyalgia, chronic pain, and multiple sclerosis (cannabinoids, primarily nabiximols) (4-19)

There is **limited evidence that cannabis or cannabinoids are effective for:**

- Increasing appetite and decreasing weight loss associated with HIV/AIDS (cannabis and oral cannabinoids) (4-4a)
- Improving clinician-measured multiple sclerosis spasticity symptoms (oral cannabinoids) (4-7a)
- Improving symptoms of Tourette syndrome (THC capsules) (4-8)
- Improving anxiety symptoms, as assessed by a public speaking test, in individuals with social anxiety disorders (cannabidiol) (4-17)
- Improving symptoms of posttraumatic stress disorder (nabilone; one single, small fair-quality trial) (4-20)

There is **limited evidence of a statistical association between cannabinoids and:**

- Better outcomes (i.e., mortality, disability) after a traumatic brain injury or intracranial hemorrhage (4-15)

There is **limited evidence that cannabis or cannabinoids are *ineffective* for:**

- Improving symptoms associated with dementia (cannabinoids) (4-13)
- Improving intraocular pressure associated with glaucoma (cannabinoids) (4-14)
- Reducing depressive symptoms in individuals with chronic pain or multiple sclerosis (nabiximols, dronabinol, and nabilone) (4-18)

DEFINITIONS OF WEIGHTS OF EVIDENCE

The committee used the following standardized language to categorize the weight of the evidence regarding cannabis or cannabinoid use for the prioritized health conditions:

CONCLUSIVE evidence

For therapeutic effects: There is strong evidence from randomized controlled trials to support the conclusion that cannabis or cannabinoids are an effective or ineffective treatment for the health endpoint of interest.

For other health effects: There is strong evidence from randomized controlled trials to support or refute a statistical association between cannabis or cannabinoid use and the health endpoint of interest.

For this level of evidence, there are many supportive findings from good-quality studies with no credible opposing findings. A firm conclusion can be made, and the limitations to the evidence, including chance, bias, and confounding factors, can be ruled out with reasonable confidence.

SUBSTANTIAL evidence:

For therapeutic effects: There is strong evidence to support the conclusion that cannabis or cannabinoids are an effective or ineffective treatment for the health endpoint of interest.

For other health effects: There is strong evidence to support or refute a statistical association between cannabis or cannabinoid use and the health endpoint of interest.

For this level of evidence, there are several supportive findings from good-quality studies with very few or no credible opposing findings. A firm conclusion can be made, but minor limitations, including chance, bias, and confounding factors, cannot be ruled out with reasonable confidence.

MODERATE evidence:

For therapeutic effects: There is some evidence to support the conclusion that cannabis or cannabinoids are an effective or ineffective treatment for the health endpoint of interest.

For other health effects: There is some evidence to support or refute a statistical association between cannabis or cannabinoid use and the health endpoint of interest.

For this level of evidence, there are several findings from good- to fair-quality studies with very few or no credible opposing findings. A general conclusion can be made, but limitations, including chance, bias, and confounding factors, cannot be ruled out with reasonable confidence.

LIMITED evidence:

For therapeutic effects: There is weak evidence to support the conclusion that cannabis or cannabinoids are an effective or ineffective treatment for the health endpoint of interest.

For other health effects: There is weak evidence to support or refute a statistical association between cannabis or cannabinoid use and the health endpoint of interest.

For this level of evidence, there are supportive findings from fair-quality studies or mixed findings with most favoring one conclusion. A conclusion can be made, but there is significant uncertainty due to chance, bias, and confounding factors.

NO or INSUFFICIENT evidence to support the association:

For therapeutic effects: There is no or insufficient evidence to support the conclusion that cannabis or cannabinoids are an effective or ineffective treatment for the health endpoint of interest.

For other health effects: There is no or insufficient evidence to support or refute a statistical association between cannabis or cannabinoid use and the health endpoint of interest.

For this level of evidence, there are mixed findings, a single poor study, or health endpoint has not been studied at all. No conclusion can be made because of substantial uncertainty due to chance, bias, and confounding factors.

There is no or insufficient evidence to support or refute the conclusion that cannabis or cannabinoids are an effective treatment for:

- Cancers, including glioma (cannabinoids) (4-2)
- Cancer-associated anorexia cachexia syndrome and anorexia nervosa (cannabinoids) (4-4b)
- Symptoms of irritable bowel syndrome (dronabinol) (4-5)
- Epilepsy (cannabinoids) (4-6)
- Spasticity in patients with paralysis due to spinal cord injury (cannabinoids) (4-7b)
- Symptoms associated with amyotrophic lateral sclerosis (cannabinoids) (4-9)
- Chorea and certain neuropsychiatric symptoms associated with Huntington's disease (oral cannabinoids) (4-10)
- Motor system symptoms associated with Parkinson's disease or the levodopa-induced dyskinesia (cannabinoids) (4-11)
- Dystonia (nabilone and dronabinol) (4-12)
- Achieving abstinence in the use of addictive substances (cannabinoids) (4-16)
- Mental health outcomes in individuals with schizophrenia or schizophreniform psychosis (cannabidiol) (4-21)

CONCLUSIONS FOR: CANCER

There is moderate evidence of no statistical association between cannabis use and:

- Incidence of lung cancer (cannabis smoking) (5-1)
- Incidence of head and neck cancers (5-2)

There is limited evidence of a statistical association between cannabis smoking and:

- Non-seminoma-type testicular germ cell tumors (current, frequent, or chronic cannabis smoking) (5-3)

There is no or insufficient evidence to support or refute a statistical association between cannabis use and:

- Incidence of esophageal cancer (cannabis smoking) (5-4)
- Incidence of prostate cancer, cervical cancer, malignant gliomas, non-Hodgkin lymphoma, penile cancer, anal cancer, Kaposi's sarcoma, or bladder cancer (5-5)
- Subsequent risk of developing acute myeloid leukemia/acute non-lymphoblastic leukemia, acute lymphoblastic leukemia, rhabdomyosarcoma, astrocytoma, or neuroblastoma in offspring (parental cannabis use) (5-6)

CONCLUSIONS FOR: CARDIOMETABOLIC RISK

There is limited evidence of a statistical association between cannabis use and:

- The triggering of acute myocardial infarction (cannabis smoking) (6-1 a)
- Ischemic stroke or subarachnoid hemorrhage (6-2)
- Decreased risk of metabolic syndrome and diabetes (6-3a)
- Increased risk of prediabetes (6-3b)

There is no evidence to support or refute a statistical association between chronic effects of cannabis use and:

- The increased risk of acute myocardial infarction (6-1b)

CONCLUSIONS FOR: RESPIRATORY DISEASE

There is substantial evidence of a statistical association between cannabis smoking and:

- Worse respiratory symptoms and more frequent chronic bronchitis episodes (long-term cannabis smoking) (7-3a)
- There is moderate evidence of a statistical association between cannabis smoking and:
- Improved airway dynamics with acute use, but not with chronic use (7-1a)
- Higher forced vital capacity (FVC) (7-1b)

There is moderate evidence of a statistical association between the cessation of cannabis smoking and:

- Improvements in respiratory symptoms (7-3b)

There is limited evidence of a statistical association between cannabis smoking and:

- An increased risk of developing chronic obstructive pulmonary disease (COPD) when controlled for tobacco use (occasional cannabis smoking) (7-2a)

There is **no or insufficient evidence to support or refute a statistical association between cannabis smoking and:**

- Hospital admissions for COPD (7-2b)
- Asthma development or asthma exacerbation (7-4)

CONCLUSIONS FOR: IMMUNITY

There is **limited evidence of a statistical association between cannabis smoking and:**

- A decrease in the production of several inflammatory cytokines in healthy individuals (8-1a)

There is **limited evidence of **no statistical association** between cannabis use and:**

- The progression of liver fibrosis or hepatic disease in individuals with viral Hepatitis C (HCV) (daily cannabis use) (8-3)

There is **no or insufficient evidence to support or refute a statistical association between cannabis use and:**

- Other adverse immune cell responses in healthy individuals (cannabis smoking) (8-1b)
- Adverse effects on immune status in individuals with HIV (cannabis or dronabinol use) (8-2)
- Increased incidence of oral human papilloma virus (HPV) (regular cannabis use) (8-4)

CONCLUSIONS FOR: INJURY AND DEATH

There is **substantial evidence of a statistical association between cannabis use and:**

- Increased risk of motor vehicle crashes (9-3)

There is **moderate evidence of a statistical association between cannabis use and:**

- Increased risk of overdose injuries, including respiratory distress, among pediatric populations in U.S. states where cannabis is legal (9-4b)

There is **no or insufficient evidence to support or refute a statistical association between cannabis use and:**

- All-cause mortality (self-reported cannabis use) (9-1)
- Occupational accidents or injuries (general, non-medical cannabis use) (9-2)
- Death due to cannabis overdose (9-4a)

CONCLUSIONS FOR: PRENATAL, PERINATAL, AND NEONATAL EXPOSURE

There is **substantial evidence of a statistical association between maternal cannabis smoking and:**

- Lower birth weight of the offspring (10-2)

There is **limited evidence of a statistical association between maternal cannabis smoking and:**

- Pregnancy complications for the mother (10-1)
- Admission of the infant to the neonatal intensive care unit (NICU) (10-3)

There is **insufficient evidence to support or refute a statistical association between maternal cannabis smoking and:**

- Later outcomes in the offspring (e.g., sudden infant death syndrome, cognition/academic achievement, and later substance use) (10-4)

CONCLUSIONS FOR: PSYCHOSOCIAL

There is **moderate evidence of a statistical association between cannabis use and:**

- The impairment in the cognitive domains of learning, memory, and attention (acute cannabis use) (11-1a)

There is **limited evidence of a statistical association between cannabis use and:**

- Impaired academic achievement and education outcomes (11-2)
- Increased rates of unemployment and/or low income (11-3)
- Impaired social functioning or engagement in developmentally appropriate social roles (11-4)

There is **limited evidence of a statistical association between *sustained abstinence from cannabis use* and:**

- Impairments in the cognitive domains of learning, memory, and attention (11-1b)

CONCLUSIONS FOR: MENTAL HEALTH

There is **substantial evidence** of a statistical association between cannabis use and:

- The development of schizophrenia or other psychoses, with the highest risk among the most frequent users (12-1)

There is **moderate evidence** of a statistical association between cannabis use and:

- Better cognitive performance among individuals with psychotic disorders and a history of cannabis use (12-2a)
- Increased symptoms of mania and hypomania in individuals diagnosed with bipolar disorders (regular cannabis use) (12-4)
- A small increased risk for the development of depressive disorders (12-5)
- Increased incidence of suicidal ideation and suicide attempts with a higher incidence among heavier users (12-7a)
- Increased incidence of suicide completion (12-7b)
- Increased incidence of social anxiety disorder (regular cannabis use) (12-8b)

There is **moderate evidence** of **no** statistical association between cannabis use and:

- Worsening of negative symptoms of schizophrenia (e.g., blunted affect) among individuals with psychotic disorders (12-2c)

There is **limited evidence** of a statistical association between cannabis use and:

- An increase in positive symptoms of schizophrenia (e.g., hallucinations) among individuals with psychotic disorders (12-2b)
- The likelihood of developing bipolar disorder, particularly among regular or daily users (12-3)
- The development of any type of anxiety disorder, except social anxiety disorder (12-8a)
- Increased symptoms of anxiety (near daily cannabis use) (12-9)
- Increased severity of posttraumatic stress disorder symptoms among individuals with posttraumatic stress disorder (12-11)

There is **no evidence** to support or refute a statistical association between cannabis use and:

- Changes in the course or symptoms of depressive disorders (12-6)
- The development of posttraumatic stress disorder (12-10)

CONCLUSIONS FOR: PROBLEM CANNABIS USE

There is **substantial evidence** that:

- Stimulant treatment of attention deficit hyperactivity disorder (ADHD) during adolescence is *not* a risk factor for the development of problem cannabis use (13-2e)
- Being male and smoking cigarettes are risk factors for the progression of cannabis use to problem cannabis use (13-2i)
- Initiating cannabis use at an earlier age is a risk factor for the development of problem cannabis use (13-2j)

There is **substantial evidence** of a statistical association between:

- Increases in cannabis use frequency and the progression to developing problem cannabis use (13-1)
- Being male and the severity of problem cannabis use, but the recurrence of problem cannabis use does not differ between males and females (13-3b)

There is **moderate evidence** that:

- Anxiety, personality disorders, and bipolar disorders are *not* risk factors for the development of problem cannabis use (13-2b)
- Major depressive disorder is a risk factor for the development of problem cannabis use (13-2c)
- Adolescent ADHD is *not* a risk factor for the development of problem cannabis use (13-2d)
- Being male is a risk factor for the development of problem cannabis use (13-2f)
- Exposure to the combined use of abused drugs is a risk factor for the development of problem cannabis use (13-2g)
- Neither alcohol nor nicotine dependence alone are risk factors for the progression from cannabis use to problem cannabis use (13-2h)
- During adolescence the frequency of cannabis use, oppositional behaviors, a younger age of first alcohol use, nicotine use, parental substance use, poor school performance, antisocial behaviors, and childhood sexual abuse are risk factors for the development of problem cannabis use (13-2k)

There is **moderate evidence** of a statistical association between:

- A persistence of problem cannabis use and a history of psychiatric treatment (13-3a)
- Problem cannabis use and increased severity of posttraumatic stress disorder symptoms (13-3c)

There is **limited evidence** that:

- Childhood anxiety and childhood depression are risk factors for the development of problem cannabis use (13-2a)

CONCLUSIONS FOR: ABUSE OF OTHER SUBSTANCES

There is moderate evidence of a statistical association between cannabis use and:

- The development of substance dependence and/or substance abuse disorder for substances including alcohol, tobacco, and other illicit drugs (14-3)

There is limited evidence of a statistical association between cannabis use and:

- The initiation of tobacco use (14-1)
- Changes in the rates and use patterns of other licit and illicit substances (14-2)

CONCLUSIONS FOR: CHALLENGES AND BARRIERS IN CONDUCTING CANNABIS AND CANNABINOID RESEARCH

There are several challenges and barriers in conducting cannabis and cannabinoid research, including:

- There are specific regulatory barriers, including the classification of cannabis as a Schedule I substance, that impede the advancement of cannabis and cannabinoid research (15-1)
- It is often difficult for researchers to gain access to the quantity, quality, and type of cannabis product necessary to address specific research questions on the health effects of cannabis use (15-2)
- A diverse network of funders is needed to support cannabis and cannabinoid research that explores the beneficial and harmful effects of cannabis use (15-3)
- To develop conclusive evidence for the effects of cannabis use for short- and long-term health outcomes, improvements and standardization in research methodology (including those used in controlled trials and observational studies) are needed (15-4)

TO READ THE FULL REPORT AND VIEW RELATED RESOURCES, PLEASE VISIT
[NATIONALACADEMIES.ORG/CANNABISHEALTHEFFECTS](https://www.nationalacademies.org/cannabishealtheffects)