

**Growers/Processors/Dispensaries/Laboratories (Updated 2/5/2020)**

**My company is considered domestic to West Virginia and has registered with the Secretary of State's office, what must be submitted for "Organizational Documents"?** (New 2/5/2020)

A Certificate of Existence from the WV Secretary of State's office must be submitted.

**Is a line of credit from a bank considered an asset in order to meet the capital requirement?** (New 2/5/2020)

No, a line of credit is not considered to be an asset. Additionally, only the unencumbered portion of a business asset may be included in the capital asset requirement. Please see the following example:

Type of Capital	Funding Source	Total Value	Encumbered Value
Funds on Deposit	XYZ LLC	500,000	0
Stocks	Principle A	1,000,000	0
Property	Principle B	350,000	250,000
Equipment	Principle C	150,000	80,000

The total value of assets listed in the example does not equal \$2M. After subtracting the encumbered values, the total amount of capital assets actually equals \$1.67M.

**How will the assets on the Capital Adequacy Form be verified?** (New 2/5/2020)

If an asset listed on the Affidavit of Capital Adequacy is an asset held by a financial institution, the Funding Source (Person/Account holder) must personally complete the Bank Verification Release Form. For all other types of capital, some form of proof or an additional release may be requested by the Office of Medical Cannabis to verify ownership.

**Do I need to have a property agreement in place when I submit my application?** (New 2/5/2020)

See 64 CSR 109 subsection 6.2.c. *et. seq.*; the bureau will accept:

1. Legal title or option to purchase agreement; or
2. A fully executed copy of the lease, including a letter from the property owner consenting to the use of the property for the intended purpose for the term of the permit; or
3. Other evidence, such as a signed letter of intent, that shows the applicant has the consent and authority to use the proposed site and facility.

**For dispensaries, how will the minimum distance of 1000 feet from a public, private, or parochial school or daycare facility be determined?** (New 2/5/2020)

In accordance with §64-112-6.2.a, a dispensary may not be located within 1,000 feet of the property line of a public, private or parochial school, or a daycare center. The distance will be measured from the center of the front door of the proposed dispensary location, along the edge of a street or the center of a sidewalk in a path that a pedestrian may legally traverse, to the property line of the nearest school or daycare.

**Where and how do I send payment for my application? (New 1/22/2020)**

Permit and Application fee payments should be made payable to WVDHHR and need to be submitted to the Office of Medical Cannabis at 350 Capitol St, Rm. 523, Charleston, WV 25301. Once an application has been submitted, you will receive an application reference ID number. Please place the reference number in the memo line of the certified check or money order, as you are instructed to do in the application. As noted in the scoring procedure, if these payments are not received within two weeks of the open application timeframe's close date, the application will be denied.

**Can you clarify the capital requirement section? (New 1/22/2020)**

Growers and Processors must have \$2 Million in capital assets; at a minimum \$500K of which must be on deposit with one or more financial institutions.

Dispensaries must have \$150K on deposit with one or more financial institution.

"On deposit" includes liquid assets, such as: cash, currency, stocks, bonds, mutual funds or investments, that are in the name of the business entity.

Can the funds on deposit to meet capital requirements remain in the name of the financial backer? Only, if the entity is a sole proprietorship may the liquid assets portion of the capital requirements be in the name of a specific individual.

"Remaining Capital Assets for Growers and Processors" may include liquid assets and items such as buildings and equipment that will be used for a period of time longer than a year that is not intended for sale in the regular course of business.

For best business practices purposes it would be ideal for all capital assets to be in the name of the business entity applying for permit; although, we understand there are several different types of corporate structures that allow for "parent" or "holding" companies to retain ownership of some capital assets.

**Can I use my Individual Retirement Account (IRA) as proof of funds on deposit to meet the capital requirement? (New 1/22/2020)**

No, IRAs cannot be used as proof of fund on unless you are applying as a grower/processor sole proprietor, with the understanding that it will not be considered part of the \$500k needed for the liquid funds on deposit portion of the capital requirements.

**If I happen to obtain a medical cannabis organization permit from the State of West Virginia to grow, process, or dispense medical cannabis in West Virginia and I sell my business, is the medical cannabis permit transferred in the sale? (New 1/22/2020)**

No, medical cannabis organization permits are non-transferrable; however, if you foresee that you will be selling your business entity to another and the buyer intends to continue growing, processing, or dispensing medical cannabis, then the parties in sales contract negotiations must make an application for an approval for a change of ownership to the Office of Medical Cannabis. The approval must be done prior to the finalization of the sale occurring, otherwise the permit will be null and void and all operations must cease, or civil and criminal penalties will be pursued. The ability to apply for a change in ownership will not be made available to a permitted business entity until after they are deemed operational.

**If I want to have 10 dispensary locations, do I have to submit an application for each of the 10 locations now or will that be afforded to applicants who receive initial permits at a later date? (New 1/22/2020)**

At this time, it is unclear whether or not the Office of Medical Cannabis will open up the application process after this initial phase and would like to encourage those who want multiple locations to apply for those locations during this initial application timeframe.

**As a growers and processors, are there any structure types or materials that have to be approved for the facility itself? (New 1/22/2020)**

The Medical Cannabis Act does not specify certain building materials. However, during the scoring process, consideration may be given to structures considered more secure by the nature of their construction.

**Am I supposed to obtain and submit a written approval from the County Commission or from the Local Board of Health with my application? (New 1/22/2020)**

The Office of Medical Cannabis will be reaching out to the respective commissions and boards of health to obtain the official written approval. That does not mean that you should not do your homework about the area in which you are proposing to invest in. Also, if there are additional things the commission or local health department may be responsible for under their current rules or ordinances you will need to seek approval from them on those matters.

**Tax Clearances, who must submit them? (New 1/22/2020)**

The business entity itself, any parent/holding company listed in the application's structure, and individuals who are principles or financial backers. The Office of Medical Cannabis wants to know that you or those financially responsible for the business entity do not owe taxes to the State.

**How do I submit my background check? (New 1/22/2020)**

Background checks do not need to be submitted until the applicant is notified that the application has passed the Completeness Review. Once an application is deemed complete, the Office of Medical Cannabis will notify the primary contact as such and provide them with the necessary information and next steps they will need to take to ensure compliance with this requirement.

**Section 6.2.f. The name, residential address, date of birth, title, and a curriculum vitae of each principal, operator, financial backer, and employee of the applicant, or of any person holding an interest in the applicant's proposed site or facility; does this mean that my landlord needs to provide this information too? (New 1/22/2020)**

The online application program will prompt the applicant for pertinent information regarding landlords.

**Schools, does this mean K-12 only or are trade-schools and institutions of higher education considered too? (New 1/22/2020)**

Schools include K-12 only.

**When will on-line applications be released for grower, processor, dispensary and laboratory permits?**

The Office of Medical Cannabis will begin accepting permit applications for medical cannabis growers, processors, dispensaries, and laboratories on December 19, 2019. The announcement of upcoming application availability is the first step in the process of permitting industry applicants.

A link to the web-based application will be available at [www.medcanwv.org](http://www.medcanwv.org) beginning at 3:00 p.m. EST, on December 19, 2019. No paper option will be available. The application period will be open for 60 days, ending on February 18, 2020 at 3:00 p.m. EST. After February 18, 2020, no additional applications will be accepted.

### **How many grower, processor, and dispensary permits will be issued?**

The Bureau for Public Health is allowed to issue permits initially for no more than 10 growers, 10 processors and 100 dispensaries. Individuals wishing to own more than one dispensary permit must apply for each location under a separate application with separate application and permit fees for each location. Provided that, the Bureau may not issue more than:

- one individual grower permit to one person
- one individual processor permit to one person
- 10 individual dispensary permits to one person

\*Please note that the same pool of funding may be utilized to meet the capital requirements of WV 64CSR109 for all applications submitted by the same business entity.

### **What are the application and permit fees?**

Both application and permit fees must be submitted mailed to the Office of Medical Cannabis at the time the online application is submitted. These fees must be separate checks.

- Grower application fee is \$5,000 and is non-refundable
- Grower permit fee is \$50,000
- Processor application fee is \$5,000 and is non-refundable
- Processing permit fee is \$50,000
- Dispensary application fee is \$2,500 and is non-refundable
- Dispensary permit fee is \$10,000

If an application is rejected or denied, the permit fee will be refunded. Currently, there is no estimated timeline for issuance of refunds.

### **Do you allow for vertical integration?**

True vertical integration only applies to health care medical cannabis organizations. However, those wishing to own a medical cannabis growing facility, processing facility, and dispensary or any combination thereof, may do so if they are awarded a permit in each permit category for which they apply.

Each desired type of permit must have a separate application with the related application and permit fees submitted for each application.

\*Please note that the same pool of funding may be utilized to meet the capital requirements of WV 64CSR109 for all applications submitted by the same business entity.

### **Do I need to be a resident of the State of West Virginia to apply for a medical cannabis organization permit?**

Due to a recent supreme court decision (*TENNESSEE WINE AND SPIRITS RETAILERS ASSN. v. RUSSELL F. THOMAS, EXECUTIVE DIRECTOR OF THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION, ET AL.*), the residency requirement referred to by West Virginia Code §16A-6-3 Grant of Permit will not be applied to applicants seeking a West Virginia permit to operate as a medical cannabis organization.

**What are the application requirements?**

Currently, you will need to be familiar with the Act itself, the amendments to the Act list under SB1037, the [Administrative Rules: 64-109 \(General Provisions\)](#), [64-110 \(Growers/Processors\)](#), [64-112 \(Dispensaries\)](#), to gain an understanding of what the State expects from a medical cannabis organization.

**What are the region boundaries for dispensaries?**

SB1037 amended SB386 (Medical Cannabis Act) in the 2019 First Extraordinary Session of the West Virginia Legislature. This amendment removed the provision for regions, but provided that geographic location and population, access to public transportation, county/municipality allowability, the amount of patients suffering from a serious medical condition in the proposed area, and other factors the Bureau may deem relevant be considered when making final decisions for permits.

**How will these applications be scored?**

The applications for medical cannabis growers, processors, and dispensaries will be numerically scored in a fair and objective manner based on the standards and provisions set forth in the Act and its associated Legislative Rules.