

## Proposed Language to NCCR Regulation 5

### Issuance of Medical Cannabis Establishment License in Certain Counties

#### New

5.037 Request by the board of county commissioners of a county to the Board to issue a medical cannabis establishment license for one medical cannabis cultivation facility and/or one medical cannabis production facility.

1. Upon request by the board of county commissioners of a county which does not have any medical cannabis establishments as of December 31, 2023, to the Board to issue a medical cannabis establishment license for one medical cannabis cultivation facility and/or one medical cannabis production facility pursuant to NRS 678B.220(3)(a), the board of county commissioners of the county must:

(a) Submit the request on the form prescribed by the Board;

(b) Provide all information on the form prescribed by the Board, including but not limited to, the following:

(1) Confirmation that the county does not currently have a medical cannabis cultivation license and/or medical cannabis production license, as applicable.

2. The Board may deny the request made pursuant to subsection 1 only if the Board finds that the request violates statute or regulation of the board.

3. Along with the request made pursuant to subsection 1, the board of county commissioners may include community impact factors and criteria deemed important to the county which shall be incorporated into the application materials prior to the Board opening the licensing round and accepting applications in accordance with NCCR 5.037(5).

4. Should the Board grant the request to issue a medical cannabis license pursuant to this section, the Board shall open a licensing round specific to the county and accept applications as set forth in NCCR 5.037 (5).

5. Upon a request by the Board for applications to operate a cannabis establishment pursuant to NCCR 5.037, a person may apply for a cannabis establishment license that has an open application period. An application must be submitted through the Board's designated electronic licensing application system during the time listed on the open application period. No applications will be accepted before or after the open application period. The deadline for application submissions and compliance with the application instructions will be strictly enforced. The Board will grant no grace period for an application once the application period has concluded. The Board will not be held responsible for any technical or other issues that the applicant may experience with the electronic licensing application system during the application period. Failure to submit an application, in a timely manner, for any reason including technical issues, will result in a denial. Questions on the application and/or application submittal process must only be submitted in writing to an email designated explicitly for that purpose in the written application instructions. All such questions emails will be posted publicly on the Board's website and may be combined and/or re-worded for clarity purposes. Regarding such questions and emails, the Board cannot guarantee a response within any particular time frame and/or prior to the application submittal deadline. No applicant is entitled to rely on any verbal information relayed to them regarding the application submittal process. All official application

instructions will be posted on the Board's website at [www.ccb.nv.gov](http://www.ccb.nv.gov). The applicant must also provide a point of contact, as required by NCCR 2.050, and update that information as required.

6. The initial application must include the following:

(a) A one-time, nonrefundable administrative processing fee in an amount designated in NRS 678B.390 for that particular cannabis establishment license type.

(1) Applicants are solely responsible for ensuring the Board physically receives payment for the above referenced fee no later than 5:00 p.m., Pacific Time, on the final date of the open application period, at either the Board's Carson City office located at 3850 Arrowhead Drive, Suite 100, Carson City, Nevada 89706, or the Board's Las Vegas office located at 700 East Warm Springs Road, Suite 100, Las Vegas, Nevada 89119. Payments delivered to any other locations will not be considered valid or received. Payments must strictly comply with the application instruction requirements regarding submission of payments and will be rejected for any failure to comply with those application instructions. Payments must be made via one of the following methods: (1) electronic transfer via ACH through the Board's electronic licensing system; (2) cashier's check; (3) or money order. If payment is made by ACH, that process must be completed no later than 5:00 p.m., Pacific Time, on the final date of the open application period. If payment is made by cashier's check or money order, it still must be physically received no later than 5:00 p.m., Pacific Time, on the final date of the open application period. For applicants paying by ACH, if payment does not clear, the application will be deemed incomplete, untimely, and rejected. The Board and its staff are not required to notify applicants of the failure of their payments to clear. The Board is not responsible for any difficulties any applicant may experience in the timely submission of their electronic payment, no matter where such issues or problems may arise. For applicants paying by cashier's check or money order, such payment must be delivered in person to the Board's offices listed in this subsection, but still must be physically received no later than 5:00 p.m., Pacific Time, on the final date of the open application period. Payments must not be dropped off in any drop boxes or mail slots which will result in the associated application being deemed incomplete, untimely, and rejected. The Board shall not be responsible for any payments that are late due to misdirected deliveries from the applicant or anyone else making the in-person delivery, banking issues or mistakes, transportation problems and/or any other reasons. Payment will not be accepted via mail or any other form of commercial delivery service such as Federal Express, United Parcel Service, or DHL. Failure to timely pay the administrative proceeding processing fee will result in the associated application or applications being deemed incomplete and the Board shall reject them.

(b) The type of cannabis establishment license the applicant is applying for;

(c) The legal name of the proposed cannabis establishment, as reflected in the articles of incorporation or other formation documents filed with the Nevada Secretary of State;

(d) An attestation that the applicant can, has, or will secure evidence that the applicant controls liquid assets in an amount of at least \$200,000.00 and evidence of the liquid assets;

(e) The address where the proposed cannabis establishment will be located and, if applicable, the physical address of any co-owned or otherwise affiliated cannabis establishments;

(1) An attestation wherein the applicant agrees and understands that the actual location, when determined, where the cannabis establishment will be conducting business:

(I) must not be within 1,000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed cannabis establishment was submitted to the Board;

(II) must not be within 300 feet of a community facility that existed on the date on which the application for the proposed cannabis establishment was submitted to the Board; and

(III) if the proposed cannabis establishment will be located in a county whose population is 100,000 or more, it must not be within 1,500 feet of an establishment that holds a nonrestricted gaming license described in subsection 1 or 2 of NRS 463.0177 and that existed on the date on which the application for the proposed cannabis establishment was submitted to the Board.

(2) While the physical address may change prior to opening the cannabis establishment, this address will be used to identify the local jurisdiction where the cannabis establishment must be located and remain pursuant to NRS 678B.500.

(3) Once the applicant identifies the address, the applicant is limited to locations within said local jurisdiction pursuant to NRS 678B.500.

(f) An attestation that the applicant can, has, or will secure evidence when available that the applicant either:

(1) owns the property on which the cannabis establishment will be physically located, or

(2) has the written permission of the property owner to operate the cannabis establishment at that physical location;

(g) The mailing address, telephone number, and electronic mail address of the applicant;

(1) If contacted by the Board the applicant must respond immediately, but if that is impossible, then no later than 2 business days after contact by the Board. If the applicant does not timely respond to any Board communication that fact may be used to deny the applicant from receiving a prospective, conditional or final license.

(h) The name, address, and date of birth of each natural person proposed to be an owner, officer or board member of the proposed cannabis establishment. If the applicant or an owner is anything other than a natural person, said applicant or owner must submit the aforementioned information for all owners who hold shares or any type of ownership interest directly or indirectly in the proposed cannabis establishment that in any way equate to 5% or greater on a fully diluted basis;

(i) Each owner, officer and board member listed in the application, must provide the agent card portal record number showing proof the person has applied for an agent card as a prospective owner, officer, or board member;

(1) Applicants must complete all sections of the application, including a complete set of the person's fingerprints, which must be submitted to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report and payment.

(2) If any owner, officer, or board member listed in the application has been convicted of an excluded felony offense, per NRS 678B.050, the application will be removed from the process, unless said person has a pending petition, or has had a petition granted, pursuant to SB 277, Sec. 4.5, 2023 Leg., 82<sup>nd</sup> Sess. (Nv 2023).

(j) An affirmation that the applicant has and will implement a diversity plan as required under NCCR 5.045(2)(a)(10);

(k) An attestation that the application will not result in a violation of NRS 678B.220(3)(a), NRS 678B.230 and NRS 678B.270;

(l) An attestation that the information provided to the Board to apply for the license is true and correct according to the information known by the attestant at the time of the attestation; and

(m) An attestation stating, in pertinent part, the following:

(1) By submitting this application, I agree to release and hold harmless the State of Nevada, the Cannabis Compliance Board, and each of their board members, board officers, employees, attorneys, and consultants from any and all liability for any and all decisions and actions taken in response to the information and data submitted by me or obtained by the Cannabis Compliance Board regarding this application, including, but not limited to, any rejection and/or denial of this application.

7. At the close of the initial application, the Board and Board agents will conduct a review of the applications and rank each application based on a rubric developed and approved by the Board based on the criteria of merit as required in NRS 678B.240 and set forth in NCCR 5.039. The Board shall give additional weight and consideration to an applicant's response to NRS 678B.240(f) and NCCR 5.039(1)(e). If one applicant ranks first with the highest score, that applicant will undergo a suitability investigation. If the Board approves that applicant's suitability, that applicant shall be issued the cannabis establishment license for which they have applied. If the Board does not approve this applicant's suitability, the applicant shall be denied a cannabis establishment license and the Board shall evaluate the suitability of the next highest scoring applicant. This process shall be repeated until a cannabis license is issued.

8. In the event of a tie score, the applicants with the highest rank shall be entered into a random number generator. If an applicant is selected in the random number generator, that applicant will proceed to suitability investigation and issued a cannabis establishment license on approval by the Board. If that applicant is not deemed suitable, another applicant shall be selected for suitability evaluation via the random number generator when two or more applicants have tied for the highest score. Otherwise, the next highest scoring applicant shall undergo a suitability investigation.

9. Pursuant to S.B. 277, Sec 3, 2023 Leg., 82<sup>nd</sup> Sess. (Nv. 2023), if the Board issues a license pursuant to this regulation after January 1, 2024, said license shall be issued as an adult-use cannabis establishment license, unless the license is issued in a covered jurisdiction.

5.039 Criteria and weighting of merit for evaluation of license applications for a medical cannabis establishment license.

1. In determining whether to issue a medical cannabis establishment license pursuant to NCCR 5.037, the Board shall consider the following criteria of merit and score each application accordingly:
  - (a) Whether the applicant controls liquid assets in an amount determined by the Board to be sufficient to cover the initial expenses of opening the proposed medical cannabis establishment and complying with the provisions of this title. Select one below:
    - 0 Points- Meets minimum requirement of \$200,000 or minimum established by the Board.
    - 1 Point- Meets twice the minimum requirement of \$200,000 or minimum established by the Board.
    - 2 Points- Meets three times or more of minimum requirement of \$200,000 or minimum established by the Board.
  - (b) The previous experience of the persons who are proposed to be owners, officers or board members of the proposed medical cannabis establishment at operating other businesses or nonprofit organizations. Select one below:
    - 0 Points- No previous operating experience within the last 10 years.
    - 1 Point- two or more persons within the ownership structure have responsibility and direct experience managing a company's operations or finances within the last 10 years.
    - 2 Points- four or more persons within the ownership structure have responsibility and direct experience managing a company's operations or finances.
  - (c) The educational and life experience of the persons who are proposed to be owners, officers or board members of the proposed medical cannabis establishment. Select one of the first 3 below plus the Bonus, if appropriate:
    - 0 Points- No proposed owners have undergraduate or graduate degrees and less than 5 years work experience.
    - 1 Point- two or more persons in the ownership structure have undergraduate degrees (inclusive of a Bachelor's or Associate's degree or their equivalent) and/or 5 years of work experience.
    - 2 Points- two or more persons have undergraduate degrees plus at least 1 person has a post graduate degree or 10 years work experience.
  - (d) Any demonstrated knowledge or expertise on the part of the persons who are proposed to be owners, officers or board members of the proposed medical cannabis establishment with respect to the compassionate use of cannabis to treat medical conditions:
    - 0 Points- No demonstrated knowledge.
    - 1 Points- Demonstrated knowledge and/or experience.
  - (e) The likely impact of the proposed medical cannabis establishment on the community in which it is proposed to be located. If the Board of County Commissioners issues a letter of approval for the applicant, the applicant shall be awarded 5 points.

(f) The adequacy of the size of the proposed medical cannabis establishment to serve the needs of persons who are authorized to engage in the medical use of cannabis. Select one below:

- 0 Points- The applicant estimates that it will cultivate less than 10 cannabis plants and/or process less than 10 pounds of cannabis per year.
- 1 Point- The applicant estimates that it will cultivate 10 to 50 cannabis plants and/or process 10 to 50 pounds of cannabis per year.
- 2 Points- The applicant estimates that it will cultivate 51 to 100 cannabis plants and/or process 51 to 100 pounds of cannabis per year.
- 3 Points- The applicant estimates that it will cultivate more than 100 cannabis plants and/or process more than 100 pounds of cannabis per year.

(g) A diversity plan that comports with NCCR 5.045(2)(a)(10). Select all that apply:

- 0 Points- No diversity plan.
- 5 Points – A diversity plan that fully complies with all requirements of NCCR 5.045(2)(a)(1)

(h) Whether the applicant or the persons who are proposed to be owners, officers or board members of the proposed medical cannabis establishment or has had an ownership interest of 5% or more or board or officer position in a cannabis establishment that has admitted to a violation or been adjudicated to have violated a Category I Violation in NCCR 4.035 or a Category II Violation in NCCR 4.040.

- 0 Points- No infraction history
- -1 point (negative) – Two Category II Violations.
- -2 points (negative) – Three or more Category II Violations.
- -2 points (negative) – One or two Category I Violations.
- -3 points (negative) – Three or more Category I Violations.