

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: ILLINOIS DEPARTMENT OF AGRICULTURE
SUBCHAPTER v: LICENSING AND REGULATIONS

PART 1000
COMPASSIONATE USE OF MEDICAL CANNABIS PILOT PROGRAM

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AUTHORITY: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

SOURCE: Adopted at 38 Ill. Reg. 16731, effective July 25, 2014; emergency amendments at 38 Ill. Reg. _____, effective _____ for a maximum of 150 days.

SUBPART B: CULTIVATION CENTER PERMITS AND PERMIT SELECTION

**Section 1000.100 Permit Application
EMERGENCY**

- a) A cultivation center permit shall be obtained for each facility prior to commencement of any production activities. The permit shall, along with any other certificate, business license or other authorization required to conduct production activities, be posted in a conspicuous place within the facility.
- b) The Department shall accept applications for cultivation center permits for 14 calendar days after the date indicated on the Department's website as the commencement date for accepting applications.
 - 1) Submissions shall be considered as submitted on the date on which they are postmarked or, if delivered in person during regular business hours, on the date on which they are so delivered or, if sent electronically, on the date received by the Department if received on or before 5 p.m. Central Time. If received electronically after 5 p.m. Central Time, they will be considered received on the next day.
 - 2) Submissions received after the 14 day period or any way other than required in this subsection (b) shall be returned to the applicant.
 - 3) Notification of the availability of applications will be posted on the Department's website at www.agr.state.il.us/. Application forms will be made available online at that website and may be completed online and submitted electronically to that website, at the discretion of the Department, or sent via U.S. mail to the address set forth in the application.
- c) The permit application shall be submitted on the forms provided by the Department. The forms will include instructions for their completion and submission. The application will reflect the information required of applicants by the Act and this Part and will include requests for information, plans, maps and other materials in support of the application needed by the Department to make its determination on the permit request. The instructions on the application will reflect the total maximum number of points that can be awarded for each required criteria, measure and bonus point category listed in Section 1000.110. The instructions/application will also identify the total minimum number of points necessary from the required criteria and measures to be eligible for consideration of the bonus point categories. All applications will be reviewed and points awarded based upon the same point system in a fair and unbiased manner. If all

materials, documentations, fees and information required by the application form are not submitted, the application shall be returned to the applicant. The applicant shall then have seven calendar days to resubmit the application in its entirety. Once submitted, the required fee will not be returned. Upon receipt of an application deemed to be complete, the Department will engage in no further communication with the applicant until after the selection process is completed, except:

- 1) As provided in Section 1000.110(g) and (h); and,
 - 2) If the applicant has applied for zoning approval from the local zoning authority and the matter is pending before the authority. The applicant may submit verification of compliance with the local zoning rules once a ruling is issued by the local zoning authority. In no event, however, may the verification be submitted more than 60 days from the date of submission of the application to the Department.
- d) An applicant applying for a cultivation center permit shall submit, in duplicate, the following:
- 1) *The proposed legal name of the cultivation center;*
 - 2) *The proposed physical address of the cultivation center and description of the enclosed, locked facility as it applies to cultivation centers where medical cannabis will be grown, harvested, manufactured, packaged, or otherwise prepared for distribution to a dispensing organization;*
 - 3) *The name, address, and date of birth of each principal officer and board member of the cultivation center, provided that all those individuals shall be at least 21 years of age;*
 - 4) *Any instance in which a business that any of the prospective board members of the cultivation center had managed or served on the board of the business and was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding;*
 - 5) *Cultivation, inventory, and packaging plans;*
 - 6) *Proposed operating by-laws (Operation and Management Practices Plan) that include procedures for the oversight of the cultivation center, development and implementation of a plant monitoring system, medical cannabis container tracking system, accurate record keeping, staffing plan, and security plan reviewed by the Illinois State Police that are in*

accordance with the rules issued by the Department of Agriculture under the Act. A physical inventory shall be performed of all plants and medical cannabis containers on a weekly basis. ISP may utilize the services of a private security contractor licensed by DFPR to assist with performing a security plan review;

- 7) *Experience with agricultural cultivation techniques and industry standards, including experience with the cultivation of agricultural or horticultural products, operating an agriculturally related business, or operating a horticultural business;*
- 8) *Any academic degrees, certifications, or relevant experience with related businesses;*
- 9) *The identity of every person, association, trust, producer backer, partnership, other entity or corporation having any direct or indirect pecuniary interest in the cultivation center operation with respect to which the registration is sought. If the disclosed entity is a trust, the application shall disclose the names and addresses of the beneficiaries; (Section 85 of the Act)*
- 10) If a sole proprietorship, the name, residence and date of birth of the owner;
- 11) *If a partnership, the names and addresses of all partners, both general and limited (Section 85 of the Act) and any partnership or joint venture documents.*
 - A) For a domestic limited partnership, a copy of the Certificate of Limited Partnership and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days.
 - B) For a foreign limited partnership, a certificate of Good Standing from the state of formation, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days;
- 12) If a limited liability partnership, the names and addresses of all partners, and any partnership or joint venture documents.
 - A) For a domestic limited liability partnership, a copy of the Certificate of Limited Liability Partnership and a Certificate of

- Good Standing from the Illinois Secretary of State dated within the last 60 days.
- B) For a foreign limited liability partnership, a certificate of Good Standing from the state of formation, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days;
- 13) If a corporation based in Illinois, a copy of the Articles of Incorporation and a copy of the Certificate of Good Standing issued by the Illinois Secretary of State or obtained from the Secretary of State's website within the last 60 days. If the corporation is a foreign corporation, a copy of the Articles of Incorporation, a copy of the Certificate of Good Standing from the state or country in which the corporation is domiciled, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days. If using an assumed name (d/b/a), a copy of the assumed name registration issued by the Secretary of State. Additionally, applicants shall include *the names and addresses of all stockholders and directors of the corporation* (Section 85 of the Act);
- 14) If a limited liability company:
- A) For a domestic limited liability company, a copy of the Articles of Organization, a copy of the Certificate of Good Standing issued by the Illinois Secretary of State or obtained from the Secretary of State's website within the last 60 days, and a listing of the members of the limited liability company and his, her, or its contact information.
- B) For a foreign limited liability company, a copy of the Articles of Organization and a Certificate of Good Standing from the state of organization, a copy of the Application for Admission to Transact Business in Illinois, along with a Certificate of Good Standing issued by the Illinois Secretary of State, all dated within the last 60 days;
- 15) If another type of business entity, the same or similar information, as applicable, to that listed in this subsection (d);
- 16) *Verification from the Illinois State Police that all background checks of the principal officer, board members, and registered agents have been*

conducted and those individuals have not been convicted of an excluded offense (Section 85 of the Act).

- 17) *A copy of the current local zoning ordinance to the Department and verification from the local zoning authority that the proposed cultivation center is in compliance with the local zoning rules issued in accordance with Section 140 of the Act (Section 85 of the Act).*
- A) If the property is not owned but is currently leased by the applicant, the applicant shall provide: a copy of the lease; confirmation of land ownership; identification of any mortgagees and/or lienholders; a written statement from the property owner and/or landlord, certifying consent that the applicant may operate a cultivation center on the premises at least through December 31, 2017; and, if applicable, verification of notification by the property owner to any and all mortgagees and/or perfected lienholders that the property is to be used as a cultivation center at least through December 31, 2017, and consent thereto by any mortgagees and/or perfected lienholders.
- B) If the property is not owned or currently leased by the applicant, the applicant shall provide: a written statement from the property owner and/or landlord certifying consent that the applicant will lease or purchase the property for the purpose of operating a cultivation center until at least December 31, 2017; and, if applicable, verification of notification by the property owner to any and all mortgagees and/or perfected lienholders that the property is to be used as a cultivation center at least through December 31, 2017, and consent thereto by any mortgagees and/or perfected lienholders.
- C) If the property is owned by the applicant, the applicant shall provide: confirmation of land ownership; identification of any and all mortgagees and/or perfected lienholders; and, if applicable, verification of notification to any and all mortgagees and/or perfected lienholders that the property is to be used as a cultivation center at least through December 31, 2017, and consent thereto by any mortgagees and/or perfected lienholders;
- 18) A non-refundable application fee as set forth in Section 1000.140 for each application. Each application for a particular District shall be a separate application requiring a separate fee;

- 19) A location area map of the area surrounding the proposed cultivation center. The map must clearly demonstrate that the proposed cultivation center is *not located within 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or an area zoned for residential use* (Section 105 of the Act);
- 20) A plot plan of the cultivation center drawn to a reasonable scale. If the cultivation center building is in existence at the time of the application, the applicant shall submit plans and specifications drawn to scale for the interior of the building. If the building is not in existence at the time of application, the applicant shall submit a plot plan and a detailed drawing to scale of the interior and the architect's drawing of the building to be constructed;
- 21) Documentation acceptable to the Department that the individual or entity filing the application has at least \$500,000 in liquid assets. Documentation acceptable to the Department includes a signed statement from an Illinois Licensed CPA attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying. The statement must be dated within 30 calendar days before the date the application was submitted;
- 22) Documentation acceptable to the Department that the individual or entity filing the application will be able to obtain insurance sufficient to indemnify and hold harmless the State and its officers and employees as required in Section 1000.50(b)(4)(B);
- 23) All relevant financial information as set forth in Section 1000.200;
- 24) The name of any agent-in-charge for each work shift;
- 25) If currently or previously licensed or authorized in another state or jurisdiction to produce or otherwise deal in the distribution of cannabis in any form, the following:
 - A) A copy of each such licensing/authorizing document verifying licensure in that state or jurisdiction;
 - B) A statement granting permission to contact the regulatory agency that granted the license to confirm the information contained in the application; and

- C) If the license/authorization or application was ever denied, suspended, revoked or otherwise sanctioned, a copy of documentation so indicating, or a statement that the applicant was so licensed and was never sanctioned.
- e) The applicant shall sign a notarized statement certifying that:
- 1) No prospective principal officer or board member has been convicted of an excluded offense in any state or country;
 - 2) The cultivation center will register with the Illinois Department of Revenue should the applicant be granted a permit;
 - 3) The application is complete and accurate; and
 - 4) The applicant has actual notice that, notwithstanding any state law:
 - A) Cannabis is a prohibited Schedule I controlled substance under federal law;
 - B) Participation in the program is permitted only to the extent provided by the strict requirements of the Act and this Part;
 - C) Any activity not sanctioned by the Act or this Part may be a violation of State law;
 - D) Growing, distributing or possessing cannabis in any capacity, except through a federally-approved research program, is a violation of federal law;
 - E) Use of medical cannabis may affect an individual's ability to receive federal or State licensure in other areas;
 - F) Use of medical cannabis, in tandem with other conduct, may be a violation of State or federal law;
 - G) Participation in the program does not authorize any person to violate federal law or State law and, other than as set out in Section 25 of the Act, does not provide any immunity from or affirmative defense to arrest or prosecution under federal law or State law; and

- H) Applicants shall indemnify, hold harmless, and defend the State of Illinois for any and all civil or criminal penalties resulting from participation in the program.
- 5) The Department has authority to include additional certifications in the application that would be sufficient to ensure compliance with the program and all other applicable laws.
- 6) All of applicant's principal officers and producer backers expressly agree to be subject to service of process in Illinois with a current Illinois address on file with the Department.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)

**Section 1000.110 Permits – Selection Criteria
EMERGENCY**

- a) Each application shall address all criteria and measures as set forth in this Part. The failure by an applicant to address all of the required criteria and measures will result in the application being denied.
- b) The required criteria and measures shall include the following, with each criteria accounting for up to the indicated maximum percentage of the total required criteria and measures' points available:
 - 1) Suitability of the Proposed Facility (15 percent):
 - A) Measure 1: The applicant demonstrates that the proposed facility is suitable for effective and safe cultivation of medical cannabis, sufficient in size, power allocation, air exchange and air flow, interior layout, lighting, and sufficient both in the interior and exterior to handle the bulk agricultural production of medical cannabis, cannabis-infused products, product handling, storage, trimming, packaging, loading and shipping. The loading/unloading of medical cannabis in the transport motor vehicle for shipping shall be in an enclosed, secure area out of public sight.
 - B) Measure 2: The applicant demonstrates the ability to continue to meet qualifying patient demand by expanding the cultivation facility in a quick and efficient manner with minimal impact on the environment and the surrounding community.
 - C) Measure 3: The applicant provides an employee handbook that will provide employees with a working guide to the understanding of the day-to-day administration of personnel policies and practices.
 - 2) Proposed Staffing Plan and Knowledge of Illinois Law and Rules Relating to Medical Cannabis (10 percent):
 - A) Measure 1: The applicant fully describes a staffing plan that will provide and ensure adequate staffing and experience for all accessible business hours, safe production, sanitation, adequate security and theft prevention; and

- B) Measure 2: The applicant provides an Operations and Management Practices Plan that demonstrates compliance with this Part and the Act.
- 3) Security Plan (20 percent):
- A) Measure 1: The applicant's security plan demonstrates its ability to prevent the theft or diversion of medical cannabis and how the plan will assist with ISP, Department, and local law enforcement. Specifically, it shall evidence compliance with all items in Sections 1000.440, 1000.445 and 1000.450.
 - B) Measure 2: The applicant demonstrates that its plan for record keeping, tracking and monitoring inventory, quality control and security and other policies and procedures will discourage unlawful activity. It also describes the applicant's plan to coordinate with and dispose of unused or surplus medical cannabis through ISP and the Department.
 - C) Measure 3: The applicant's security plan shall describe the enclosed, locked facility that will be used to secure or store medical cannabis, its security measures, including when the location is closed for business, and the steps taken to ensure that medical cannabis is not visible to the public.
 - D) Measure 4: The applicant describes its transportation plan regarding procedures for safely and securely delivering medical cannabis to registered dispensaries.
- 4) Cultivation Plan (30 percent):
- A) Measure 1: The applicant shall describe its plan to provide a steady, uninterrupted supply of medical cannabis to registered dispensaries.
 - B) Measure 2: The applicant demonstrates knowledge of cultivation methods to be used in the cultivation of cannabis. The applicant shall describe the various strains to be cultivated and its experience, if applicable, with growing those strains or comparable agricultural products.

- C) Measure 3: The applicant demonstrates the steps that will be taken to ensure the quality, including the purity and consistency, of the medical cannabis to be provided to dispensaries.
- 5) Product Safety and Labeling Plan (15 percent):
- A) Measure 1: The applicant shall describe its plan for providing safe and accurate packaging and labeling of medical cannabis.
 - B) Measure 2: The applicant shall describe its plan for testing medical cannabis and ensuring that all medical cannabis is free of contaminants, including but not limited to pesticides, microbiological, and residual solvent. If applicable, the applicant shall provide quality history records showing specific testing results from laboratory testing conducted on the applicant's cannabis products.
 - C) Measure 3: The applicant shall describe its plan for establishing a recall of the applicant's products in the event that they are shown by testing or other means to be, or potentially to be, defective or have a reasonable probability that their use or exposure to will cause serious adverse health consequences. At a minimum, the plan should include the method of: identification of the products involved; notification to the dispensary organization or others to whom the product was sold or otherwise distributed; and how the products will be disposed of if returned to or retrieved by the applicant.
- 6) Applicant's Business Plan and Services to be Offered (10 percent):
- A) Measure 1: The applicant shall provide a business plan that describes how the cultivation center plans to operate on a long-term basis. This shall include the applicant providing a detailed description about the amount and source of the equity and debt commitment for the proposed cultivation center that demonstrates the immediate and long-term financial feasibility of the proposed financing plan, the relative availability of funds for capital and operating needs, and the financial capability to undertake the project.
 - B) Measure 2: The applicant or its officers, board members, or incorporators demonstrates experience in business management and/or having medical industry, agricultural or horticultural

experience and the extent of their involvement in or ability to influence the day-to-day operations of the facility.

- C) Measure 3: The business plan demonstrates a start-up timetable that provides an estimated time from permit approval of the cultivation center to full operation, and the assumptions used for the basis of those estimates.
- c) The Department shall award bonus points for preferred but not required initiatives based on the applicant's ability to meet or exceed minimum requirements in the following categories, and will be equal to up to 16 percent of the maximum percentage of the total required criteria and measures' points available in subsection (b) above, with each of the following initiatives equal to no more than 2 percent of the total points available in the required criteria and measures:
- 1) Labor and Employment Practices: The applicant may describe any plans it has to:
 - A) Provide a safe, healthy and economically beneficial working environment for its employees, including, but not limited to, its plans regarding workplace safety and environmental standards, codes of conduct, healthcare benefits, educational benefits, retirement benefits, and wage standards.
 - B) Recruit and/or hire minorities, women, veterans, disabled persons and Illinois residents.
 - 2) Research Plan: The applicant may provide the Department with a detailed proposal to conduct, or facilitate, a scientific study or studies related to the medicinal use of cannabis. To the extent it has been determined, the applicant may include in its proposal, a detailed description of:
 - A) The methodology of the study;
 - B) The issues to be studied;
 - C) The methods that will be used to identify and select study participants;
 - D) The identity of all persons or organizations that will be worked with in connection with the study, including the role of each;
 - E) The duration of the study; and

- F) The intended use of the study results.
- 3) Community Benefits Plan: The applicant may provide the Department with a detailed description of any plans the applicant has to give back to the local community if awarded a cultivation center permit.
 - 4) Substance Abuse Prevention Plan: The applicant may provide a detailed description of any plans it will undertake, if awarded a cultivation center permit, to combat substance abuse in Illinois, including the extent to which the applicant will partner, or otherwise work with existing substance abuse programs.
 - 5) Local Community/Neighborhood Report: The applicant may provide comments, concerns or support regarding the potential impact of the proposed location to the local community and neighborhood. This may include the local community's concerns or support regarding the proposed location's proximity to substance abuse treatment centers, day care centers, schools and halfway houses.
 - 6) Environmental Plan: The applicant may demonstrate an environmental plan of action to minimize the carbon footprint, environmental impact, and resource needs for the production of medical cannabis. The applicant may describe any plans for the use of alternative energy, the treatment of waste water and runoff, and scrubbing or treatment of exchanged air.
 - 7) Verification of Minority Owned, Female Owned, Veteran Owned, or Disabled Person Owned Business: The Minority, Female, Veteran, or Disabled Person applicant must own at least 51 percent of the entity applying for registration. The percentage totals may include any combination of these types of businesses. The Minority, Female, Veteran, or Disabled Person applicant must also share in control of management and day-to-day operations of the permitted facility. Documentation must be submitted at the time of application that demonstrates the respective status of the applicant, including, but not limited to, certification under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575] for minority, female or disabled person applicants, or a DD214 for veteran applicants. For purposes of this section, minority, female, and disabled shall be defined as found in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575/2].

- 8) Verification that the applicant's principal place of business is headquartered in Illinois. The names, addresses and verification of the applicant's proposed agents that reside in Illinois. The applicant may also provide a plan for generating Illinois-based jobs and economic development.
- d) Should the applicant be awarded a permit, the information and plan that an applicant provided in its application becomes a mandatory condition of the permit. If a permittee fails to comply with standard and special conditions of the permit, the Department may assess a penalty or seek suspension or revocation of the permit pursuant to Section 1000.700.
- e) The Department may issue a cultivation center permit with conditions addressing weaker areas of the cultivation center's application that shall be addressed and corrected in the manner and timeframe set forth in the permit.
- f) There shall not be more than one permit issued per each of the 22 ISP District boundaries as specified on January 1, 2013.
 - 1) A permit shall be issued to the qualified applicant receiving at least the minimum required score in each category and the highest total score overall as compared to the other applicants within the applicable district.
 - 2) ISP District Chicago (District C) incorporates ISP Districts 3 and 4. Therefore, the Department shall issue two separate permits for ISP District C.
- g) In the event that two or more qualified applicants for a cultivation center permit receive the same total score, the Department shall select the applicant that received the highest score in the cultivation plan category. In the event that the same two applicants received the same score in the cultivation plan category, the Department shall select the applicant that received the highest score in the security plan category.
 - 1) If a tie score still remains, the tied applicants will be interviewed by an unbiased panel selected by the Department.
 - 2) The panel will judge the overall applications and suitability, sustainability and likelihood of success of the applicants and award the permit accordingly.
- h) In the event that there are no qualified applicants in a particular District, the applicant with the highest total score will meet with an unbiased panel selected by

the Department to determine whether the applicant may be able to cure any deficiencies in the application to become qualified. If the applicant is unable to cure the deficiencies, the panel will meet with the applicant with the next highest score to determine whether it may be able to cure any deficiencies in its application to become qualified. If that applicant is unable to cure the deficiencies, and there are no qualified applicants in that particular District, the application process will be reopened. All applicants will be required to submit a new fee and application for that District.

- i) If no qualified applicants are found during the process described in subsections (g) and (h), or if an applicant that is issued a conditional permit fails to fulfill the conditions of the conditional permit, or if no permit is issued or active in a particular District for any other reason, the Department shall announce another period to submit an application for that District. The application period shall be for 30 calendar days from the date specified in the announcement.
- j) The Department may verify information contained in each application and accompanying documentation to assess the applicant's character and fitness to operate a cultivation center. Notwithstanding an applicant satisfying the foregoing selection criteria, the Department may, in its discretion, refuse to issue a permit if it is not satisfied that an applicant, or any one required to be identified in the application by Section 1000.100, is a person of good character, honesty and integrity, and is not:
 - 1) A person whose background, including criminal charges, reputation and association, is injurious to the health, safety, morals, good order and general welfare of the People of the State of Illinois;
 - 2) A person whose background, criminal record, reputation, habits, social or business associations adversely affect public confidence and trust in the medical cannabis industry or poses a threat to the public interests of the State or to the security and integrity of the medical cannabis industry;
 - 3) A person who creates or enhances the dangers of unlawful practices, methods and activities in the medical cannabis industry, including, but limited to, product diversion;
 - 4) A person who presents questionable business practices and financial arrangements incidental to the medical cannabis industry;
 - 5) A person who associates with, either socially or in business affairs, or employs persons of notorious or unsavory reputation or who have

extensive police records, or who have failed to cooperate with any officially constituted investigatory or administrative body; or

- 6) A person who has had a cannabis dispensary or cultivation center license revoked, suspended or sanctioned in any other jurisdiction.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days)