

Frequently Asked Questions: Proposed Medical Marihuana Facilities Continuing to Operate with Local Approval

Is it accurate that LARA will not consider a proposed medical marihuana facility's continued operation with local approval as an impediment to licensure?

Through emergency rules to be released later this month, the Bureau of Medical Marihuana Regulation (BMMR) and the Medical Marihuana Licensing Board (MMLB) will not consider a proposed medical marihuana facility's continued operation as an impediment to licensure as long as the applicant:

- Documents approval from their municipality in their application
- Submits a complete application by February 15, 2018

What does that municipality authorization need to look like?

Proposed medical marihuana facilities that continue to operate with local approval must have already been operating a medical marihuana facility within the boundaries of a municipality that adopted an authorizing ordinance prior to December 15, 2017. The applicant must submit a complete application by February 15, 2018, with one of the following documents included in the application:

- An attestation – signed by the local clerk – that affirms the municipality has allowed, by ordinance, the operation of marihuana establishments.
- An attestation – signed by the local clerk – that affirms the municipality has adopted a new or amended ordinance required under section 205 of the MMFLA.

Why now? What prompted LARA to make this decision?

Since its inception in April 2017, the Bureau of Medical Marihuana Regulation (BMMR) has proactively engaged medical marihuana stakeholders and has listened intently to input from Michigan's most vulnerable patients. BMMR has listened to dozens of hours of public comments, discussions with more than one hundred workgroup members, and has received numerous letters and emails. It is clear that BMMR and the MMLB must enact measures that help ensure that medical marihuana patients have access to their medicine and remain protected.

Why is this an issue?

The "dispensaries" that are currently operating aren't mentioned in the 2008 act passed by the voters of the state of Michigan – nor were they addressed in the 2016 acts passed by the state legislature. As a department, we are tasked with determining how we move from the old model into the new model. Our objective is to make that transition as easy as possible. Without the transition being specifically outlined in statute, it's a challenge to define the best way to make that transition.

Will law enforcement shut down dispensaries?

LARA has no purview over existing dispensaries; we are currently determining how we get them through the application process. We're very much aware of the concerns of the existing facilities and patients in terms of continued access to medical marijuana. We are taking efforts to facilitate those concerns while also trying to implement the new regulations in a fair and efficient way so that we can issue licenses as quickly as possible in accordance with the new regulatory standards. The intended emergency rules do not authorize the operation of a medical marijuana facility, they simply do not consider the operation as an impediment to licensure under certain conditions. LARA and the Medical Marijuana Licensing Board expect to begin issuing state operating licenses by April 2018, if not sooner. Until that time, the operation of a facility is a business risk by the operator.

Will this give an advantage to those operating illegally prior to state licensure?

This process will allow a transition from the old patient/caregiver model to the new regulated model while still protecting patient access to medical marijuana. Applications will be accepted on December 15, 2017, regardless if business activity was conducted prior to that date, and all applicants will have the same application requirements for licensure. Local municipality authorization is required, so not all facilities currently in place will be able to comply with the rules as they may not have municipal authority for the business activity. This process will also allow for unlicensed activity to be reported to LARA and potentially forwarded to the Michigan State Police and the Attorney General.

As a potential applicant do I have to close before December 15? What if I already closed in anticipation of the December 15, 2017 deadline? Will it hurt my chances at a license if I re-open?

During this transition period, if you are operating in a municipality that has authorized your activity and has adopted an ordinance under Section 205 of the Act – and you are applying for a state operating license – continuing to engage in that capacity will not be considered an impediment to licensure in the state application process.

Should municipalities begin authorizing marijuana facilities to enable potential licensees to remain open in the transition period?

If a local municipality wants currently operating marijuana facilities to remain open, they should authorize them to do so before December 15, 2017. This provision for proposed medical marijuana facilities continuing to operate with local approval only applies to facilities operating in municipalities with authorizing ordinances in place.

If my medical marijuana facility engages in activities that cross license types (grower, processor and provisioning center), how will my continued operation be evaluated as part of the application process?

The continued operation will not be considered in the application process if the municipality has authorized the activity thus far and has adopted an ordinance under Section 205 of the Act, and you are applying for a state operating license. The facility must meet all requirements for licensure for each type of license being sought.

If my municipality has adopted an ordinance that allows medical marijuana facilities but has not adopted an ordinance that complies with section 205 of the MMFLA, what does my timeline look like?

If you are currently operating a proposed medical marijuana facility that has previously been authorized by your local municipality, you have until February 15, 2018 to submit a application for state licensure under the MMFLA. In order for your license application to be considered sufficient regarding local level authorization, your municipality must adopt an authorizing ordinance that complies with section 205 of the MMFLA no later than June 15, 2018. If your municipality does not pass a compliant ordinance – or amend its current ordinance – by June 15, 2018, continued operation of your medical marijuana facility will be considered unlicensed activity and an impediment to licensure.

My municipality doesn't have enough time to amend or pass a new ordinance by December 15, 2017. How should this be handled? My municipality's ordinance requires state approval in order to get local approval. How should this be handled?

LARA recognizes that amending or passing ordinances at the local level is a time-consuming task and that it might not be feasible for a local governmental entity to accomplish before December 15, 2017. LARA also recognizes that certain local medical marijuana ordinances – that have already been passed – require state approval before local approval is given. Local units of government may pass a resolution that authorizes the clerk to sign the attestation form – which will be provided by LARA – in order to allow for local authorization of continued operation of proposed medical marijuana facilities.