



MEMORANDUM

TO: Cannabis Regulatory Commission Board
FROM: Jeff Brown, Executive Director
SUBJECT: Delegation of Authority to Permitting and Licensing Committee
DATE: January 13, 2023

EXECUTIVE SUMMARY: In order to more effectively carry out the statutory charges of N.J.S.A. 24:6I-1 et seq., the CRC is recommended to delegate the following authorities to the Permitting and Licensing Committee:

- Review and approval of extension of operational deadlines for license and permit awardees found in regulation or in Final Agency Decisions; and
- Review and approval of extension of the conditional license phase for conditional applicants for good cause.

Delegating these authorities will streamline the ability to respond quickly to applicant challenges related to real estate, municipal approval, and other operational factors, and ensure the CRC is working as efficiently and as timely as practicable.

BACKGROUND: The Commission continuously receives requests for extensions on deadlines pertaining to the 2019 Request for Application (RFA) Final Agency Decisions. Further, the Commission continuously receives requests for an extension of the conditional license phase under N.J.A.C. 17:30-7.6(a). Finally, the Commission has received concerns about and requests for an extension of the 365-day deadline to become operational under N.J.A.C 17:30-7.14(f), which requires a waiver and Board approval.

The Commission should formally delegate the review and approval of extension requests to ensure ongoing operational efficiency and allow the Commission to continue to expeditiously review these requests to meet statutory and regulatory deadlines. The authority to review and approve these extension requests should be delegated to the Permitting and Licensing Committee, established in the Commission's by-laws.

Additionally, because the language under N.J.A.C 17:30-7.14(f) states the license applicant "shall" have 365 days from the date of the notice of approval, a waiver under N.J.A.C. 17:30-3.7 is required for the Permitting and Licensing Committee to consider extending the deadline for good cause.

PROPOSED DELEGATION:



1. The Commission's Permitting and Licensing Committee shall have the authority to grant extensions on deadlines pertaining to the 2019 RFA Final Agency Decisions. These extension decisions should be in the best interest of the patient population.
2. The Commission's Permitting and Licensing Committee shall have the authority to grant extensions of the conditional license phase, if it finds "good cause" for the extension as enunciated by N.J.A.C. 17:30-7.6(a)(2)(i).
3. The Commission's Permitting and Licensing Committee shall have the authority to waive the 365-day requirement to become operational under N.J.A.C 17:30-7.14(f), pursuant to N.J.A.C. 17:30-3.7, so long as the Committee finds such waiver does not conflict with any other State law. Additionally, the Committee must find that waiving this requirement is necessary to achieve the purpose of the Act and is necessary to provide access to cannabis items to consumers. Finally, the Committee must find that waiving this requirement does not create a danger to the public health, safety, or welfare.
4. Additionally, the Commission's Permitting and Licensing Committee shall have the authority to grant an extension of the 365-day deadline to become operational under N.J.A.C 17:30-7.14(f), so long as it finds good cause.
5. The Commission's Permitting and Licensing Committee shall, as soon as practicable, notify the Commission's Board of any decisions made pursuant to the authority delegated.

AUTHORITY: Pursuant to N.J.S.A. 24:6I-24(c)(1), the Commission has established a plan of organization under the direct supervision of a full-time Executive Director for the Commission. N.J.S.A. 24:6I-24(e) provides that the Commission may designate its powers and authority as it deems necessary and appropriate to carry out its duties and implement the provisions of N.J.S.A. 24:6I-1 et al. and N.J.S.A. 24:6I-31 et al. The Commission approved and adopted a set of bylaws, which established roles, procedures and decision-making practices for the Commissioners, Executive Director, and staff on January 27, 2022.

The Final Agency Decisions (FADs) issued to all 2019 RFA cultivation and vertically integrated awardees on October 15, 2021, provide that "An awardee for a cultivation endorsement or for a vertically integrated permit must be fully permitted within 18 months from the date of this award." Additionally, the FADs issued to all 2019 RFA dispensary awardees on December 7, 2021, provide that all awards are strictly for the cultivation, manufacturing, and/or dispensing of medicinal cannabis pursuant to P.L. 2009, c.307 and N.J.A.C. 8:64 (now N.J.A.C. 17:30A) and require awardees for a dispensary endorsement to be fully permitted within 12 months from the date of the award.

The governing regulations under N.J.A.C. 17:30-7.6(a) state that the conditional license phase "[b]egins on the day that the conditional license is issued to the license applicant and [e]xpires 120 days after the day that the conditional license was issued or at the end of an extension. A



conditional license shall not be renewed, but may be extended pursuant to this section or for good cause, as deemed necessary by the Commission.”

The governing regulations under N.J.A.C 17:30-7.14(f) state that a license applicant shall have 365 days from the date of the notice of approval to request a final onsite assessment.

The governing regulations under N.J.A.C. 17:30-3.7, state that the Commission, in accordance with the general purposes and intent of the Act and this chapter, may waive a regulatory requirement regarding the operations of a cannabis business, to the extent such waiver does not conflict with any other State law, if in the Commission's determination, such a waiver is necessary to achieve the purpose of the Act, is necessary to provide access to cannabis items to consumers and does not create a danger to the public health, safety, or welfare.

RECOMMENDATION: It is the recommendation of the Executive Director and staff that it is in the public interest to continue to streamline Commission business and create greater operational efficiency by designating the Commission’s authority of granting extensions on deadlines pertaining to the 2019 Request for Application (RFA) Final Agency Decisions, granting extensions of the conditional license phase under N.J.A.C. 17:30-7.6(a) and granting extensions of the 365 day deadline to become operational under N.J.A.C 17:30-7.14(f) to the Commission’s Permitting and Licensing Committee. Additionally, it is the recommendation of the Executive Director and staff to designate the Commission’s authority of waiving the 365-day requirement to become operational under N.J.A.C 17:30-7.14(f), pursuant to N.J.A.C. 17:30-3.7, so long as the Committee finds such waiver does not conflict with any other State law. Additionally, the Committee must find that waiving this requirement is necessary to achieve the purpose of the Act and is necessary to provide access to cannabis items to consumers. Finally, the Committee must find that waiving this requirement does not create a danger to the public health, safety, or welfare.