



MEMORANDUM

TO: Cannabis Regulatory Commission Board
FROM: Jeff Brown, Executive Director
SUBJECT: Provisional Badging
DATE: FEBRUARY 15, 2024

SUMMARY AND BACKGROUND: Pursuant to P.L.2019, c.153, known and cited as the “Jake Honig Compassionate Use Medical Cannabis Act,” and P.L.2021, c.16, known and cited as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”, the Cannabis Regulatory Commission is authorized to review criminal history background checks for owners, principals, managers and employees seeking to work at Alternative Treatment Centers (“ATC”) and Cannabis Businesses.

Employees are required by the law to be cleared in order to work in the industry. However, the process of getting fingerprints taken, the CRC receiving those fingerprint results, and the review and issuance of Cannabis Business ID Cards and ATC ID Cards can take varying amounts of time depending on a number of factors that include but are not limited to: volume of finger print requests, presence or complexity of criminal histories, presence of pending charges or warrants, the review of criminal histories and charges and variance in overall processing times at every step of the process.

The CRC possesses the authority under both P.L.2019, c.153 and P.L.2021, c.16 and corresponding regulations to issue provisional ATC and Cannabis Business ID Cards for up to 90 days while candidates are being reviewed and fingerprint results are being processed. Given that overall time from request to issuance for ATC ID cards stands at an average of 50 days, the CRC will be issuing guidance to return to the provisional ID cards for ATC badging as authorized under the statute and CRC staff are recommending board approval of provisional badging for Cannabis Business ID Cards.

Both the guidance for ATCs and the recommended process for Cannabis Business ID cards will include the following provisions and conditions:

- If fingerprint results have not been received within 14 days following the date of a fingerprint appointment, or the date of licensure for a new business, whichever is later, the CRC shall issue provisional approval for an applicant for a cannabis business ID or ATC ID Card.



- In order to receive provisional approval of a CB or ATC ID Card, the applicant shall supply a receipt noting successful completion of a fingerprint appointment and a signed attestation stating that they have no disqualifying convictions under the applicable statute. The CRC issued guidance for both shall include descriptions of statutory requirements for disqualifying convictions under P.L.2019, c.153 and P.L.2021, c.16.
- Provisional employees must be under the supervision of a fully qualified employee/manager.
- Provisional status shall not be offered to owners, principals, or managers – only line-level employees.
- The issuance of provisional status does not guarantee a person's qualification.
- Submission of a false attestation shall result in a determination of the person's disqualification, the revocation of the person's provisional status and any Cannabis Business Identification Card and may result in permanent ineligibility for the person to participate in a license applicant or license holder.

AUTHORITY:

N.J.S.A. 24:6I-44 states:

e. (1) Each individual applying for a certification under this section shall undergo a criminal history record background check. The commission is authorized to exchange fingerprint data with and receive criminal history record background information from the Division of State Police and the Federal Bureau of Investigation consistent with the provisions of applicable State and federal laws, rules, and regulations. The Division of State Police shall forward criminal history record background information to the commission in a timely manner when requested pursuant to the provisions of this subsection.

(2) Each individual shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this subsection unless the individual has furnished written consent to that check. Any individual who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a certification. Each individual shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.



Where the criminal history background information reflects that a person has been convicted of a disqualifying conviction, the Commission shall not approve the person from participating in a license applicant or license holder. N.J.A.C. 17:30-7.12(c). The Commission may, at its discretion, offer provisional authority for individuals to be employees of Cannabis Businesses for a period of up to three months in certain circumstances.

Specifically, **N.J.A.C. 17:30-7.12(f)** states:

... the Commission may, in its discretion, offer provisional authority for a person to be an owner, principal, or employee of a cannabis business or testing laboratory license applicant or license holder for a period not to exceed three months if the person submits to the Commission a sworn statement attesting that the person has not been convicted of a disqualifying conviction.

N.J.S.A. 24:6I-7 states:

d. (1) The Commission shall require each applicant seeking a permit to operate as, to be a director, officer, or employee of, or to be a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant to undergo a criminal history record background check....

An applicant who is required to undergo a criminal history record background check pursuant to this section shall submit to being fingerprinted in accordance with applicable State and federal laws, rules, and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished the applicant's written consent to that check. An applicant who is required to undergo a criminal history record background check pursuant to this section who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for a permit to operate, or authorization to be employed at or to be a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check....

(5) Notwithstanding the provisions of subsection c. of this section to the contrary, the commission may offer provisional authority for an applicant to be an owner, director, officer, or employee of, or a significantly involved person in, a medical cannabis cultivator, medical cannabis manufacturer, medical cannabis dispensary, or clinical registrant for a period not to exceed three months if the applicant submits to the commission a sworn statement attesting that the person has not been convicted of any disqualifying conviction pursuant to this section.



RECOMMENDATION: In order to ensure efficient processing of both Cannabis Business and ATC ID Cards, CRC staff recommend authorizing provisional employee cards for cannabis business ID cards to mirror forthcoming guidance for ATC ID Cards. By only issuing provisional approval after 14 days have passed from the date of fingerprinting, the CRC will ensure provisional status is only utilized in cases where there are delays or extended timelines occurring in the process. Furthermore, by requiring the receipt from the fingerprint appointment and the attestation the CRC can ensure accountability to the statutory and regulatory requirements for criminal history background checks.