

State of New Jersey
CANNABIS REGULATORY COMMISSION

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October 15, 2021

MLH New Jersey LLC
308 E Lancaster Ave.
Suite 300
Wynnewood, PA 19096

*Re: **FINAL AGENCY DECISION***
Denial of Permit to Operate an Alternative Treatment Center (“ATC”) Pursuant to the 2019 Request for Application (“RFA”) Process

Dear David Clapper,

The New Jersey Cannabis Regulatory Commission (“CRC”) has received and reviewed your application for a vertically integrated permit endorsement, submitted on 8/21/2019, to operate an Alternative Treatment Center (“ATC”) pursuant to N.J.S.A. 24:6I-1 et seq. For the reasons stated below, the CRC has denied your application for a vertically integrated permit endorsement.

By way of background, on July 1, 2019, the Department of Health (“Department”) posted a Request for Applications (“RFA”) to operate up to twenty-four ATCs, of which up to eight such centers would be in the Northern and Central regions of the state, up to seven would be in the Southern region of the state, and one would be in a region to be determined at the time of award based on patient need. The RFA sought to award permits for up to fifteen dispensaries, five cultivation sites, and four vertically integrated ATCs (granting the ability to cultivate, manufacture, and dispense medical cannabis and medical cannabis products). On August 2, 2019, the RFA was updated to clarify provisions related to the application fees required for vertically integrated permit applications.

To allow for a robust industry with room for different operators, prospective applicants were restricted in the number of applications they could submit. Applicants seeking a vertically integrated permit could submit only one application and could not seek any other permit or endorsement. Applicants not seeking a vertically integrated permit were allowed to submit up to one application per region for a maximum of three applications, and only one application could be for a cultivation endorsement.

No applicant could be awarded more than one permit under the 2019 RFA, and no applicant could hold more than one cultivation endorsement, one manufacturing endorsement, and one dispensary endorsement as a result of the awards made pursuant to the RFA.

Applications for vertically integrated permit endorsements were due to the Department no later than August 22, 2019, at 3:00 PM. Applicants had the choice of whether to submit the application online and

only submit signed coversheets and checks in person, or to submit the whole application in hard copy/paper form.

The Department received a total of 198 applications, including 40 applications for cultivation permit endorsements, 109 applications for dispensary permit endorsements, and 49 applications for vertically integrated permits. An initial completeness review of all 198 applications was conducted by the Department. Of the 198 applications, 2 were submitted as incomplete applications.

Pursuant to N.J.A.C. 8:64-6.2 (now N.J.A.C. 17:30A-6.2 and 6.4), the Department convened a selection committee in conjunction with the RFA. The selection committee was composed of a total of nine individuals in full-time State service from the Department of Health, the Department of the Treasury, the Department of Environmental Protection, and the Department of Labor.

Selection committee members possessed the following expertise:

- Three members were experienced in the regulation of the cultivation, manufacturing and dispensing of medical cannabis;
- One member had expertise in quality assurance, public health, and emergency preparedness;
- One member had expertise in public health, pharmaceutical assistance, and fiscal management;
- One member had expertise in the management of environmental resources and public affairs;
- One member had expertise in workforce development;
- One member had expertise in labor compliance; and
- One member had expertise in business development and the certification of minority-owned, women-owned, and veteran-owned businesses.

Prior to beginning work on the selection committee, members completed a confidentiality agreement and a business disclosure form so the Department could verify that none of the selection committee members had any outside business interests that would conflict with their work on the committee. Once the completeness review concluded, selection committee members were provided a list of the applicants they would be scoring, including the names of principals, owners, and directors. Every selection committee member signed a certification stating they had no conflicts of interest with respect to the applicants.

The Department organized three trainings for selection committee members:

- Two initial trainings, one on September 19, 2019, and one on September 23, 2019. Each selection committee member attended one of these trainings.
- A refresher training on February 23, 2021, after the stay on proceedings was lifted on February 17, 2021 (discussed in further detail below).

The trainings included an overview of the Department's regulations, an overview of the medical cannabis market as it existed in September of 2019, a comprehensive review of the terms of the RFA and scoring criteria, and the assignments for each team.

The selection committee was divided into three teams of three, with each team responsible for scoring a portion of each permit endorsement application in accordance with specific measures. Each team was

responsible for a maximum of 100 points for every permit endorsement sought (100 points for cultivation and dispensary applications, and 300 points for vertically integrated applications, which includes three permit endorsements).

In December of 2019, following a challenge by several disqualified applicants, the Superior Court of New Jersey, Appellate Division, issued a stay that barred the Department from undertaking any additional work on the 2019 RFA. Despite the Department’s efforts to continue reviewing applications while the Court reviewed the appellants’ claims, the Department was prohibited from reviewing, scoring, and awarding any permits under the 2019 RFA process. The stay imposed by the Appellate Division was vacated on February 18, 2021¹.

Based upon the selection committee’s impartial and thorough review of the applications against the criteria set forth in the RFA, the following applicants received the highest composite scores for vertically integrated permits:

Control #	Applicant Name	Canopy Size (sq. ft.)	Region	Total Score
19-0024	Altus New Jersey LLC	30,000	Central	785.00
19-0169	Greenhouse Wellness of New Jersey, LLC	30,000	South	779.33
19-0078	Holistic NJ I LLC	30,000	Central	776.67
19-0002	Healing Essentials, LLC	30,000	South	756.00
19-0198	CHM Consulting, LLC	20,000	Central	746.67
19-0152	Etain New Jersey, LLC	30,000	North	739.33
19-0080	Mission New Jersey, LLC	30,000	Central	738.00
19-0180	AP NJ Health LLC	30,000	Central	733.33

The table shows the top eight scoring vertically integrated applications returned by the selection committee. The highest possible score for vertically integrated applications was 900 points. Total scores for all applicants ranged from 434.00 points to 785.00 points.

The CRC selected award recipients in accordance with an objective methodology that ensures and adequate supply of medicinal cannabis to meet the needs of registered patients, which is a significant component of the purpose and intent of N.J.S.A. 24:6I-1 et al. The selection methodology formulated by the CRC and the post-award measures: (1) address patient need; (2) prioritize the highest scoring applicants while also complying with the distribution set out in the 2019 RFA; (3) are driven by data; and (4) include accountability measures that ensure that awardees operate to the standards proposed in their applications. The resulting awardees are expected to get up and running quickly and begin addressing patient need as soon as practicable.

Vertically integrated ATCs are authorized to cultivate, manufacture, and dispense medicinal cannabis

¹ Pursuant to N.J.S.A. 24:6I-24(a), the CRC has assumed all responsibility for the Medicinal Marijuana Program from the Department of Health on April 12, 2021. With this transfer of authority came the responsibility to review and approve or deny applications submitted pursuant to the 2019 RFA.

items. Therefore, the CRC’s awards reflect an evaluation of applicants’ ability to produce medicinal cannabis and medicinal cannabis products when selecting vertically integrated ATCs, but also their ability to provide an additional access point to patients. The methodology used to award these permits was as follows: (1) Select the highest scoring vertically integrated applicant in each region²; and (2) Select a fourth vertically integrated ATC based on overall score and patient need.

In accordance with the above criteria and analysis, the CRC first selected the highest scoring applicant in the Northern Region – Etain. Next, the CRC chose the highest scoring applicant from the Central Region – Altus. Third, the CRC chose the highest scoring applicant from the Southern Region – Greenhouse Wellness. Finally, and pursuant to the terms of the 2019 RFA, the fourth vertically integrated permit was to be awarded based on overall score and patient need. To determine the region of greatest patient need, the CRC used a four-factor supply/demand measure that takes into account: (1) ratio of patient enrollment in each region to total patient enrollment, (2) the ratio of total population in each region to total population statewide; (3) the ratio of canopy in each region to total canopy in the state, and (4) the ratio of number of dispensaries in the region to total number of dispensaries in the state. The analysis, whether conducted with the current canopy totals or with the added canopy totals based on the 2019 RFA cultivation awards, yielded the same result: the greatest patient need was in the Central Region. Therefore, the fourth permit was awarded to the highest scoring applicant in that region not yet selected – Holistic.

These awards add a total of up to 120,000 square feet of additional cultivation to the state’s existing capacity, as well as four new manufacturing labs and four new dispensaries. This methodology, consistent with the terms of the RFA, adds at least one new vertically integrated permit awardee in every region while providing additional medicinal cannabis resources in the region with the highest number of patients per dispensary. Pursuant to the methodology described above, the awards are as follows:

a. The highest scoring application in the Northern Region:

Control #	Applicant Name	Region	Canopy Size	Total Score
19-0152	Etain New Jersey LLC	30,000	North	739.33

b. The highest scoring application in the Central Region:

Control #	Applicant Name	Region	Canopy Size	Total Score
19-0024	Altus New Jersey LLC	30	Central	785.00

c. The highest scoring application in the Southern Region:

Control #	Applicant Name	Region	Canopy Size	Total Score
19-0169	Greenhouse Wellness of New Jersey, LLC	30,000	South	779.33

² Applicants were only allowed to submit one application so therefore, unlike in the 2018 RFA, this restriction does not disqualify any applications in other regions.

- d. Pursuant to the terms of the RFA, the highest scoring application not previously selected for a proposed award based on overall score and patient need:

Control #	Applicant Name	Region	Canopy Size	Total Score
19-078	Holistic NJ I LLC	Central	30,000	776.67

Based on a full and thorough review of each application against the requirements set forth in the RFA, the composite scores enumerated by the Commission, the selection methodology detailed above, and in accordance with the purposes of N.J.S.A. 24:6I-1 et al. and P.L.2009, c.307 and the regulations promulgated thereunder, the CRC hereby DENIES the following application:

Applicant: MLH New Jersey LLC

Region: South

Score: 595.67

You have the right to appeal the Commission’s decision to the Superior Court of New Jersey, Appellate Division, by Monday, November 29, 2021 (45 days from the date of this letter) in accordance with the Rules Governing the Courts of the State of New Jersey. All appeals should be directed to:

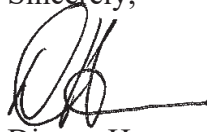
Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
P.O. Box 006
Trenton, New Jersey 08625

Should any awardee fail to accept their award within five (5) business days of the award notification, or if an award is rescinded due to an awardee’s failure to abide by the post-award accountability terms and conditions, the next highest scoring applicant, such that the award would be consistent with the regional and canopy requirements of the 2019 RFA, will be presented to the Commission for consideration of an award.

Any applicant with questions regarding the 2019 RFA process and methodology, and any unsuccessful applicant that wishes to file a grievance with the Commission, may do so by submitting their question or grievance in writing to crc.licensing@crc.nj.gov by 5:00 p.m. Eastern Time on October 19, 2021. Multiple questions/grievances can be submitted together but must be numbered. Responses to submissions deemed relevant to the 2019 RFA process and methodology will be provided within 30 days – by 5:00 p.m. Eastern Time on November 18, 2021. The question and grievance period should only be used for the purpose of addressing questions and complaints related to the 2019 RFA process and methodology. All other questions should be submitted through the Commission website and will be answered in the regular course of business.

Pursuant to N.J.A.C.8:64-6.5 (now N.J.A.C. 17:30A-6.5) and the terms of the RFA, your check(s) valuing \$54,000.00 will be destroyed. Thank you for your interest in operating an ATC.

Sincerely,

A handwritten signature in black ink, appearing to be 'Dianna Houenou', with a horizontal line extending to the right.

Dianna Houenou

Chairperson

New Jersey Cannabis Regulatory Commission