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Federal Express

Shereef M. Elnahal, MD, MBA
Commissioner
State of New Jersey
Department of Health
369 S. Warren Street
PO Box 360
Trenton, NJ 08608



Re: Award of Medicinal Marijuana Alternative Treatment Center License

Dear Commissioner Elnahal :

This firm represents Bloom Medicinals of PA, LLC (“Bloom”) in connection with its appeal from the Department of Health’s (“Department”) award of Medicinal Marijuana Alternative Treatment Center (“ATC”) Licenses. Bloom’s appeal is currently pending in the Appellate Division, In the Matter of the Application for Medicinal Marijuana Alternative Treatment Center, Docket No. A-002305-18. Please consider this letter a motion for a stay of the Department’s license awards.

As you may be aware, Bloom filed an Open Public Records Act (“OPRA”) request with the Department for records related to the Department’s recent Request for Applications – Alternative Treatment Centers (the “RFA”). In response, the Department has advised Bloom that certain documents responsive to its OPRA request are not yet available for public disclosure, including copies of all successful and unsuccessful license applications submitted in response to the RFA. The Department’s response is surprising because it represented in the application instructions that submitted applications would generally be subject to public release after all awards had been made to the successful applicants. The Department issued awards to all successful applicants on December 17, 2018—nearly two months ago.¹

Bloom cannot fairly prosecute its appeal seeking to challenge the Department’s ATC license award without access to all necessary and relevant information and would be severely prejudiced. Accordingly, Bloom requests a stay of the Department’s license award pursuant to R. 2:9-7 pending receipt of documents responsive to the OPRA request and a reasonable time to

¹ By letter dated January 31, 2019, the Department issued an amendment to its December 17, 2018 award correcting typographical errors in the score of Bloom and one other applicant.

review same.² See R. 2:9-7 (Even after a notice of appeal has been filed for a stay of an administrative proceeding shall be made to the agency.)

In contrast, the Department, and the public, will not be harmed by a stay. The Department last issued a RFA for ATC licenses in early 2011. As a result of that licensing effort, there are six ATCs operating in the State and servicing the public's need for medicinal marijuana. The RFA that is the subject of this appeal was issued by the Department on July 16, 2018. While the Department initially anticipated announcing the successful applicants by November 1, 2018, that announcement was delayed until mid-December 2018. Having come this far, the Department's continued focus should be ensuring a fair and impartial process to select applicants who will provide safe access to high quality medicinal marijuana for all patients in need. This requires that the Department allow Bloom, and other applicants, the opportunity to review all necessary and relevant information related to the selection process and the opportunity for judicial review of same. Proceeding with the awards without the benefit of such review would be hasty, inefficient and contrary to the public interest.

Respectfully submitted,



Stuart M. Lederman

cc: Jeff Brown, Assistant Commissioner, Medical Marijuana Program
Melissa Raska, Esq., DAG

² Following up on its initial OPRA request, Bloom submitted a second OPRA request dated February 8, 2019 seeking access to additional records related to the RFA.