



Questions Received During the January 11 – February 11 Question Period

UPDATE (April 29, 2019): The Commission has clarified responses to the following questions: 8, 53, 99, 104, 142, 195, 198, 217, and 273.

UPDATE (May 2, 2019): Responses to additional questions received after the February 11, 2019 deadline posted that the Commission determined (1) were not previously answered and (2) impact all Applicants.

Note: The Commission received dozens of substantively identical questions. These questions were consolidated below to avoid duplicating responses.

1. When will the grower and processor Applications become available and be evaluated?

The Maryland Medical Cannabis Commission posted a draft of the new grower and processor Applications, *General Instructions*, and Application guidance materials entitled *Diversity and Socioeconomic Factors Guidance* and *Economically Disadvantaged Areas Guidance* on its website at <https://mmcc.maryland.gov/Pages/License-Application.aspx>. The Commission accepted public questions on the Applications from stakeholders and interested members of the public for 30-days.

The Commission will review all public questions for potential revisions prior to finalizing the Applications, which will be released on March 25, 2019 (anticipated). The proposed Application timeline is:

- Application Period: March 25 – May 24, 2019 (60 days)
- Evaluation Period: May 25 – July 24, 2019 (60 days)

Note: The proposed Application timeline may be subject to change.

2. Which licenses will become available during the next medical cannabis licensing round?

There will be up to four (4) new grower licenses and up to ten (10) new processor licenses awarded as part of the upcoming Application period. No additional dispensary licenses will be issued during the upcoming Application period.

3. In what manner will the Commission respond to a question or comment on the Application?

The Commission is responding to all questions received during the 30-day question period (ending February 11, 2019) in this document. Questions submitted after February 11, 2019,

to applications.mmcc@maryland.gov will only be answered if the Commission determines it would benefit all Applicants.

4. Will the new grower and processor Applications be written using the regulations promulgated by the Commission which became effective on September 14, 2015 and are found in the Natalie LaPrade Medical Cannabis Commission regulations in COMAR Title 10, Subtitle 62?

The Applications are based on the Commission's regulations in the Maryland Code of Regulations (COMAR) Title 10, Subtitle 62. However, the original regulations promulgated in 2015 have since been amended, effective November 13, 2018. A copy of the current regulations may be viewed at the Division of State Documents website: <http://www.dsd.state.md.us/COMAR/searchall.aspx>.

5. What are the residency requirements for the grower and processor Applicants and their owners and investors?

There is no Maryland residency requirement for grower and processor Applicants and their owners and investors. However, all grower and processor facilities must be located in Maryland. In addition, pursuant to COMAR 10.62.08.05I(6)(e) and COMAR 10.62.19.04I(6)(e), Applicants must demonstrate that owners, investors, employees, and/or contractors live in certain geographic areas within the State in order to receive points under the new Economically Disadvantaged Areas question.

6. Will the Application be completed using the same electronic format that was used during the 2015 Application round and will submission of a paper copy be required?

Applicants are required to submit the Application package through the Commission's new online document management system. The Applicant must create a user name and password to access the Application through an online portal. The Applicant will be prompted to upload required attachments and complete the Application online. The Application may be saved and re-visited at a later date/time. The document management system is a cloud-based system that will provide the Applicant with instructions and prompts on how to submit the Application. The system includes a Compliance Checklist with safeguards to assist Applicants with proper submission. There will be no requirement for delivery and submission of a paper copy of the Application.

7. Please clarify the meaning of "Economically Disadvantaged Area." Is there a list of the areas or a map that identifies all of the areas that meet the definition the Economically Disadvantaged Areas (EDAs)?

The Commission evaluated geographic areas across five criteria of measurement: 1) median income, 2) unemployment rate, 3) health insurance rate, 4) Supplemental Nutrition Assistance Plan (SNAP) rate, and 5) poverty rate. To qualify, geographic areas must qualify under three or more of the criteria. The Commission evaluated each criterion using the American Community Survey (ACS), which is an ongoing, nationwide survey conducted by the U.S. Census Bureau. Analyzing the 2012-2016 ACS socioeconomic data, the Commission identified sixty-two (62) zip code tabulation areas (ZCTAs) that qualify as EDAs. The ZCTA is a generalized areal representation of the United States Postal Service (U.S.P.S.) ZIP Code service areas developed by the U.S. Census Bureau. In most instances the ZCTA code is the same as the U.S.P.S. ZIP Code for an area; however, a ZCTA code **may be different** from a U.S.P.S. Zip Code. Therefore, to determine if an address is located in an EDA, an Applicant **MUST**:

1. Visit the U.S. Census Bureau Fact Finder web page: <https://bit.ly/2JCmR0B>
2. Enter the street address.
3. Compare the ZCTA listed to the chart of qualifying ZCTAs listed on page 2 of the Guidance for Identifying Economically Disadvantaged Areas document posted on the Commission's website.

The Commission has not developed a map that identifies all of the areas that meet the definition of an EDA. Please see the U.S. Census Bureau website at: <https://www.census.gov/geo/reference/zctas.html> for additional information.

8. For determining whether a potential contractor lives in an Economically Disadvantaged Area, does this apply to: (1) where the owner lives, or (2) where majority of employees live?

This requirement is tied to where the owner, or owners holding at least 51% interest, of the contracting business live(s). Please see Section IV(A) of the *Guidance for the Diversity and Socioeconomic Equity Questions* for more information.

9. Will geographic diversity be taken into consideration so that licenses will be spread across Maryland and its counties?

The Commission continues to actively seek geographic diversity in the award of licenses; however, the proposed location of a grower or processor facility **will not** be considered as part of the competitive evaluation of the Application.

10. Are there any digital presentations the Commission can provide as it relates to establishing a medical cannabis business?

The Commission recommends that interested individuals access online materials from one of our Commission-funded medical cannabis educational and business development training programs and the Commission's outreach events posted on the Commission's website.

11. If an Applicant participated in developing and/or implementing a medical cannabis educational and business development training grant program funded by the Commission, does that mean the Applicant is automatically disqualified from applying for and being issued a medical cannabis grower or processor license?

No. An interested and qualified individual may be part of an organization that developed and/or implemented a medical cannabis and business development training grant program funded by the Commission and apply for and be issued (if qualified and selected) a medical cannabis grower or processor license. However, one of the circumstances that will trigger a mandatory denial or disqualification of an Application is if the Application discloses that the Applicant participated in developing or implementing a medical cannabis educational and business development training grant issued by the Commission. The Commission will review Applications for reference to developing or implementing these trainings during the initial sift period.

12. Many of the sections of the draft grower and processor Applications have specific word limits. How will these limits be enforced? Will Applications that exceed these limits be given more points because those Applicants had the opportunity to address the issues more thoroughly?

The Commission amended the Application to establish character limits for each question. Applicants will not be able to exceed the character limit provided in the text box. Addenda are permitted for specific questions. The character limits do not apply to the Addenda. The Application has been amended to specify the questions for which attachments are permitted. Please see the *General Instructions* guidance document for more information.

13. The Application requires a description of the proposed premises, including a preliminary site plan or plan for obtaining a site. Is it acceptable/desirable to include interior and/or exterior renderings demonstrating the Applicant’s vision for their proposed property, as part of the site plan submission (or anywhere else in the Application)? Does the Commission require floor plans and premises diagrams to be included? Where are site plans supposed to be attached? Site plans are not listed as part of the attachments.

The site plan requirement has been removed from the final Application. An Applicant must only provide a narrative description of the proposed facility.

14. With respect to financial data, i.e. accounts, should an Applicant redact the entire account number or leave the last 4 digits?

Redact the entire account number. Please see the *General Instructions* document for additional guidance on redaction.

15. Should an Applicant redact trade names of equipment and clonal names?

No, an Applicant is not required to redact known trade names. However, an Applicant may redact from the Application information that may constitute trade secrets. Under the Uniform Trade Secrets Act (“UTSA”), a trade secret is defined as information that derives independent economic value because it is not generally known or readily ascertainable, and it is the subject of efforts to maintain secrecy.

16. What type of organizational structure is most favorable for submitting a successful Application?

The Application does not require a specific type of organizational structure. It is up to each Applicant to select which organizational structure is most suitable for the Applicant’s proposed business, depending upon the needs, size, and complexity of the business envisioned.

17. Please advise whether the Application fee will be credited or reduced for those minority Applicants who applied for a grower or processor license in 2015.

The Application fee is established in the Code of Maryland Regulations (COMAR) 10.62.35 at \$2,000 for all Applicants. The fee will not be reduced or credited for any Applicants who applied for a license in 2015. The nonrefundable Application fee will be used to cover a portion of the administrative costs associated with the evaluation of the Applications.

18. Will the Applicant need a signed lease for the prospective location to complete the first stage of the Application process?

A signed lease is not required at the time of Application.

19. Can Applicants provide additional information as Addenda?

Applicants may only provide Addenda for those questions that expressly state that Addenda are permissible. Please see the *General Instructions* document for guidance on Addenda.

20. I am in the process of submitting an Application for a Maryland grower’s license. I have a property located in Montgomery County currently zoned for horticultural use complete with greenhouses. Is it permissible for me to grow medical cannabis at this location?

Please consult with county and/or municipal zoning and planning officials on whether it is permissible to cultivate cannabis at the location.

21. How many points is an Applicant eligible to receive if the growing/processing facility is located within a designated Economically Disadvantaged Area (e.g. one of the zip code tabulation areas (ZCTAs))?

The location of a growing/processing facility is not considered as part of the competitive evaluation of an Application. Therefore, no points would be awarded for locating a facility within an Economically Disadvantaged Area (EDA).

22. Can minority investors be from out of state?

Yes. There is no residency requirement associated with the new grower and processor Applications.

23. If the investors are African American but do not reside in Maryland, will points be deducted from the Application?

No.

24. Why are so few points available for being a minority if this Application is designed to be for a ‘diversity license?’ Is it possible for an individual to obtain a grower or processor license even if the individual is not a minority?

Yes, it is possible for an individual who is not a minority to obtain a grower or processor license in the next round of licensing. The U.S. Constitution prohibits the allocation of licenses or similar awards based solely on immutable characteristics, such as race, gender, and ethnicity. The Commission worked closely with the Office of the Attorney General, the Maryland Department of Transportation’s Office of Minority Business Enterprise, and the Governor’s Office of Small, Minority & Women Business Affairs to develop regulations that formed the basis of the diversity factors in the new Application. The 15 out of 100 points that are based on Diversity & Social and Economic Equity Factors reflect a significant effort to encourage minority participation in the medical cannabis industry. The diversity factors in the new Application make it the strongest in the nation for increasing diversity in the industry. In addition, the Commission has hosted or sponsored training workshops across the State directed to generate interest and participation in the medical cannabis industry by small, minority, and women business owners and entrepreneurs.

25. If there are multiple minority investors, are each of them subject to a background check?

Yes. Each investor with 5 percent or more equity interest in the Applicant’s business will need to undergo a background investigation. In addition, the Commission is authorized to verify all information provided in the Application documents related to the investor.

26. Please advise if a conviction for a misdemeanor drug offense of an Applicant or investors, consultants, or agents will result in the Application being disqualified or if there will be a reduction in points on the Application.

An individual with a misdemeanor drug conviction is not prohibited from being an owner, investor, manager, or employee of a medical cannabis Applicant or licensee. However, certain individuals who have been convicted of a felony drug offense may not be an owner, investor, manager, or employee. The Commission may not register an individual who has been convicted of a felony drug offense if:

- (1) The individual submitted an Application earlier than 7 years after the individual satisfied the sentence imposed for the conviction, including parole, probation, or mandatory supervision; or
- (2) The individual was convicted of a violation of §5-612 (volume drug dealer) or §5-613 (drug kingpin) of the Criminal Law Article.

27. What are the differences between the grower and processor Applications in 2019 vs. 2015?

The Commission has comprehensively re-worked the Application for the upcoming 2019 Application period. Some of the key differences reflected in the 2019 grower and processor Applications include:

- Reduced Number of Questions: Grower Application: 117 questions to 25 questions.
- Processor Application: 122 questions to 21 questions.
- In the 2019 Application, there are fewer questions which are divided by broad subject matter and require longer narratives (e.g. Operational Factors, etc.).
- Longer Application Period: 60 days instead of 39 days.
- Separate Guidance Materials/Instructions.
- Checklist for Submission of Materials (**Tip:** Be sure to complete each item on the checklist to help ensure that your Application will not get disqualified.).
- New Diversity and Socioeconomic Questions – 15 of out 100 points across three categories: Diversity Plan (5 points); (2) Disadvantaged Equity Applicants (5 points); and (3) Economically Disadvantaged Areas (5 points).
- No paper Application. Instead Applications must be submitted via the Commission’s online document management system.
- Application specifically lists grounds for the mandatory and discretionary denial or disqualification of an Application.

28. Do endorsements from community associations, neighbors, and government officials enhance an Application?

No. Please do not submit endorsements or recommendations; they will not be considered in the scoring of the Application.

29. Since many of Application questions have a limited word count for responses (e.g. 5,000 words), and there may be a need to cite references throughout the Application, where should citations be placed?

If used, references should be included in the narrative for each question and will be included as part of the character count limit for those questions with character count limits. The Application has been amended to have a character count limit instead of word count limits.

30. Will there be a zoning map for the processor Application?

No. The Commission does not regulate the physical siting of a proposed facility. Rather, county and municipal zoning ordinances determine whether a proposed site is permissible.

31. What certifications does a master grower need in order to grow medical cannabis in Maryland?

There is no required certification for a “master grower” in Maryland. However, an Applicant should have education, training, and/or experience in agriculture or horticulture and an understanding of medical cannabis strains and plant care. Other areas of relevant expertise may include, but are not limited to:

- Proficiency in various cultivation and plant maintenance techniques.
- Knowledge of environmental control systems, various growing and flower development techniques, with an understanding of environmental modifications within the production areas.
- Knowledge of hydroponic growing systems and methodology, including micronutrients and nutrient implementation.
- Knowledge and experience with commercial plant cultivation including nutrient requirements, mediums, light requirements, temperature control, air flow, and harvesting/trimming, drying, curing, and manicuring.
- Technical knowledge in product moisture level control, curing, and packaging stages of medical cannabis products.

32. What is the Commission including in the Application process which will allow new growers and processors to flourish rather than be economically disadvantaged by existing medical cannabis businesses and/or monopolies?

Pursuant to State law, the Commission took several steps to assist economically disadvantaged individuals and entities. The Commission issued five grants to entities to develop and implement medical cannabis educational and business development programs that address the medical cannabis licensing and Application process as well as medical cannabis business operations. While the training classes are targeted to small, minority, and women business owners and entrepreneurs seeking to become licensed in the medical cannabis industry, all interested persons are welcomed to attend. These courses are free to attend and include information on the laws and regulations in Maryland and the nuts and bolts of developing a medical cannabis business. Please visit the Commission’s website at mmcc.maryland.gov under the link entitled “Register for Medical Cannabis Educational and Business Development Training Programs” under the Licensee Application Information heading. Limited registration is still available.

33. Please provide the names of banking institutions in Maryland providing banking services to the State’s medical cannabis industry.

The Commission is unable to provide a list of entities who lend to medical cannabis businesses. Since cannabis remains federally illicit, many banking institutions do not lend or provide other banking services to medical cannabis businesses.

34. Please provide the names of any State agencies providing financial resources to State-certified MBEs (minority business enterprises), DBEs (disadvantaged business enterprises), and SBEs (small business enterprises) seeking financial assistance to enter into the medical cannabis industry.

There are currently no State agencies offering financial assistance to medical cannabis license Applicants.

35. My spouse is the sole owner of a certified minority business enterprise (MBE) firm. Can I use my spouse’s MBE status to demonstrate that I do not exceed the personal net worth (PNW) cap?

No. MBE certification is determined in part by determining that the owner of the certified MBE does not exceed the MBE PNW cap. PNW of a married individual equals 100 percent of individual assets less liabilities plus 50 percent of the individual’s assets held jointly or as community property with the individual’s spouse less liabilities. Therefore, it is possible for a spouse to have a different PNW from his or her spouse.

36. To receive up to five points for diversity factors based upon the Disadvantaged Equity Application category, the Application states that the Applicant needs to demonstrate that at least 51% of its ownership must consist of individuals who are specified minorities. As such, how many owners/investors does an Applicant need to have to meet this 51% ownership interest requirement in order to receive these diversity points? If there are a number of owners/investors named in an Application, does the Applicant need to provide information on each of the owners/investors?

The Disadvantaged Equity Applicant question is worth a maximum of five points. Please see the *Diversity and Socioeconomic Factors Guidance* document for additional information on how Applicants may achieve points on this question.

An Applicant is required to provide contact information for each of its owners and equity investors under Part B of the Application, an organizational chart with a preamble that summarizes the owners and investors, and documentation that supports the capitalization for each owner and investor. Each investor must also complete Attachment F entitled “Authorization for Release of Information: Investor/Grower (or Investor/Processor) Agent.” Attachment F enables the Commission to (1) verify all information provided in the license Application documents; (2) conduct a background investigation; and (3) access information that each investor has provided to any other jurisdiction seeking a similar license in that jurisdiction as well as any other information that another jurisdiction may have obtained during the course of any investigation that may have been conducted on the investor.

37. What are the North American Industry Classification System (NAICS) codes for the various cannabis specialty areas?

Nothing in Maryland’s regulations or statutes requires a specific NAICS code to be used when an Applicant applies for a medical cannabis grower or processor license. The Office of Management and Budget’s North American Industry Classification System (NAICS) is a system for classifying individual businesses by type of economic activity in Canada, Mexico, and the United States. Its purposes are: (1) to facilitate the collection, tabulation, presentation, and analysis of data relating to businesses, and (2) to promote uniformity and comparability in the presentation and analysis of statistical data describing the North American economy. For further information about NAICS codes, visit the U.S. Census Bureau website at <https://www.census.gov> and click on the tab entitled “Find a Code.”

38. Do you have any information or estimate, if and when, the Commission will be opening Applications going forward? Is there a way to be notified of any new information or a waiting list for openings of future enrollment for Stage One Pre-Approval? In addition, could you please provide any information available

concerning the recently approved emergency regulations to increase diversity amongst medical cannabis businesses in the State and if any forthcoming Applications will be available.

The draft grower and processor Applications were posted on January 11, 2019. The Commission anticipates the final Application period will commence on March 25, 2019. All Application-related materials, including information on the emergency regulations, are available on our website: www.mmcc.maryland.gov.

39. a. Can you assist me with the following question concerning the required background checks for grower and processor agents? I see several levels of background investigations including: Full background [state and FBI] (for authorized agencies only), Criminal Justice full background, State background check with Gold Seal. Can you all advise as the correct level of investigation required?

Grower and processor agents must undergo a State and national criminal history records check through the Criminal Justice Information System (CJIS) Central Repository of the Department of Public Safety and Correctional Services.

b. What is the process for out-of-state employees and consultants to provide fingerprints pursuant to Health-General Article §13-3312?

Fingerprints are required only for successful Applicants who receive Stage One Pre-Approval for a medical cannabis license. The process begins with the Commission mailing the Applicant fingerprint cards (purple cards). The Applicant would identify a law enforcement agency in their area that would take the ink prints.

- 1) The Applicant completes the Application for Criminal History Record Check CJIS (Criminal Justice Information Services Division (FBI)) 015 (7/17) (purple card).
- 2) The Applicant fills in the Authorization Number as specified on the fingerprint card.
- 3) The Applicant includes a personal or cashier's check made payable to "CJIS – Central Repository" in the amount of \$30.00 for each fingerprint card submitted for the exact amount. Overpayment will result in delays.
- 4) The Applicant must mail the completed fingerprint cards to Maryland Medical Cannabis Commission, 849 International Drive – 4th Floor, Linthicum, MD 20910, Attention Mark Rodeheaver, Bureau of Enforcement and Compliance (BEC).

c. Are fingerprints of grower agents and investors identified on the Application due upon submission of the Application? If so, where should they be attached?

No, fingerprints are not due upon submission of the Application.

d. Per 10.62.08.03B, does the Commission want evidence of individuals' requests for State and national criminal history record information at the time of submitting the Application?

The criminal background check referenced in COMAR 10.62.08.03 (growers) and 10.62.19.02 (processors) is required only for successful Applicants who receive a Stage One Pre-Approval for a medical cannabis grower or processor license. Applicants do not need to submit criminal background information as part of the initial Application.

40. Are those who are required to fill out Attachment F – Authorization for Release of Information: Investor/Processor Agent actually required to complete a background investigation?

The criminal history check and comprehensive financial audit are performed on successful Applicants who receive a Stage One Pre-Approval for a license. Applicants do not need to submit criminal background information as part of the initial Application.

41. Does the Applicant provide fully audited financials in addition to the 5 years of income tax forms? Or, does the consent for release of information through Attachments F, G, H, and I cover this requirement, if the State so requests?

No. Applicants do not need to submit audited financial information as part of the initial Application. This check will be performed on successful Applicants who receive a Stage One Pre-Approval for a license.

42. Can the State expand on the definition of “Economically Disadvantaged Area, as identified by the Commission” in the Application?

The term Economically Disadvantaged Area is defined in COMAR 10.62.01.01B(13), which may be viewed at the Division of State Documents website here: <http://www.dsd.state.md.us/COMAR/searchall.aspx>. Additional information on the how the Commission identified the Economically Disadvantaged Areas (EDAs) may be found in the document titled *Guidance for Identifying Economically Disadvantaged Areas*, which is on the Commission website. The Commission identified EDAs using U.S. Census Bureau data for the 5-year period of 2012-2016.

43. I have been reviewing the Application for the grower/processor license and I have a question concerning qualifications. Would having a Commission dispensary agent or licensee on the Application in any capacity, (e.g., adviser, owner, consultant, employee, etc.) affect the acceptance and award of my Application in either a negative or positive way? If there is, could you please go into greater detail of what it would be, and how it would impact my Application and subsequent acceptance/award?

An Applicant may include personnel or owners/investors of existing licensees on their Application with one significant exception: an individual may only have an ownership interest in one license of each category (e.g. an interest in only one dispensary). This means that an individual who has an ownership interest in a current grower license may not hold an ownership interest in a grower Applicant or an individual who has an ownership interest in a current processor license may not have an ownership interest in a processor Applicant. Outside of this restriction, the presence of employees/owners of current licensees will not be considered for scoring purposes unless their experience in the medical cannabis industry may be relevant for certain questions.

44. I was hoping to get some clarification on the grower Application. In the proposed grower location section it provides three options for the property, including the option to buy/lease. Can you clarify what the Commission is looking for regarding the option to buy or lease? How much would the Applicant need to demonstrate control of the property to satisfy this requirement? I’m assuming there would need to be some minimum amount of control that they would need to demonstrate showing that if they were to receive a license they could move forward with the property acquisition.

The proposed grower location and the type of property arrangement (e.g., owned by Applicant, leased by Applicant, and option for the Applicant to lease/buy) will not be considered for competitive scoring of the Application.

45. Is a Letter of Intent from an extraction company the best way to show in an Application that there exists “a proof of success” or are there better management agreements to use?

An Applicant must demonstrate relevant experience, training, and/or education. There are many ways for an Applicant to demonstrate the relevant experience, training, and/or education. A letter of intent or similar contractual arrangement with experts is one potential way for an Applicant to demonstrate expertise.

46. Are there any trends looking for such things as symptoms to treat?

This question is outside the scope of the 2019 medical cannabis grower and processor Applications.

**47. What is the upper personal net worth (PNW) limit that the Commission allows in its draft Application to qualify as a “Disadvantaged Equity Applicant?”
2018 - \$1,713,333; or
2019 - \$1,749,347**

The Personal Net Worth (PNW) limit in order to qualify as a Disadvantaged Equity Applicant/Member of the Most Disadvantaged Groups in the medical cannabis industry for the medical cannabis grower and processor Applications is \$1,713,333.

48. The current draft grower Application does not make any reference to testing of the product but yet the draft processing Application does. Why the difference? Will this be included?

The medical cannabis grower and processor Applications are similar, but not identical. The medical cannabis grower Application will not include questions regarding product testing.

49. What does the background of your subject matter experts (SME) reflect this go round? Are they being brought in from other states? Do the SMEs have a stake in any of companies within/outside of Maryland? And will the Application be reviewed in sections per SME's area of expertise?

At this time, the Commission is unable to share information on who will evaluate the grower and processor Applications. However, the evaluators will be prohibited from having a stake in any medical cannabis company in Maryland or any other jurisdiction. In addition, the Application will be reviewed by section, pursuant to SME expertise. Evaluation information will be available prior to the Application period closing.

50. Will we receive a redacted biography of each SME prior to submission?

No. The Commission will not release personal or biographical information on the individuals evaluating the applications.

51. How many licenses are being specifically designated for minorities?

The U.S. Constitution prohibits the award or designation of a license solely on the basis of immutable characteristics, such as race, gender, and ethnicity, and accordingly, there are no licenses specifically designated for minorities.

52. Can a Letter of Intent from a general contractor with a Personal Net Worth of less than \$1,713,333, but doesn't live in a Commission-determined Economically Disadvantaged Area be considered?

The Personal Net Worth of a general contractor is not considered for scoring purposes on the Application. Personal Net Worth is only considered for Part D, Section VI, Question 2, which relates to individuals holding an ownership interest in the Applicant entity.

53. If the Applicant has an MBE Certification, does the Applicant have to show a financial disadvantage?

Part D, Section VI, Question 2 relates to points for the Disadvantaged Equity Applicant factor and the Members of the Most Disadvantaged Groups in the Medical Cannabis Industry factor. Points may be awarded to Applicants if a certain percentage of its ownership interest is held by certain qualifying individuals who do not exceed the personal net worth cap. There are two ways to demonstrate an Applicant does not exceed the personal net worth cap: (1) completing the Personal Net Worth Statement (Attachment C); and providing documentation of assets and liabilities; or (2) attesting that an individual does not exceed the personal net worth cap and providing documentation that an individual is the owner of a certified MBE along with: a) the firm name of the MBE business; b) MBE certification number; and c) certifying that the individual owner's personal net worth does not exceed \$1,713,333.

54. If a company is in an Economically Disadvantaged Area (“EDA”) but has a Personal Net Worth in excess of the MBE cap and is willing to hire personnel to work in our facility, how will that affect the Applicant?

The location of a business in an EDA is not considered for scoring purposes on the Application.

55. In the 2015 Applications there was space for biographical information. I have not seen anything in the 2019 Application that asks for biographic information. Is there a requirement for the Applicant to submit biographic data?

Yes, the Application has been amended in Part D, Section V, Question 1 – Business History, to require that relevant CVs/resumes be submitted.

56. Will the Commission consider evaluating more recent data regarding Economically Disadvantaged Areas on a county basis?

The criteria for identifying Economically Disadvantaged Areas (EDAs) – median income, SNAP benefit rate, health uninsurance rate, poverty rate, and unemployment rate – are required by COMAR 10.62.01.01B(13), and may not be modified. The Commission used the 2012-2016 American Community Survey data from the U.S. Census Bureau to identify qualifying EDAs across these socioeconomic metrics. The areas identified using the 2012-2016 survey data will be used for the 2019 grower and processor Applications.

57. The Asset Limited Income Constrained Employed (ALICE) report which addresses disadvantaged families provides more detailed information than the Census Data and also provides a reasonable employment base for this industry. We recommend that consideration be given to areas identified in that report as disadvantaged as well. Will the Commission consider factors and areas identified in the ALICE report?

The socioeconomic factors analyzed are established in COMAR 10.62.01.01B(13) and may not be amended for the purposes of the grower and processor Applications.

58. Will the Commission also consider zip codes identified by the federal government as Qualified Opportunity Zones which are published as containing residences and businesses where median income is less than 80% of the local median income?

No. The Commission identified Economically Disadvantaged Areas based on U.S. Census Bureau socioeconomic data. A list of the qualifying geographic areas is available on our website.

59. In reading the Application Guidance for the Diversity and Socioeconomic Equity Questions, IV. Economically Disadvantaged Areas, B. Proof of Living in Economically Disadvantaged Area: Does this apply to COMAR 10.62.19.02B(2) investors only or for all members? Just to be certain, could someone please clarify the first paragraph regarding the term “investors.”

Investor is not defined in COMAR 10.62.01.01 or the Application. However, this term refers to an individual or entity who holds an equity interest in the Applicant entity.

60. Does Attachment I – Business Interest Identification & Authorization have to be signed by every Investor, Owner, Managing Director, etc., of the Applicant? Or is only the Applicant required to complete Attachment I as the entity applying?

Each Applicant should submit one Attachment I form that includes information on any license the Applicant or any affiliate, parent, or subsidiary entity has in any jurisdiction.

61. Does the requirement that Applicants/owners/investors have no taxes in arrears apply to all types of taxes, i.e. real estate, business, state, federal, etc.? And if an Applicant/owner/investor has taxes in arrears but has an agreed payment plan in effect, does that disqualify the owner/investor/applicant from being awarded a license?

Yes, tax arrears refers to all types of taxes, including real estate, business, state, federal, etc. However, if an Applicant is on a payment plan and meeting the terms of the payment plan, this would not be considered taxes in arrears by the Commission.

62. Do we need letters of intent for every contractor we may use from the EDAs? Or is there a minimum to show compliance?

There is no minimum number of contractors an Applicant will need to submit as part of the Application. An Applicant must submit a letter of intent or similar contract for each contractor, and a majority of these contracting firms must be owned by individuals who currently live in an EDA in order to meet the Application criteria for Part D, Section IV, Question 3 - Economically Disadvantaged Areas.

63. I am an unemployed Hispanic female. I would like to know if I am able to get help with the financial part of getting my cannabis license.

A waiver of the \$2,000 Application fee due to financial hardship is not available to Applicants. However, the Commission has awarded grants to several educational and business development organizations to assist individuals interested in applying for a medical cannabis grower or process licenses learn more about the program and the Application process. These courses are free to attend. Please see our website at www.mmcc.maryland.gov for additional information on the educational trainings.

64. If not awarded a license in this Application round, will the Applicant have another opportunity?

The Maryland General Assembly has established statutory limits on the number of medical cannabis grower and processor licenses, and the Commission's ability to offer additional licensing opportunities is restricted to the number of licenses authorized in statute.

65. When filing for a business license, should the company be listed as agriculture, retail or cultivation?

This question is beyond the scope of the Commission.

66. Is a real police officer required to be head of my security or can a team member hold that position?

No. A police officer is not required to be a head of security.

67. Can an Applicant hire a consultant firm to set up the growing process or any parts of the whole process?

An Applicant may include consultants as part of the Application. The experience, training, and/or education of the consultant should be included in the Application.

68. Can a company process a license in all three medical cannabis licensing categories (grower, processor, and dispensary)?

An Applicant may complete an Application for both a grower and processor licenses. If awarded each, the Applicant may grow and process cannabis. Dispensary licenses are not currently available, and an Applicant for a grower or processor license would not be able to dispense medical cannabis to patients or caregivers.

69. Does the Applicant have to live in an Economically Disadvantage Area, or have the facilities and hire individuals who resides in an Economically Disadvantaged Area?

An Applicant does not have to live or locate a facility in an Economically Disadvantaged Area (EDA). However, the following is a consideration on the Application: 1) whether 51 percent or more of the Applicant's ownership is held by an individual or individuals who have lived for at least 5 of the past 10 years in an EDA; and 2) whether a majority of the employees or contractors live in an EDA.

70. I am having trouble finding certain ZCTAs, specifically 21052, 21130, 21524, 21542, 21862, and 21866. Are these aligned with zip codes?

Zip Code Tabulation Areas (ZCTAs) are general areal representations of the U.S.P.S. Zip Code service areas developed by the U.S. Census Bureau. In most instances the ZCTA code is the same as the U.S.P.S. ZIP Code for an area; however, a ZCTA code may be different from a U.S.P.S. Zip Code. Please see our document *Guidance for Identifying Economically Disadvantaged Areas* on our website for more information and instructions on how to verify whether an address is located within a specific ZCTA.

71. Is COMAR 10.62 available in book form?

Yes, a booklet of COMAR 10.62 is available for purchase. There are ordering instructions at the bottom of each edition of the Maryland Register online:

<http://www.dsd.state.md.us/MDR/4602.pdf>.

72. I am emailing concerning the Commission's list of Economically Disadvantaged Areas. I am not finding my zip code 20748 on that list. I'm not sure if it was an oversight or not, but according to the US Census Bureau/American Fact Finder

site, the percentages in my area were far lower, in most cases, during your research period. If someone could please get back to me with some insight into how these zip codes were determined, I would greatly appreciate it. I look forward to hearing from you soon.

The Commission evaluated the American Community Survey (ACS) for the 2012-2016 5-year period. This data may be viewed at the Maryland Department of Planning, Maryland State Data Center website:

https://planning.maryland.gov/MSDC/Pages/american_community_survey/2012-2016/ZCTA/ZCTA.aspx. The Zip Code Tabulation Area (ZCTA) 20748 did not meet the criteria for an Economically Disadvantaged Area.

73. Can you please revisit ZCTA 21801? From my analysis of the 2012-2016 ACS Data, it appears to meet the criteria for EDAs in the areas of unemployment, median income, and poverty rate. I have attached the data sources that I used and a spreadsheet with relevant data. (See the three Attachments that came w/ the email.)

According to the 2012-2016 American Community Survey (ACS) data available, the Zip Code Tabulation Area (ZCTA) 21801 meets three or more of the eligibility criteria, as determined by the Commission. Accordingly, 21801 has been added to the list of qualifying ZCTAs.

74. For purposes of demonstrating adequate capitalization as part of the Application scoring process, is there any preference for one form of proof of capitalization over others? For example, would an Applicant who submits proof in the form of personal tax returns receive more points than an Applicant who submits proof in the form of a promissory note?

Not necessarily. The adequacy of the capitalization will be evaluated on a case-by-case basis. An Applicant must demonstrate adequate capitalization such that it is sufficient to sustain the proposed operations by providing any of the following documentation: (1) Personal tax returns for the past five years; (2) Tax returns for any business in which the owner/investor holds a majority interest for the past five years; (3) An independent financial statement; (4) Credit history; (5) Lines of credit; (6) Promissory notes; (7) Deeds, appraisals, and equity in real estate; and (8) Bank statements.

75. To qualify for full credit in the Diversity section of the Application, do African American co-owners with 51% ownership have to live in Economically Disadvantaged Areas?

Not necessarily. Part D, Section VI, Question 2 relates to race, gender, and ethnicity of the Applicant's ownership. In comparison, Part D, Section VI, Question 3 (Economically Disadvantaged Areas) has as one of the five criteria whether at least 51 percent of the ownership interest is held by individuals who have lived for at least 5 of the past 10 years in an Economically Disadvantaged Area. These are separate questions with separate analyses.

76. We made an offer to an African American individual who does not reside in Economically Disadvantaged Area and the individual due to personal commitments was not able to accept. Would this offer still count as a sufficient "good faith" effort?

Scoring points for making sufficient Good Faith Efforts does not apply to Part D, Section VI, Question 3 concerning Economically Disadvantaged Areas. Good Faith Efforts applies

only to Part D, Section VI, Question 2 – Disadvantaged Equity Applicants/Members of the Most Disadvantaged Groups in the Medical Cannabis Industry.

77. How many offers does an Applicant need to make to demonstrate the Applicant’s full commitment to bring a qualified African American individual on board in order to establish “good faith effort”? Will it play a role if individuals we approached do not reside in Economically Disadvantaged Areas?

Whether an individual lives in an Economically Disadvantaged Area will not be part of the evaluation of a submission for a “good faith” waiver. The Commission has not established a minimum number of offers to qualify. Rather, Applicants have the burden of demonstrating good faith efforts. Whether the Applicant made adequate good faith efforts will be determined on a case-by-case basis by considering the quality, quantity, and intensity of the different kinds of efforts made.

78. Does the State have any specific percentage goals they would like to see met within our Diversity Plan? For instance, 10% Women 5% Veterans, 25% Minority?

No, the Commission has not set pre-determined percentages for the Diversity Plan. Please see the *General Instructions*, under Section VIII. C. Diversity Plan Scoring Matrix for information on the scoring of the Diversity Plan.

79. Will the State please provide the ranked scores for the awarded 2015 Applications?

This information can be found on the Commission’s website via the link entitled “2015 Application Methodology and Rankings.”

80. Instructions reference submission of three electronic copies. (1) Redacted Copy #1 and (2) Redacted Copy #2. To be clear, the 3rd copy requested should be a complete Application with no redactions?

The online submission has been amended since the draft Application was released on January 11, 2019. Please see the *General Instructions* document for further information on redacting information and submission.

81. The current draft grower and processor Application files are in pdf format; however they are not fillable forms. Please confirm whether the final release documents will be pdf fillable forms and whether submission should be in pdf format.

The Application is in fillable pdf format and all uploads should be in pdf format.

82. Can Applicants create a user name and password to access the Application through the online portal prior to the final release?

No. The Application portal will be made available once the final Application is released.

83. Are there any file size constraints with submission to the online portal?

Yes. Each the Application will have a maximum file size of 25 MB. In addition, each attachment will have a maximum file size of 25 MB.

84. What is the current license term for awarded grower and processor licenses?

Health-General Article §§13-3306 and 13-3309 established that the initial term of a grower and processor license is 6 years. Upon renewal, the license period is 4 years.

85. In the grower’s Application, Part D, Section I, Question 1(e) – Operational Plan and Section I Question 6 – Operational Recordkeeping go hand in hand when you think of detailing an operational plan and may be redundant within this section. Will the State consider consolidating these sections, in order for Applicants to provide a clear, concise, and detailed write up on the operational plan?

The questions relate to different regulatory provisions in COMAR 10.62, and therefore, each question will be included in the grower’s Application.

86. Considering the Application mentions that the Application be uploaded on a web portal, does this mean there is no physical delivery of the Application?

The Commission will not accept the physical delivery of an Application. Application submission must be through the on-line Application portal.

87. In terms of “certifying capitalization,” would the Commission define what certification specifically entails?

Certifying capitalization in the context of the Application means to verify or to state with certainty.

88. Online portal for Application submittal is not yet created, correct?

The online portal has been developed, but will not be made available to the public until April 1, 2019.

89. Please expand on whether the State does or does not consider Economically Disadvantaged Areas regarding the grower or processor facility and if so, to what extent.

The location of a grower or processing facility within an Economically Disadvantaged Area (EDAs) is not considered for scoring of the Application. The EDA question relates to where owners, employees, and contractors live, not where the facility is located.

90. Where can an Applicant find the regulations for the processor license?

The Commission regulations are found in the Code of Maryland Regulations, Title 10, Subtitle 62. Chapters 19, 20, 21, 22, 23, and 24 are regulations that are specific to only processors and a number of additional regulatory chapters under this title/subtitle apply to both processor and those in other medical cannabis licensing categories. A free electronic copy may be viewed at the Division of State Documents Website here: <http://www.dsd.state.md.us/COMAR/searchall.aspx>.

91. What’s the difference between grower, dispensary and processor license?

Please see Health-General Article, §13-3301 – 13-3316, Annotated Code of Maryland and the COMAR 10.62. Each of the licenses and scope of activities is stated in these statutory and regulatory provisions.

92. I am completing an Application for a processor license. I am planning to incorporate DIY procedures for decarboxylation, CBD and THC extraction in my cooking coach business. This coaching service is for the home cook/patient or a caregiver. I will only be utilizing butter, coconut oil, sugar, and all clear alcohol. My coaching business will primarily be online and/or in the clients’ home. The only equipment I will be utilizing is a Magical Butter Machine and everyday common kitchen equipment such as measuring spoons and cups, silicon

containers, wooden spoon, and a kitchen oven. If I am not selling cannabis infused products and just providing education and guidance do I need a processor license? Also do I need a processor license to give clients a free single application of topicals?

No, a processor's license is not needed for the coaching service described in this question. With respect to the second question, dispensing topicals is only permissible if you hold a dispensary license.

93. Are Applicants required to (a) own a processing location; (b) actively hold a lease on the processing location; or (c) hold an Option to Buy/Lease a processing location, in order to be a successful candidate?

The proposed processor location and the type of property arrangement (e.g., owned by applicant, leased by applicant, and option for the Applicant to lease/buy) will not be considered for competitive scoring of the Application. However, if an Applicant is awarded Stage One Pre-Approval, the Applicant must demonstrate that the proposed premises are under the legal control of the Applicant prior to licensure. (See COMAR 10.62.08.07 (growers) and COMAR 10.62.19.06 (processors)).

94. The operating procedures in COMAR state that all processor agents must be drug screened as well as the processor owner. Does this mean that you cannot be a medical cannabis patient if you want to be licensed and employed?

Whether medical cannabis patients will be permitted at a facility is left up to the business. The Commission does not prohibit medical cannabis patients from being employed at a licensed medical cannabis business.

95. My question applies to the following scenario:

My Application is approved.

I complete the build out within the year, receive a license to grow, pay the \$125K and commence grower operations.

My business becomes successful, I am in compliance with all regulations, pay my taxes, etc. and I am able to sell all the cannabis I grow at this facility.

I would like to expand my operations, by either expanding my existing facility or building/leasing/upfitting another facility.

Is this expansion covered by my existing license or do I have to apply for another license?

A licensed business does not need to submit another license Application to expand its facility. However, COMAR 10.62.10.02 and 10.62.21.02 require notification and approval by the Commission of any major renovation or modification.

96. My question pertains to the following scenario:

I receive approval for an Application specifying a 20,000 sq. ft. grow facility.

Market conditions change and I can only build a 10,000 sq. ft. grow facility initially. I complete the build out of the 10,000 sq. ft. facility within the year in compliance with all regulations and pass all inspections. Will I be issued a license? Do I have to complete the remainder of the buildout within a specific period of time or ever?

Notify the Commission, in writing, and receive approval to modify the facility from the originally proposed facility. Further, there is no requirement to complete the remainder of the buildout. The Commission will consider each Applicant's circumstances on a case-by-case basis.

97. In the license Application, does the Applicant have to list the personal information of each investor? If not, will a promissory note from the investment group(s) suffice?

An Applicant must complete Part B for any owner, investor or managing director associated with the Applicant entity

98. If the Applicant has taken training in growing medical cannabis, as well as university courses in agronomic/horticultural studies, and has obtained hands-on experience in hydroponic greenhouse operation, how can that training and experience be demonstrated without naming the institutions involved? If that information is admissible, where would it be placed and how would it effect the word count?

The institutions where the grower Applicant received training should not be redacted from the Application. This information may be set forth in the narrative under Part D, Section III, Question 1. - Horticultural and Agricultural Experience and Knowledge or included within resumes/CVs. If the information is included in the narrative response, it will count against the character count for that section. Please see the *General Instructions* document for further guidance.

99. If the Applicant (African-American/Female) has a 51 percent or higher share in the enterprise and has a group of minority investors who neither live in an EDA or a ZCTA recognized by MMCC nor have a PNW in excess of \$1.7 million, would including them be considered a Good Faith Effort? What identifying information about the investors does the Applicant have to provide?

An Applicant must complete Part B for any owner, investor or managing director associated with the Applicant entity. Good Faith Efforts are only evaluated in the context of Applicants who are seeking credit for the Disadvantaged Equity Applicant factor or Members of the Most Disadvantaged Groups in the Medical Cannabis Industry factor.

100. What is the difference between owners and investors?

The terms “owners” and “investors” are used somewhat interchangeably in the Application to refer to individuals who have an equity interest in the Applicant entity. Owners, unlike investors, also have control over the Applicant entity via management of the Applicant business’s operations. It is important to note that whenever the term “ownership interest” is used in the Application, the term applies to both owners and investors.

101. a. If an Applicant is proposing to bring products to the Maryland market that are currently lacking, will they be awarded points for filling this hole in currently available product? b. Will Applicants who propose to run smaller sized grower facilities (10k feet and under) be awarded extra points? c. Will Applicants who propose to structure sales and distribution that will benefit small and independent dispensaries be able to obtain extra points for encouraging small and local businesses in Maryland?

The Commission encourages small businesses to apply for medical cannabis grower and processor licenses. However, the Commission is unable to provide information on how specific questions will be scored on the Application.

102. The following definitions of positions are not clear, some are defined and seem to overlap, and some are undefined: owner/principal owner, investor/equity

investor, officer, managing director, officer, employee, contractor, volunteer, and agent. Can you please list a consistent definition for each position, and provide a chart that notes which people in which positions must fill out which Attachments, including Attachment J?

The *General Instructions* document has been revised to include specific information on the Attachments and who is required to complete and/or sign each Attachment.

103. Who should complete Attachment J?

Attachment J has been streamlined for the final Application. Each owner and investor must complete Attachment J on behalf of the Applicant.

104. For the Economically Disadvantaged Areas criteria, regarding proving that a majority of current contractors live in an EDA, it appears that the residences of the individual contractors who own the contracting business serve as the relevant information for contractors. However, where there are two owners of a contracting business, and they use one staff member, does that count as one contractor, two contractors (the owners) or three contractors (all contractors working on the project) when calculating the majority? Must both owners live in the EDA for the contracting business to be “living in the EDA?” Further, the actual location of the contracting business, even if located in an EDA, is not relevant?

The actual location of the contracting business is not relevant for scoring purposes. For contracting businesses, a majority of the ownership must live in an EDA in order to meet the criteria for Section VI, Question 3. In the case of multiple owners the combined ownership interest of the owners who live in an EDA must equal 51% or more order to meet the criteria for the question. A staff member of the contractor would not be an owner.

105. What form should an employee or contractor that lives in an EDA submit affirming intent to work and confirmation of address? Will there be a new form in the final Application for this EDA Attestation? If not, in which section should this homemade attestation be submitted?

Please use the “Letter of Intent” (Attachment K) developed by the Commission. In addition, Applicants are required to upload supporting documentation of addresses for employees and contractors.

106. In providing evidence to prove that the Applicant has “significant past experiences in or business practices that promote economic development and empowerment in economically disadvantaged areas,” who exactly may demonstrate these past business practices? It is only owners? Investors as well? Other positions? Or is it only the new Applicant business entity itself, which would seem to violate the spirit of the question?

Any owner, investor, manager, employee, or contractor of the Applicant entity may include relevant past business history demonstrating business practices that promote economic development and empowerment in Economically Disadvantaged Areas.

107. **Can an Applicant submit letters or resolutions of support from municipal or county executive or legislative officials or bodies as well as local organizations, to support the Application? If so, where might such miscellaneous documents be included, as Part E does not seem to include such documents? Will these letters or resolutions of support be considered as part of the Application?**

Letters of support or resolution will not be considered in the evaluation of an Application and should not be included in an Applicant's submission.

108. **Are there any requirements or restrictions on investors who would finance a grower or processor facility? There are obviously the 15 points awarded for minority ownership, employees, etc., but are there any requirements such as the investors must actively participate in the business, i.e. they must contribute significantly to the business, be an employee, etc. The corollary to this restriction would be: no passive investing, all facilities must be owner operated.**

There is no requirement that investors (e.g. individuals or businesses providing capital) actively participate in the business. Owners are distinguishable from investors because owners also have control over the Applicant entity via management of the Applicant business's operations.

109. **Is property ownership or evidence of leasing, etc., required to apply? If so, is it an Attachment/should it be attached?**

No. Location of a proposed facility or whether an Applicant owns or leases the property or facility will not be evaluated as part of the Application.

110. **Does the Commission require a full set of Standard Operating Procedures (SOPs)?**

A full set of Standard Operating Procedures are not required as part of the initial Application. However, if an Applicant is awarded Stage One Pre-Approval, a full set of SOPs will be required prior to licensure.

111. **Does attaching SOPs count against the 3,500 word limit for Part D, Section IV, Question 1 – Standard Operating Procedures in the grower Application?**

Attaching Standard Operating Procedures is not permissible in response to this question. Please see the *General Instructions* document for further guidance on attachments. Instead, describe the SOPs in narrative form. The description of the SOPs will count against the character count for this question.

112. **Can an Applicant include a sample label/packaging mock-up to demonstrate compliance with the regulations?**

No. Please see the *General Instructions* document for further guidance on Attachments.

113. **Is it permissible for an Applicant to list non-Maryland jurisdictions or municipalities where it currently operates?**

Yes.

114. **Can an Applicant name nonaffiliated corporations, individuals, jurisdictions, professions, that may indicate professional experience?**

Yes, if the experience obtained by the Applicant with the nonaffiliated corporations, individuals, jurisdictions, etc., helps to demonstrate the Applicant's ability to establish and operate a successful medical cannabis business.

115. Can an Applicant attach letters of recommendation, support, intent, etc.?

No; letters of support or recommendation will not be considered in the evaluation of an Application and should not be included in Applicant's submission. Letters of Intent may be submitted as necessary to demonstrate that an employee or contractor who lives in an EDA intends to work for the Applicant.

116. Will the Commission establish some type of support hotline/contact for any issues with the online document management submission? If there are issues with online submission will the Commission provide any alternative means of submission?

All technical issues may be directed to applications.mmcc@maryland.gov. However, please allow at least 24 hours for a response. Questions raised within 24 hours of Application submission may not be answered prior to the Application deadline.

117. How will pictures that include text (e.g. a sample label) be assessed for word count? That is, do the words in a picture count as part of the overall word count?

Pictures that include text that are part of a permitted or required Attachment will not count against the character count.

118. I understand that using a personal vehicle to securely ship cannabis from facility to facility is legal. Part D, Section II, Question 5(1) asks for "the number and type of vehicles that will be used to transport medical cannabis and medical cannabis products." Does the Commission require the Applicant to only list vehicles it intends to purchase or should an Applicant list the personal vehicles of grower agents identified in the Application?

Any information the Applicant deems relevant to its plan to securely ship cannabis should be included in the Application.

119. Are there any transportation guidelines, such as type of vehicles or regulations for the driver?

Any transportation requirements are included in COMAR 10.62, which can be viewed at the Division of State Documents website here: <http://www.dsd.state.md.us/COMAR/ComarHome.html>. Please see in particular COMAR 10.62.18 which is the regulatory chapter that addresses the shipment of medical cannabis products between licensees.

120. What are the regulations for acquiring genetics? Can we source from local legal states? Does the first grow cycle need to be from seed and not clone?

There are no medical cannabis-related regulations governing the acquisition of genetics or whether the first grow cycle needs to be from seeds instead of clone. It is a grower's responsibility to determine how to establish its business, including how to acquire seeds or genetics.

121. Are there any zoning requirements for the grower facility? What are the guidelines for placing the facility? Do we have to be in certain areas away from schools?

All medical cannabis businesses must comply with local (e.g. county and municipal) zoning and planning restrictions in order to become licensed by the Commission. The zoning and planning requirements are subject to local government jurisdiction and vary by location.

122. Is there a list of approved cleaning agents for use inside the facility?

The Commission does not have a list of approved cleaning agents for use inside a facility.

123. Part D of the Application requires a narrative component to describe various crucial aspects of the proposed business. However, from the draft Application it appears these sections, each of which includes multiple sub-sections, are strictly limited to 5,000 words total, with some sections featuring a maximum word count of as low as 3,500 total words. Can you please confirm whether this maximum word count listed references the entire section, or if each subsection may reach the allowable word count? For instance, Section I - Operational Factors, must the entire Operational Factors section be under the allowable 5,000 word limit, or may each sub-section, including Operational Plan, Equipment, Receipt and Shipping, and Sanitary Storage individually each hit the 5,000 word limit?

The final Application has provided a character count for each question, rather than by section. Applicants may not exceed the listed character count per question.

124. What are the correct dates that the Application will be published and due?

In order to allow potential Applicants adequate time to review the high volume of questions submitted during the 30-day public comment period (January 11 – February 11, 2019), the Commission delayed the start of the upcoming 60-day Application period for medical cannabis grower and processor licenses beyond the originally anticipated Application period of March 1 – April 30. The 60-day Application period will begin on Monday, March 25, 2019, when the final Application and guidance materials are posted and available on the Commission website. The Application portal will open on April 1.

125. Part D, the Diversity Plan, allows supporting documentation that evidences the Applicant's efforts and ability to promote and ensure the goals set forth in the Diversity Plan. Are these supporting documents limited to Attachments A through E? Or can the Applicant provide additional supporting documentation supporting the Diversity Plan? If so, where should these attachments be placed?

Yes, additional supporting documentation for the Diversity Plan will be considered. The Application has been amended to include the ability to attach additional documentation in support the narrative for the Diversity Plan question.

126. Should the Attachment requirements for the organizational chart, copy of the articles of incorporation and authorization to do business in Maryland, and the record of tax payments be labeled "Attachment K, Attachment L, and Attachment M"?

Applicants should attach the organizational chart, copy of the Articles of Incorporation and authorization to do business in Maryland, and the record of tax payments as instructed in the online Application portal. Each Applicant must upload required attachments in order to submit the Application.

127. Are Applicants allowed to attach additional supporting documentation that provides evidence and supports specific answers to the narrative questions?

Applicants may only attach supporting documentation listed in the Application and *General Instructions*. Any additional supporting documentation that is not listed in the Application and *General Instructions* will not be considered by the Commission.

128. Will the online portal and fillable pdf allow for narrative answers to contain tables, pictures, and other formatting features, such as bullet points, bold font, etc.?

No. The online Application will not allow tables or similar pictorial representations. Applicants may upload supporting documentation for the questions where it is expressly allowed. Please see the *General Instructions* document for more information.

129. Will the online portal allow for additional Attachments to be included if allowed by the Commission?

Yes. The Application will allow additional Attachments related to specific questions on the Application. Attachments for questions outside those expressly listed on the Application will not be considered.

130. If there are technical issues with the online portal, who can the Applicant contact?

All technical issues may be directed to applications.mmcc@maryland.gov. However, please allow at least 24 hours for a response. Questions raised within 24 hours of Application submission may not be answered prior to the Application deadline.

131. Should all documents be submitted in PDF format?

Yes. All documents should be submitted in PDF format.

132. Does the fillable pdf Application allow for Applicants to mark pages as ‘Confidential’?

No. The Applicant is required to redact any confidential financial information or trade secrets from the copy of the Application that is for PIA requests.

133. Will the Commission hire Towson University’s Regional Economic Studies Institute to score the Applications? Given past issues of conflicts of interest between Subject Matter Experts and Applicants in the past Application round, what steps will the Commission take to ensure there are no conflicts of interest?

Each Subject Matter Expert will be required to sign an Attestation affirming that the SME does not have a stake in any of the medical cannabis Applications under evaluation or any Maryland licensed medical cannabis businesses.

134. Can an Applicant include a visual timeline in response to Part D, Section V, Question 2(d) concerning a timeline for initiating operations?

No. Attachments or pictorial representations are only permitted for specific questions on the Application. Please see the *General Instructions* document for more information.

135. In Part D, Section V, Question 3, is the Applicant allowed to upload supporting evidence to show documentation of capitalization?

Yes. Part D, Section V, Question 3, relating to documentation of capitalization is one of the questions listed on the Application for which Applicants are required to upload supporting documentation.

136. For the record of tax payments in all jurisdictions in which an Applicant has operated as a business for the 5 years before filing the Application, whose tax returns is the Commission requesting? All owners of the Applicant? If the Applicant is a newly formed entity, and has not been required to file taxes yet, should the Applicant respond ‘N/A’?

Part E in the Application requires an Applicant to provide a record of tax payments in all jurisdictions in which an Applicant has operated a business for the 5 years before filing the Application. This provision applies to the Applicant entity, not the individual owners and investors. Owners and investors of successful Applicants will be required to provide additional financial information in the Stage Two Application.

137. Does only one representative of the Applicant need to fill out and submit Attachment G – Authorization for Release of Information – Business Entity?

Only one authorized representative of the Applicant business must complete and sign Attachment G.

138. Should an Applicant submit one Attachment I - Business Interest Identification & Authorization that covers all individuals involved in cannabis businesses within the Applicant’s team or should each individual submit a separate Attachment I form?

Each Applicant should submit one Attachment I form that includes information on any license the Applicant or any affiliate, parent, or subsidiary entity has in any jurisdiction.

139. If an individual on the Applicant’s team does not have any interest in other cannabis businesses, should they still fill out Attachment I – Business Interest Identification & Authorization and write ‘N/A’?

Yes. An Applicant who does not have an interest in other cannabis businesses must complete Attachment I indicating that the Applicant does not have an interest in any cannabis business.

140. Who is required to fill out Attachment I – Business Interest Identification & Authorization? All owners? Or all owners, investors, employees, contractors, etc.?

An authorized representative should complete Attachment I on behalf of the Applicant.

141. For purposes of clarity, could the Commission outline who (owners, investors, agents, directors, managers, managing directors) is required to fill out and submit each Attachment?

Yes, the *General Instructions* for the Application have been amended to specify each individual who is required to complete and submit each Attachment. Please see the *General Instructions* document for additional guidance on who must complete each Attachment.

142. If an Applicant is comprised of four African Americans and a company owned by four White men, for purposes of the diversity plan, would the company count as one White man or four White men?

If an Applicant is seeking points under the Diversity Plan factor, one requirement is the submission of the diversity status of each owner, investor, employee, and contractor. In

general, for Application purposes, the “owner” of a business is the individual or individuals who have an ownership interest in the Applicant. If one of the owners is a company owned by multiple individuals, each of those individuals must provide his or her diversity status.

143. If an Applicant is applying for a grower license and a processor license, can the Applicant identify any of the same employees for both license Applications?

Yes. An Applicant may identify the same employees as part of both a grower and processor license Application.

144. Under Part D, Section V, Question 3, with respect to documentation of adequate capitalization, will the documents attached to demonstrate capitalization count toward Section V’s word count?

Supporting documents are required for Part D, Section V, Question 3 “Capitalization.” The documentation does not count toward the character count limit.

145. Does the Commission require any additional documentation if an owner is not a United States citizen?

Each owner of an Applicant business must be listed in Part B. Additional information is not required for non-citizens.

146. If a company is a part owner of an Applicant business, will all owners of that business need to be disclosed on the Application to the Commission? Or will the principal of the company be the only required disclosure?

All of the owners and investors must be disclosed during the Stage One Application. However, if an Applicant is successful in receiving a Stage One Pre-Approval, all owners and investors of the company must complete a criminal history check and comprehensive financial audit.

147. In Attachment J - Investors, Agents, Owners, and Managing Directors Certification, it reads in part: I certify that I have not been denied a professional license, privilege of taking an examination, or had a professional license or permit disciplined by a licensing authority in Maryland or another State. If no, provide a brief explanation. Yes No. If our company previously submitted an Application for a grower permit in Maryland or in another state, and was not awarded said license, would the answer to this question be “No?”

Applicants who previously applied for, but were not selected for, a medical cannabis license and who have not otherwise been disciplined by a licensing authority in Maryland or another state may select “No” on this question.

148. An Applicant is required to submit tax information for each jurisdiction in which the Applicant has operated a business for the 5 years before filing the Application. Further, supporting documentation of capitalization may include tax returns for any business in which an owner/investor holds a majority of interest for the past 5 years. Does the reference to the past 5 years apply to 2013, 2014, 2015, 2016, and 2017?

Yes. Tax returns from 2013-2017 will be accepted.

149. Would a CPA attesting to preparing the last 5 years tax returns suffice? (A notarized letter from our CPA).

No. Copies of the Applicant’s tax returns for the past five years would be required.

150. May a company hire a workforce contractor LLC (the contractor is located within the Economically Disadvantaged Area (EDA)) in order to score points? Can my employees from the workforce contractor reside in any county?

The location of a contractor business is not considered in the evaluation of an Application. Instead, the location where the owner of the contractor business lives is considered for Part D, Section VI, Question 3, Economically Disadvantaged Areas. The location of the residences of a contractor's employees is not considered for the Application.

151. Does the Applicant have to provide detailed financial information about investors (tax returns, financial statements, credit history, lines of credit, etc.) in the Application?

Part E – Supporting Documentation requires the Applicant to submit tax information for each jurisdiction in which the Applicant has operated a business for the 5 years before filing the Application. This requirement applies to the “entity” applying for the license. Separately, individual owners/investors may need to provide detailed financial information to (1) demonstrate they meet the Personal Net Worth cap or (2) the Applicant has adequate capitalization.

152. Is a promissory note sufficient that will provide funding contingent upon Pre-Approval?

The Application states that “capitalization that is contingent upon the award of a Pre-Approval could be a documented source of capitalization.”

153. Does a minority Applicant with majority control (more than 51 percent) have to demonstrate a “Good Faith Effort” to include minority investors and management personnel? Or, does this apply only to non-minority applicants who have been unsuccessful in recruiting minorities?

No. The “Good Faith Effort” provision only applies to Applicants who have been unsuccessful in recruiting their intended threshold of minority investors or owners. More specifically, the “Good Faith Effort” provision allows an Applicant who does not qualify as a Disadvantaged Equity Applicant or Member of the Most Disadvantaged Groups in the Medical Cannabis Industry to receive the points for Part D, Section VI, Question 2. An Applicant who qualifies as a Member of the Most Disadvantaged Groups in the Medical Cannabis Industry does not need to demonstrate a Good Faith Effort. However, a Disadvantaged Equity Applicant who would like to receive the maximum of 5 points for Part D, Section VI, Question 2, may wish to demonstrate a “Good Faith Effort” to have a majority of ownership interest held by a member of the most disadvantaged groups in the medical cannabis industry in order to receive the maximum of 5 points.

154. If a disabled veteran who is African-American is an investor, can he/she be counted twice?

No. Each owner or investor may only be counted once for scoring purposes under any of the diversity-related questions in Part D, Section VI of the Application.

155. Which guidance should Applicants follow? Does the Commission desire “detailed plans” as listed in COMAR or should Applicants only address the plans indicated in the questions of the Application?

Applicants should answer the questions set forth in the Application.

156. **The former section below stipulates that an Applicant must have at least 25% but not more than 50% of its ownership interest held by the most disadvantaged groups while the latter section below stipulates that an applicant must have at least 51% of its ownership interest held by the most disadvantaged groups. The sections provide conflicting guidance on the required thresholds for ownership interest of disadvantaged groups. What is the difference between Disadvantaged Equity Applicants and Members of the Most Disadvantaged Groups in the Medical Cannabis Industry? While Disadvantaged Equity Applicant is defined in COMAR, there is no definition for the most disadvantaged groups.**

Part D, Section VI, Question 2 relates to a Disadvantaged Equity Applicant/Member of the Most Disadvantaged Groups in the Medical Cannabis Industry. As determined by the Commission, Members of the Most Disadvantaged Groups in the Medical Cannabis Industry are African American and/or American Indian/Native American individuals who do not exceed the personal net worth cap. Applicants who have at least 51 percent ownership held by these qualifying individuals, or who demonstrate Good Faith Efforts to meet that threshold, may receive the maximum of 5 points for Part D, Section VI, Question 2. Please see the *General Instructions* document and the Disadvantaged Equity Applicants section in the *Guidance for the Diversity and Socioeconomic Equity Questions* on the Commission website for additional information.

157. **Part D, Section I, Question 1. - Operational Plan: There is no text box to enter a narrative in response to Question 1 to provide an operational plan. Should the operational plan be provided as an Attachment to the Application instead? And is this Attachment also subject to the total maximum of 5,000 words for all six questions in Section I?**

The final Application has a text box for the Operational Plan and a character count for each question included in the Application. Any Attachment for the operational plan will not be considered.

158. **It is acceptable to utilize cloud (virtual) storage to meet the requirements to store video surveillance at an offsite location or are must offsite location be a physical location? Are we required to have the same security features for video surveillance for an offsite location as are required for the on-site location?**

The Commission is unable to provide substantive responses to content in the Application.

159. **The Application mentions that it is possible for an Applicant to be both a grower and a dispensary, but does not mention whether an Applicant can be both a grower and a processor. Please confirm if it is possible for an Applicant to apply for both a grower and a processor license and be granted a Pre-Approval License for both Applications. If so, will the Application fees for Stage 1 and Stage 2 be combined or will the fees be assessed separately? Additionally, is it permissible for the grower and processor operations to be located on the same premises?**

Yes, an Applicant may apply for and receive a Stage One Pre-Approval for a medical cannabis grower and processor license. These are separate Applications and separate licenses, for which separate Application fees and licensing fees must be paid. The grower and processor facility may be located on the same premises.

160. **In the event a grower agent is no longer employed with a licensed grower (and we have notified the Commission within one business day) and refuses or has**

failed to return their ID card within 30 days of termination, is it the licensee or the Commission's responsibility to call the police?

COMAR 10.62.09.05 requires the Commission to notify the Maryland State Police if the grower agent does not return the ID within 30 days of the termination.

161. At the time of submission of the Application, is it required that all potential employees obtain and submit fingerprints or are letters of intent for employment sufficient? Is the requirement that we submit fingerprints and letters of intent?

Completing Part C for all employees and contractors and submitting letters of intent for them is sufficient. The criminal history check and comprehensive financial audit are performed on successful Applicants who receive a Stage One Pre-Approval for a license. Applicants do not need to submit criminal background information as part of the initial Application.

162. Provided that seeds can only be calculated off of weight and since the unique identifier is only placed once a plant has reached a determined stage, are licensees only required to track seed to sale based on plant batches?

Every seed is counted in the required seed-to-sale tracking system, and must be accounted for in the system. Immature plants are tracked as batches and once a plant matures into a vegging plant (8 inches) it is uniquely identified using radio frequency identification technology with a RFID (radio frequency identification) tag.

163. Would a promissory note which states that once the pre-approval is received, the investor group will raise funds suffice? Does the promissory note need to have a specific monetary value stated on it, or can it be a general note which promises funding as needed once the pre-approval is given.

A promissory note is an acceptable documented source of capitalization for the new Application. The promissory note must include a promise in writing to pay a determinate sum of money to the Applicant contingent upon the award of a Stage One Pre-Approval.

164. Are there regulations on the type of extraction equipment for processing?

Commission regulations do not define the type of extraction equipment a processor may obtain. COMAR 10.62.23.02 requires a processor to establish standard operating procedures for the methods, equipment, solvents, and gases used during the processing of medical cannabis. This regulatory provision also specifies certain requirements that must be included in the Standard Operating Procedures (SOPs) for extraction. These SOPs must be approved by the Commission prior to licensure.

165. Does Maryland law require ethanol or CO₂ -- or can either type of extraction be used?

Maryland law does not require any specific type of extraction method.

166. Are there additional safe handling/manufacturing practices that need to be included in the plan for the processor's Application? Do the alternative products require additional regulatory compliance?

Commission regulations state the requirements for compliance in processing facilities.

167. Does the requirement that taxes due in any jurisdiction not be in arrears apply to investors, the Applicant entity, etc.?

Yes. The requirement that taxes not be in arrears applies to the Applicant entity and any owners and investors.

168. Would an interest in a minority-owned business located in another state count towards the PNW requirement as an asset? i.e. interest in a DC-based company that is certified as MDDBE?

A financial interest in a minority-owned business in another state would count towards the PNW requirement unless the business was an out-of-state firm certified by the Maryland Department of Transportation Office of MBE.

169. What is the definition of a Managing Director?

Managing director is not defined in the Application. In general, this term refers to an individual who is responsible for the daily operations of an organization.

170. Part D, Section I, Question 1(c) asks for summaries of policies and procedures for "Rework or Processing." Please define "rework" in the context of a grower Application.

"Rework" means remediation. Remediation is allowed if a batch of medical cannabis fails compliance testing for certain reasons that can be adequately addressed by taking further action to eliminate the contaminant.

171. Under Part D, Section V, Question 2(a), what does "long-term basis" mean? Is there a required length for the budget and operating expenses for this question?

There is no definitive required length of time that must be addressed for the budget and operating expenses. The Applicant is responsible for sufficient information on how it will operate in the future in order to establish a sustainable business.

172. Part D, Section V, Question 3 asks for a variety of documents for proving Capitalization. Will there be a place for Attachments of supporting documentation of capitalization? How do these documents impact word count for this section? Are these documents subject to formatting restrictions?

Documentation of adequate capitalization must be uploaded as part of the Application, as well as a copy redacted of Applicant and business name information in the Application itself. The attached supporting documentation of capitalization will not be subject to the question's character count.

173. Can an Applicant reference items that are included as Attachments in our narratives? Can an Applicant reference "See the organizational chart addenda" in an area such as Training rather than explaining the hierarchy by using the words for the 5,000 word count?

Yes, referencing items that are included in the attachments in the narratives is permissible. However, permitted attachments are limited to those listed in the Application and the *General Instructions* document.

174. Attachment F - Authorization for Release of Information: Investor/Grower (or Processor) Agent – Who is required to submit this document? Are all investors required to submit this document, regardless of the level of equity contribution?

Attachment F must be completed by all investors, regardless of their level of equity contribution, as well as all grower and processor agents that the Applicant has hired or intends to hire for the Applicant's medical cannabis business.

175. **Attachment G – Authorization for Release of Information – Business Entity states: “The Maryland Medical Cannabis Commission (“Commission”) is required by law to conduct an investigation of an Applicant for a Medical Cannabis Dispensary License.” Is this the correct form?**

The form has been corrected to state “Medical Cannabis Grower License” and “Medical Cannabis Processor License” on the grower and processor Applications, respectively.

176. **Part D, Section V, Question 2(c) asks for “The budget and resource narratives, including detailed costs for physical structures and operating expenses.” This kind of financial information is most effectively presented in the form of tables. Will the Commission consider allowing Attachments in response to this question, in order to provide a clearer picture of the budget for capital and operating expenses?**

An Applicant may submit a table, spreadsheet, or chart as an Attachment for the budget required by Section V, Question 2.

177. **Part D, Section IV, Question 1(b)(iv) states “Notify the Commission, and all patients, caregivers, and dispensaries who may have obtained medical cannabis products from such a batch or lot of the recall;”. Does this imply that processors can sell directly to patients and caregivers? Can processors deliver to patients and caregivers?**

Licensed medical cannabis processors are not authorized to sell directly to certified patients and caregivers.

178. **Part D, Section IV, Question 2(a)(ii) of the processor Application states “Create and use a perpetual inventory control system that identifies and tracks the licensee’s stock of medical cannabis from the time it is delivered or produced to the time it is delivered to another licensee, or a qualifying patient or caregiver;”. Does this refer to medical cannabis finished product and medical cannabis concentrate, or cannabis itself?**

All cannabis, including flower product, medical cannabis concentrate, and medical cannabis finished product must be identified and tracked using a perpetual inventory control system.

179. **Part D, Section II, Question 6 of the processor Application states “Please describe how, upon successful validation of the production process, the processor Applicant will...” Is there a particular form of process validation acceptable to the Commission? Is a third party required for process validation, or can this be handled entirely by the licensee?**

The licensee will establish a method validation process, including pass and fail criteria, for all new medical cannabis infused products. A Commission-registered independent testing laboratory will need to be involved in the process validation to perform testing.

180. **Part D, Section IV, Question 2(a)(i) of the processor Application states “Manage the receipt, processing, storage, packaging, labeling, handling, tracking, and shipping of products containing cannabis and medical cannabis waste;”. Should “contacting” read “containing”?**

Yes, "contacting" should read "containing" in this instance. The Application has been corrected to reflect this change.

181. **Part D, Section V, Question 2(g) states that Applicants must provide “Any other information or documentation demonstrating the ability of the processor Applicant to quickly and successfully enter the market. What forms of documentation are acceptable? Will there be a place to attach such documentation? How does this impact word limits?”**

Only supporting documentation or Attachments specified in the Application may be included in the Application. The Application’s *General Instructions* have been amended to specify which Attachments and supporting documentation are required or permissible. The processor Application has been amended to remove the term documentation from this question.

182. **The grower Application states that growers may use a “third-party secure transportation company for transporting medical cannabis and medical cannabis products.” Is this an option available to processors as well? Or, must processors have their own transportation operations?**

Processors may use third-party secure transportation companies for the transport of medical cannabis.

183. **There appears to be a significant discrepancy between content included in both the Grower and Processor Applications, falling into several categories:**

- a. **Sections that should reasonably be included in both Applications that only appear in one (e.g., Standard Operating Procedures only appears in the grower Application but is important in the processor Application as well).**
- b. **Sections that should have an equivalent section in both Applications that only appears in one (e.g., Horticultural Controls only appears in the grower Application without a “Processor Controls” section in the processor Application).**
- c. **Sections that appear in both Applications but require different content (e.g., “Equipment” in the grower Application asks about sanitizing equipment *only* and “Equipment” in the processor Application asks about sanitizing equipment as well as four other subcategories).**
- d. **Does the State intend to revise these draft Applications for greater congruity between the two?**

The Commission re-reviewed the two Applications for consistency, where appropriate, given the inherent differences between growers and processors. While standard operating procedures and controls already appear in both the grower and processor Applications, the Commission revised the question concerning “Equipment” so that both the grower and processor Applications are consistent in this area.

184. **Has the Commission considered that the "Economically Disadvantaged Area" may create an inherent limitation regarding access to a qualified talent pool necessary to demonstrate proficiency in the technical and management positions required for a successful Application?**

Health-General Article, §13-3305.2 required the Commission, in consultation with the Office of the Attorney General, the Maryland Department of Transportation, and the Governor’s Office of Small, Minority, and Women Business Affairs, to evaluate a study of Maryland data reflecting the availability and utilization of qualified minority and women-

owned contractors, to evaluate race-neutral or other methods to address the needs of minority and women-owned businesses and then to submit emergency regulations to address the needs of minority and women-owned businesses seeking to participate in the medical cannabis industry. Pursuant to this statutory mandate, the Commission promulgated emergency regulations incorporating race-neutral and race-conscious provisions into the medical cannabis grower, processor, and dispensary applications. The 2019 Medical Cannabis Grower License Application and 2019 Medical Cannabis Processor License Application are based on the emergency regulations promulgated by the Commission. Since emergency regulations are limited to a maximum effective period of 180 days, the Commission promulgated draft regulations identical to the emergency regulations to give continuing effect to the criteria embodied in the emergency regulations. The draft regulations were published in the Maryland Register on December 21, 2018, with a 30-day public comment period. The Commission considered all substantive public comments submitted in response to the draft regulations. The Economically Disadvantaged Areas referenced in the question are defined in COMAR 10.62.01.01 and required by COMAR 10.62.08.05 and COMAR 10.62.19.04 to be included in the Medical Cannabis Grower License Application and Medical Cannabis Processor License Application.

185. Has the Commission considered the potential due process and equal protection issues associated with the limits placed on disadvantaged equity owners' net worth versus the net worth requirements placed on owners in the 2015 Application process?

The Commission developed the referenced evaluation criteria relating to Disadvantaged Equity Applicants only after completing the process described in the response set forth immediately above. The 2015 Application did not include any diversity-oriented evaluation criteria, and therefore, the Personal Net Worth cap for minority owners and investors was not relevant.

186. Has the Commission considered how to address the 2-3 year market entry advantage the current licensees enjoy versus the new licensees in access to current medical cannabis industry?

The 30-day public question and comment period is for Application-related questions. Non-Application questions should be directed to the Maryland Medical Cannabis Commission at mdh.providerinfo@maryland.gov or 410-487-8100.

187. How will "Good Faith Efforts" with regard to including disadvantaged persons in the Application be vetted, documented, scored and disseminated to the public after the Application process concludes?

The Commission will provide additional information on Application evaluation at a later date.

188. How will the Commission review and score management services agreements in their assessment of the ownership of the licensee?

Management services agreements are not addressed in the Application. An Applicant may demonstrate expertise or experience in a variety of ways, including through agreements with experienced cannabis businesses.

189. Can a "Good Faith Effort" standard be used for meeting the criteria for "Economically Disadvantaged Area"?

No. Pursuant to COMAR 10.62.08.05 and 10.62.19.04, the Good Faith Effort waiver is exclusively relevant to efforts to obtain the participation of Disadvantaged Equity Applicants or Members of the Most Disadvantaged Groups in the Applicant entity under Part D, Section IV, Question 2.

190. Does scoring for "Economically Disadvantaged Area" designation allow for partial point scoring? Current regulations only allow for full five (5) points or zero (0).

Applicants who meet three or more of the criteria listed in Part D, Section VI, Question 3 will receive 5 points. Applicants who fail to meet 3 or more criteria will receive 0 points.

191. If not, Why?

COMAR 10.62.08.05 and COMAR 10.62.19.04 state that an Applicant must meet "three or more of the following criteria" in order to receive points for the Economically Disadvantaged Area question.

192. Are each of the four new grower licensees to be granted a dispensary license, consistent with the dispensaries granted to the initial grower licensees?

No. The dispensary licenses granted to the original grower licensees were only granted after the evaluation and selection of dispensary license Applications by those original grower licensees. There is no dispensary Application available at this time. The Commission is currently only accepting Applications for medical cannabis growers and processors.

193. In earlier workshops regarding House Bill 2 hosted by the Commission, representatives spoke to the Commission's intention of creating more vertically integrated licensed businesses with the introduction of HB 2. Given this, how will preference be shown to the license holders who currently have one or more license in one or more of the three license categories in the State?

The Commission did not introduce or enact House Bill 2 (2018). In addition, the Commission did not promote or give preferences to vertically integrated medical cannabis businesses. Rather, HB 2 is a piece of legislation enacted by the Maryland General Assembly. Current license holders will not receive any additional points or preference for their holding a license on the Application.

194. Will preference be shown to license holders who currently have one or more license in one or more of the three license categories in the State in this Application round?

Current license holders will not receive any additional points or preference for their holding a license on the Application.

195. If you are an MBE in the State, are you also required to hold the local (county) certifications based on where they are located or anticipated to be located or where the facilities are going?

Part D, Section VI, Question 2 allows an Applicant to receive points by demonstrating that a specified percentage of ownership interest is held by one or more individuals who are a Disadvantaged Equity Applicant (if at least 51%) or a Member of the Most Disadvantaged Groups in the Medical Cannabis Industry (if at least 25% for additional points and at least 51% for maximum points). MBE certification by the Maryland Department of transportation Office of MBE is one way to demonstrate that an individual qualifies as a

Disadvantaged Equity Applicant/Member of the Most Disadvantaged Groups in the Medical Cannabis Industry. No additional local certification is required.

196. Are nonprofit entities allowed/prohibited from participating in ownership of this venture?

Nonprofit entities are not prohibited from participating in the Maryland Medical Cannabis Program. However, the ownership structure of a nonprofit may make an Applicant unable to demonstrate that at least 51 percent of its ownership interest is held by a Disadvantaged Equity Applicant/Member of the Most Disadvantaged Groups in the Medical Cannabis Industry.

197. Are nonprofit entities allowed/prohibited from participating as management or service providers of this venture? If yes, can they qualify as MBE or DBE entities?

A nonprofit would not qualify as a Disadvantaged Equity Applicant or Member of the Most Disadvantaged Group in the Medical Cannabis Industry based on its MBE certification. Technically, nonprofits do not have owners.

198. At one point, nonprofits were issued MBE and DBE certifications (in the state of Maryland) based on their board, client base, and executive composition. For those that were issued these certifications, can they be applied to the percentage required for MDEAs in MD?

If an Applicant is attempting to use MBE certification to demonstrate the Applicant is a Disadvantaged Equity Applicant or Member of the Most Disadvantaged Groups in the Medical Cannabis Industry, then the Applicant must demonstrate current MBE certification.

199. Both the cultivation and processing business models constructed in this round will have to be appropriately capitalized; what is the Commission's understanding of how equity owners will be diluted post-award?

The Commission may not award a Stage One Pre-Approval or a license to an Applicant whose ownership structure is materially different from its Application if the change in ownership structure lessens the level of capitalization for the business or adversely impacts the scoring of the Application.

200. Does the Commission expect or desire the equity owner percentages (particularly those represented by MDEAs or DEAs) to remain the same as a post-equity raise (pre- and post-license)?

The Commission may not award a Stage One Pre-Approval or a license to an Applicant whose ownership structure is materially different from its Application if the change in equity owner percentages adversely impacts the scoring of the Application.

201. What percentage of the total start-up costs would the Commission like to see demonstrated in this Application round?

The Commission does not establish a minimum capital amount that Applicants must demonstrate. Rather, Applicants must demonstrate adequate capital to fund the proposed facility and operation.

202. What rate of capitalization signals a "financially sound" or "properly capitalized" businesses to the Commission?

The Commission does not establish a minimum capital amount that Applicants must demonstrate. Rather, Applicants must demonstrate adequate capital to fund the proposed facility and operation.

203. Given that significant population shifts have occurred in counties since 2016 (such as Montgomery County in which currently the majority of the population are minorities with lower area median incomes (AMIs)), would the Commission be willing to use current data to identify accurately the Economically Disadvantaged Areas in the 23 counties and Baltimore City that make up the 24 local jurisdictions found in Maryland?

No. The Commission identified Economically Disadvantaged Areas based on U.S. Census Bureau socioeconomic data. A list of the qualifying geographic areas is available on our website.

204. Pursuant to Title 10, Subtitle 62, Chapter 14 - Licensed Grower Dispensary, can you clarify if a grower license during this phase of the Application will be allowed to dispense as well?

No. An Applicant must apply for and qualify for a dispensary license, and then complete all requirements for obtaining a dispensary license, before being allowed to dispense. There is no dispensary Application available at this time. The Commission is currently only accepting Applications for medical cannabis growers and processors.

205. In regards to both draft grower and processor Applications, are image/graphic Attachments allowed as supporting documentation to the narrative Sections? For example, a security floor plan layout?

An Applicant may provide supporting documentation for any questions specified in the Application. Images and graphics may be included in permissible Attachments. Attachments or supporting documents for any other question will not be considered.

206. Is it permissible for an Applicant to apply for a license at more than one location? And if so, does the Applicant have to submit separate Applications?

COMAR 10.62.08 states that “a party applying for a license shall only have an interest in one grower license Application.” However, the proposed location of a facility is not considered in the Application evaluation and may be amended prior to licensing.

207. Is this license really championing the minority small business owner? And do you want the owners to partner with big companies or would you prefer small business companies?

The 2019 Application was redesigned in an effort to encourage participation by small, minority, and women business owners and entrepreneurs. The Commission strives to implement the Maryland Medical Cannabis Program in a manner that will yield a successful and consumer-friendly medical cannabis program in the State to provide patients with affordable and adequate access to medical cannabis.

208. How far does the cultivator and processor need to be from a day care, church, or school?

The Commission does not establish zoning restrictions for medical cannabis businesses. All medical cannabis businesses must comply with local zoning and planning requirements. Please consult the county and municipal government where your proposed facility would be located for more details on zoning and planning requirements.

209. If Applicants score the same, how will the Commission handle that the tie?

COMAR 10.62.08.06 and 10.62.19.05 state that “if there are more qualified Applications than number of licenses available and there is a numerical tie for the last license to be issued, the license shall be determined by public lottery.”

210. Will the Commission award two licenses for the same county?

The Commission will not consider geographic location in the scoring of Applications for medical cannabis grower licenses. It would be possible for two Stage One Pre-Approvals for a license to be issued to businesses in the same county.

211. With regard to "Economically Disadvantaged Areas," how does an Applicant determine where a contractor is located? What if there are multiple owners with equal ownership interest, living in different locales?

Contractor location is determined by a majority of ownership. If a business is owned by two partners, each with a 50% share, then each partner would need to live in an Economically Disadvantaged Area to qualify as a majority of ownership. Please see the *Guidance for the Diversity and Socioeconomic Equity Questions* document for additional information.

212. How do you define "current" employee or contractor? Are Applicants expected to engage individuals for employment/consulting services and have an active payroll purely on speculation? Should "current" employee be interpreted to mean "prospective" employee, as in an individual or entity engaged with a letter of intent or the like, without compensation?

An Applicant is expected to submit a “Letter of Intent” for all employees and contractors identified in the Application that expresses the employees and contractors intent to accept employment or a contracting opportunity with the Applicant’s business entity if the Applicant is successful in being awarded a grower or processor license. Included in the Application Attachments is a Letter of Intent template that the Applicant must use for this purpose.

213. Will successful Applicants who do not follow through with Diversity Plans or employment of EDA residents have their Stage One Pre-Approval revoked, and will that allow for unsuccessful Applicants to be in line for licensure?

In order for an Applicant to be licensed as a medical cannabis grower or processor, the Applicant must substantially comply with its Application. Whether an Applicant has substantially complied with its Application is a case-by-case determination by the Commission. The Commission anticipates that if any Stage One Pre-Approval is rescinded, then the next highest ranking Applicant would be eligible for the award.

214. In Section V of the *General Instructions* for Denial or Disqualification of Application, if an Applicant does not agree with a denial or disqualification decision from the Commission, is there a process or procedure for the Applicant to appeal the denial or disqualification decision made by the Commission?

No. The Commission intends to consider issuing medical cannabis grower and processor licenses to those who meet certain minimum requirements, and these minimum requirements include achieving a certain ranking in the Application process. The decisions of the Commission are final.

215. On the Business and Economic Factors, has the Commission determined a minimum threshold amount for capitalization that would be deemed adequate to the Commission?

The Commission did not establish a minimum threshold for capitalization. Rather, an Applicant must demonstrate sufficient capital to fund and operate the proposed business, which will necessarily vary based on the size and scope of the facility and operations.

216. Will majority ownership of the Applicant business by a Maryland resident be a requirement for cannabis Applicants and if so, how many years of Maryland residency is required?

No, the Application does not require an owner or investor to be a Maryland resident.

217. Can a nonprofit organization be an owner of a grower/processor Applicant? If so, how would the Commission treat the “ownership” since nonprofit organizations do not have equity? Would the stakeholders or beneficiaries of the nonprofit be treated as “owners?” Would these stakeholders or beneficiaries be deemed eligible to qualify to receive the maximum point allotment on the Diversity Plan? Likewise, would this same reasoning apply for the Disadvantaged Equity scoring category?

Nonprofit entities are not prohibited from participating in the Maryland Medical Cannabis Program. However, the ownership structure of a nonprofit would make an Applicant unable to demonstrate that a specified percentage of its ownership interest is held by a Disadvantaged Equity Applicant/Member of the Most Disadvantaged Groups in the Medical Cannabis Industry. Stakeholders and beneficiaries of a nonprofit will not be treated as “owners” with respect to the scoring of the diversity factors.

218. In regards to the Diversity Plan Scoring Matrix on page 14-15 of the grower Application instructions, are these “Practices and Goals” intended to be inclusive and required, or are they meant to be guidance? For example, if the ownership group has at least 2/3 diversity, but the participant employees are only 1/2 diverse, would the Applicant still potentially qualify the “Exemplary Commitment to Diversity” or would the 1/2 employee diversity mean that they could only qualify for the “Significant Commitment to Diversity” category? Stated another way, would the Applicant be required to meet all of the components listed in the “Practices and Goals” in order to be considered under that category?

Evaluators will use the Diversity Plan Scoring Matrix when scoring Applications. Applicants must demonstrate that their Diversity Plan meets the benchmarks laid out in the Diversity Plan Scoring Matrix.

219. COMAR 10.62.08.02 and 10.62.19.02 both have a list of Addenda that should be included with an Application. Many of these Addenda appear to be duplicative of targeted questions within the Application. Moreover, the draft Applications only require Addenda for three categories (page 21 of Draft grower Application and Draft processor Application). Can you please clarify this discrepancy? If information in the Addenda would merely be duplicative, should that specific Addenda still be included in the Application? Is there a word limit to Addenda requirements? Will any points be awarded for information contained in Addenda? For example, if a security plan Addendum (such as a facility plot plan with a security overlay) is attached will anything in the Addenda be considered for Section II scoring?

The Application and *General Instructions* have been revised to specify the questions for which Attachments are permissible. Attachments that correspond to questions in Part D of the Application will be evaluated as part of the scoring of the Application. The character count limits do not apply to the Attachments. Please see the *General Instructions* document for further guidance on Attachments.

220. Health-General Article § 13-3306(c)(3) authorizes an entity licensed to grow medical cannabis to grow and process medical cannabis on the same premises. Yet, there is no correlating regulation authorizing a grower to process on the same premises as there is for dispensaries, see Health-General Article § 13-3306(c)(1) and COMAR 10.62.14. If an Applicant is awarded both a grower and a processing license, are both the growing and processing permitted to occur on the same premises?

Yes, a medical cannabis grower and processor are permitted on the same premises.

221. For purposes of this Application is the “Applicant” the entity applying for the license or does the term also apply to the individual owners?

An Applicant is the entity and the individual who is an owner of the entity and submitting the Application on behalf of all of the owners and investors.

222. Correspondingly, are only the previous 5 years of tax returns of the applying entity required or are the previous 5 years of each owner of the applying entity also required?

Part E – Supporting Documentation requires the Applicant to submit tax information for each jurisdiction in which the Applicant has operated a business for the 5 years before filing the Application. This requirement applies to the “entity” applying for the license. Separately, individual owners/investors may need to provide detailed financial information to (1) demonstrate they meet the Personal Net Worth cap or (2) the Applicant has adequate capitalization.

223. With respect to Economically Disadvantaged Areas for Part D, Section VI scoring, are only Economically Disadvantaged Areas in Maryland considered for scoring purposes?

Yes, only Economically Disadvantaged Areas in Maryland are considered for scoring purposes.

224. If the cultivator or processor plans to operate in an Economically Disadvantaged Area, is that taken into consideration or awarded any points?

No, the location of the Applicant’s intended operations is not considered for scoring purposes on the Application.

225. When the Application asks for “current” employees or “current” contractors, is this only employees or contractors at the time of Application submission?

Yes, the word “current” indicates that the Application seeks information on employees or contractors identified at the time of submission. However, in order to be licensed by the Commission, a successful Applicant will need to demonstrate it has substantially complied with its Application, including with respect to its employees and contractors.

226. Would a policy and plan for ensuring at least 50% of future employees and contractors are from an Economically Disadvantaged Area be taken into consideration or awarded any points?

The scoring criteria for the Economically Disadvantaged Area question is included in the *General Instructions* document under the section entitled Scoring of Diversity and Socioeconomic Equity Questions. A policy and plan for hiring at least 50% of future employees from EDAs may also be part of the Applicant's Diversity Plan.

227. For the Diversity Attestation in Attachment A, do only Maryland residents qualify for diversity status or may a resident of any state submit a diversity attestation?

A resident of any state may submit a diversity attestation.

228. The Application states that the ownership interest for disadvantaged applicants must go beyond the *pro forma* ownership as reflected in organizational documents and his/her contributions of capital to acquire an ownership interest in the business and the adequacy of its resources must be real, substantial, and continuing. Does this require the ownership interest to directly relate to capital contributions?

The capital contribution does not need to directly relate to the equity interest. Please see the *Guidance for Diversity and Socioeconomic Equity Questions* for further information on capital contributions by Disadvantaged Equity Applicants.

229. Does this Application look at the capital contributions at the time of Application submission or does it also look to future capital commitments?

The Application looks to both current capital contributions available at the time of the Application, as demonstrated via bank statements, lines of credit, and deeds, appraisals, and equity in real estate, etc., as well as future capital commitments such as promissory notes.

230. If the Applicant entity has sufficient capital and/or promises for funding, would the individual owner need separate proof of capital or funding to meet this Disadvantaged Equity Applicant requirement?

Yes, individual owner(s) and/or investor(s) must have an equity interest in the Applicant business that meets the specified percentage of ownership interest to qualify as a Disadvantaged Equity Applicant. Please see the *Guidance for Diversity and Socioeconomic Equity Questions* for further information on capital contributions by Disadvantaged Equity Applicants.

231. Under Part D, Section V, should the examples of documentation of capitalization be included within the Application or as a separate Addenda provision?

Documentation of capitalization should be uploaded as separate Addenda.

232. For the proposed grower location, must the Applicant hold a property interest in the proposed location in the form of ownership or an option to buy/lease? Would it be sufficient to state where the Applicant intends the location to be, perhaps through negotiations with the property owner, and if the negotiations fall through, use the license at another location?

The proposed facility location and the type of property arrangement (e.g., owned by Applicant, leased by Applicant, and option for the Applicant to lease/buy) will not be considered for competitive scoring of the Application. However, if an Applicant is successful in being awarded a Pre-Approval, the Applicant must demonstrate that the premises upon which the Applicant intends to operate are under the legal control of the Applicant and comply with all zoning and planning requirements prior to licensure.

233. The Application utilizes the following terms for Part B: “Principal Owners;” “Equity Investors;” “Managing Directors.” Can the Commission provide guidance on where these terms are specifically defined, as they do not appear to be listed in COMAR 10.62.01.01?

The terms are not defined in COMAR 10.62.01.01 or in the Application. Any individual or entity with an equity interest in the Applicant entity (e.g. owners and investors) as well as managing directors should be listed in Part B.

234. Regarding “investors of interest,” can you please clarify what background information and documentation is needed for investors with a 4.99% or less stake in the business?

The criminal background check referenced in COMAR 10.62.08.03 (growers) and 10.62.19.02 (processors) is required only for successful Applicants who receive a Stage One Pre-Approval for a medical cannabis grower or processor license. Applicants do not need to submit criminal background information as part of the Application. Investors with a 4.99% or less stake in the Applicant business are not required to be identified in the Application. (See COMAR 10.62.08.02C(2) (growers) and COMAR 10.62.19.02B(2) (processors).

235. The “Part C: Employees and Contractors” section of the grower and processor Application is scored on a Pass/Fail basis. Can you please clarify further what criteria, such as the specific quantity and/or qualifications that are necessary to “Pass” this section? Conversely, what may cause an Applicant to “Fail” this section?

Failure to complete Part C would result in an Applicant failing this section. To pass Part C, the Applicant must identify all employees and contractors. An Applicant must also submit a “Letter of Intent” for all employees and contractors identified in the Application that expresses the employees’ and contractors’ intent to accept employment or a contracting opportunity with the Applicant’s business entity if the Applicant is successful in being awarded a grower or processor license. Included in the Application Attachments is a Letter of Intent template that the Applicant should use for this purpose.

236. How and why were the word limits for responses determined? It seems as though the Commission is not only restricting the Applicant’s ability to fully respond to the broad scope of requirements to be addressed, as well as the Commission’s ability to identify the most qualified candidates when imposing arbitrary limits that do not exist in the true operation of the business. These processes and procedures are the backbone and foundation which should be critically evaluated to ensure the safety of Maryland patients and employees; however, the restrictive word counts will allow only the highest-level of summarization. Would the Commission consider allowing a higher word count, or the addition of SOP Amendments which adequately document these imperative processes?

The Commission has changed section word counts to question character counts and clarified the questions for which an Applicant is permitted to upload supporting documentation. The character count limits were set for certain questions to more fairly level the playing field among Applicants as well as to encourage Applicants to condense their responses down to the most important points. Character counts were also established to enable the Applications to be reviewed and evaluated more expeditiously. Please see the *General Instructions* document for additional information.

237. Are you grading the redacted copy of the Application or the unredacted copy?
Only the redacted copies of Applications, devoid of identifying information as specified in the *General Instructions*, will be evaluated by the Commission.

238. How does the Commission view an Applicant that is an out-of-state company that is MBE owned in Maryland?
The Application does not establish a Maryland residency requirement.

239. COMAR 10.62.01.01B.(28)(b)(i) states that “Personal net worth” does not include “[t]he individual’s ownership interest in the Applicant or a certified minority business enterprise.” Would this include: A business classified as Small Disadvantaged Business or Minority Owned Business in SAM (System For Award Management)? Include any Small Business certifications?
The personal net worth exception applies only to exclude the value of an individual’s ownership interest in the Applicant entity and any Minority Business Enterprise entity certified by the Maryland Department of Transportation from that individual’s personal net worth.

240. Are there regulations and or restrictions on the amount of [extracted] output a processor can produce within a specific time frame?
A copy of the current regulations may be viewed at the Division of State Documents website: <http://www.dsd.state.md.us/COMAR/searchall.aspx>.

241. Is there any limitation on the number of growers a processor can have a professional business relationship with?
No. There is no limit on the number of growers a processor may conduct business with in Maryland.

242. Will having a property ‘under control’ through a Letter of Intent or purchase agreement give the Applicant a higher score?
The proposed facility location and the type of property arrangement (e.g., owned by Applicant, leased by Applicant, and option for the Applicant to lease/buy) will not be considered for competitive scoring of the Application. However, if an Applicant is awarded Stage One Pre-Approval, the Applicant will need to demonstrate that the premises are under the legal control of the Applicant prior to licensure.

243. Pertaining to the timeline, does the Commission look more favorably on operations that will begin operating by a certain date? Is there a deadline for the business to become operationalized? Pertaining to the timeline, is there a preferred time to bring the Applicant business to market in the eyes of the Commission?

Maryland law requires an entity to be operationalized and licensed within 12 months of receiving a Stage One Pre-Approval. See Health-General Article § 13-3311.1. However, if the Applicant can demonstrate to the Commission that the failure to become operational was due to unforeseen hardship beyond the control of the Applicant, the Commission may extend the time frame to become operational for an additional 12 months before rescinding the Stage One Pre-Approval.

244. With regards to facility size and the desired square footage, it is difficult to estimate current market conditions. Will the Commission provide the size of the current operators?

Current licensees vary significantly in the size and scope of operations. The Commission anticipates that Applicants will vary significantly in the size and scope of operations as well.

245. Can Applicants use contingent equity financing? (e.g., capital commitments would be met by selling shares in the company.)

Market capitalization (i.e. capital commitments met by selling shares in the company) is an acceptable form of capitalization. Other examples of acceptable documentation of capitalization include: (1) Personal tax returns for the past five years; (2) Tax returns for any business in which the owner/investor holds a majority interest for the past five years; (3) An independent financial statement; (4) Credit history; (5) Lines of credit; (6) Promissory notes; (7) Deeds, appraisals, and equity in real estate; and (8) Bank statements.

246. The Application asks for examples of documentation of capitalization including: “personal tax returns,” “credit history,” “tax returns for businesses in which the owner/investors holds a majority interest for the past five years.” Are all of these examples of documentation required if the Applicant business can show proper capitalization without their inclusion? If they are required, are all board members, officers, etc., required to submit?

No, all of these examples of documentation are not required if the Applicant’s owners/investors are able to demonstrate adequate capitalization via other acceptable sources. However, the Applicant must include as Addenda to the Application a record of tax payments in all jurisdictions in which an Applicant has operated as a business for the 5 years before the filing of the Application. Please also note that the Commission will verify all information provided in the Application documents and may request any additional information the Commission determines is necessary to process and fully investigate an Application.

247. Will the Commission credit points under ‘Disadvantaged Equity Applicant’ for an Application which includes a commitment for equity financing that could result in that person’s equity stake falling below 51%?

The award of a license is contingent upon an Applicant demonstrating its organization conforms to the specifications of the Application as pre-approved. If an Applicant’s Application asserts that at least 51 percent of its ownership interest is held by an individual or individuals who are Disadvantaged Equity Applicants or Members of the Most Disadvantaged Groups in the Medical Cannabis Industry, then that Applicant may not meet the requirements for a final license if those specifications change. As previously stated, examples of acceptable documentation of capitalization include: (1) Personal tax returns for the past five years; (2) Tax returns for any business in which the owner/investor holds a majority interest for the past five years; (3) An independent financial statement; (4) Credit

history; (5) Lines of credit; (6) Promissory notes; (7) Deeds, appraisals, and equity in real estate; and (8) Bank statements.

248. Will financing that includes an option to purchase shares in the future disqualify the awarding of ‘Disadvantaged Equity Applicant’ points if it means in the future the persons equity could fall below 51%?

The award of a license is contingent upon an Applicant demonstrating its organization conforms to the specifications of the Application as pre-approved. If an Applicant’s Application asserts that at least 51 percent of its ownership interest is held by an individual or individuals who are Disadvantaged Equity Applicants or Members of the Most Disadvantaged Groups in the Medical Cannabis Industry, then that Applicant may not meet the requirements for a final license if those specifications change.

249. Are there any scenarios where equity financing can be used and not sacrifice ‘Disadvantaged Equity Applicant’ points?

The award of a license is contingent upon an Applicant demonstrating its organization conforms to the specifications of the Application as pre-approved. If an Applicant’s Application asserts that at least 51 percent of its ownership interest is held by an individual or individuals who are Disadvantaged Equity Applicants or Members of the Most Disadvantaged Groups in the Medical Cannabis Industry, then that Applicant may not meet the requirements for a final license if those specifications change.

250. Is there a percentage required to be considered a principal owner?

The Commission has not established a minimum ownership stake for consideration as a principal owner. Any individual or entity holding an equity interest in the Applicant business should be included in Part B of the Application. Further, the Application has been amended to delete the term “principal” concerning the owners that must be listed in Part B. Therefore, an Applicant must list all owners.

251. How does the Commission differentiate a ‘principal owner’ from an ‘equity investor’?

These terms are not defined in COMAR 10.62.01.01 or the Application. Any individual or entity holding an equity interest in the Applicant business should be included in Part B of the Application. Owners, unlike investors, also have control over the Applicant entity via management of the Applicant business’s operations. Further, the Application has been amended to delete the term “principal” concerning the owners that must be listed in Part B. Therefore, an Applicant must list all owners.

252. Would a financial structure where the Applicant company receives a loan from owners of 49% equity, and where the disadvantaged equity owners promise to repay the loan with preferred returns and interest and the disadvantaged equity owners will remain involved in the operation satisfy the requirements that the disadvantaged owners contribute real, substantial, and ongoing capital to the Applicant company? Is this structure disallowed by the prohibition of promises of future capital contributions in exchange for equity (page 16 of the grower Application)?

This financial structure may be permissible. However, ownership interest is a factual determination which will be considered on a case-by-case basis, in consideration of all facts in the record. Please see the *Guidance for the Diversity and Socioeconomic Equity Questions* document for further information on permissible capital and labor contributions.

253. Will the Commission be reviewing the Applications with a favor towards smaller operations that require less capital to operate or is the size of the operation truly irrelevant as long as it is capitalized adequately?

The size of the operation is not relevant to the evaluation of the Application as long as the operation is adequately capitalized.

254. Are Disadvantaged Equity Applicants permitted to take a loan as the real and substantial capital contributions for their 51%+ stake in the Applicant ownership?

Yes, lines of credit (or loans) are an acceptable form of capitalization. Please see the *Guidance for the Diversity and Socioeconomic Equity Questions* document for further information on permissible capital and labor contributions.

255. Are there any types of traditional loan structures that the Commission will not allow for disadvantaged equity owners to establish their real and substantial contributions for 51%+ stake ownership interest?

No.

256. If a group of disadvantaged minorities pooled their money together to form a corporation, LLC, or other corporate entity for purposes of owning and/or operating 51% or more of a Maryland grower, processor, or dispensary licensee, would that entity qualify as a Disadvantaged Equity Applicant?

The Commission is unable to provide a response based on the limited information provided in the hypothetical scenario.

257. How much medical cannabis does the Commission anticipate the new grower/processor licensees will provide to the market in Maryland?

The Commission does not have an estimate on the amount of medical cannabis any new medical cannabis growers and processors may provide to the Maryland program.

258. Can an Applicant be named on more than one Application in different capacities? For example, can an Applicant apply as an owner in one Application; then, as an employee or some other role in another Application for grower/processor?

Pursuant to COMAR 10.62.08.02F, an individual may hold an ownership interest in only one Application for a grower license. An individual may hold an ownership interest in more than one Application for a medical cannabis processor license; however, that individual may only have an ownership interest in one medical cannabis processor license. Moreover, an individual may not be listed as an employee or contractor in more than one Application in each licensing category.

259. What does the wording in the Application mean where it says an employee or a contractor may commit to working for only one grower/processor Applicant as part of this licensing Application process? For example, if an employee or a contractor has a niche, such as by being a physician, can the physician be on two separate Applications in the same licensing category?

No. An employee or a contractor of a grower or processor (including a physician or other employee with specialized expertise) may only be named on one grower and one processor

Application. The selection of a physician as an employee/contractor for an Applicant's business may impact the scoring of the Application.

260. Can an Applicant submit a “draft” version of an Application or is it final when the Applicant uploads the Application to the online portal for submission?

An Applicant may work on the Application in stages at different dates/times, if desired. The Application is not final until the Applicant presses the submit button. Once an Application is submitted, it may not be revised. The Commission encourages Applicants to utilize the available pdf versions of the Application and its Attachments to develop responses, then upload all attachments and then copy and paste completed answers from draft documents into the Application at one time to ensure all required information is included in the Application.

261. Can an Applicant submit more than one Application for the same type of license under a different team name or limited liability company (LLC)?

No. Pursuant to COMAR 10.62.08.02F, an individual may hold an ownership interest in only one Application for a grower license. However, pursuant to COMAR 10.62.19.02D, an individual may hold an ownership interest in more than one Application for a medical cannabis processor license, but any party applying for a license shall have an interest in only one processor license. Only one license will be awarded to an Applicant, regardless of the number of Applications submitted, and employees and contractors may only be associated with one Application in each license category.

262. In the event that a Stage One Pre-Approval is rescinded, does a previously unapproved runner-up replace the rescinded Applicant?

If a Stage One Pre-Approval is rescinded, the Commission would have authority to consider awarding the Stage One Pre-Approval to the next highest scoring Applicant, as ratified by the Commission.

263. Can Applications include images and diagrams? Can images and diagrams be attached? If so, do they count against the word limit?

The online Application will not allow tables or similar pictorial representations to be inserted into the narrative text boxes. Applicants may upload supporting documentation for the questions where it is expressly allowed which may include images and diagrams that will not count against the character limit. An Applicant should supply documentation only if specifically requested in the Application. Those documents should be attached as Addenda, and not pasted into the Application. Finally, in attaching any documentation in support of the Application, the Applicant should remember to follow any redaction requirements.

264. Does the inclusion of headers, footers, page numbers, captions, or packaging labels count against word count limits?

No, those elements would not count against the character count limits. Please see the *General Instructions* document for further guidance on character counts and attachments.

265. Please advise if members of an advisory board of a grower or processor are required to submit to fingerprints and consent to a background investigation.

The criminal background check referenced in COMAR 10.62.08.03 (growers) and 10.62.19.02 (processors) is required only for successful Applicants who receive a Stage

One Pre-Approval for a medical cannabis grower or processor license. Applicants do not need to submit criminal background information as part of the Application.

266. Are there any restrictions on the corporate/capital structure of the medical cannabis grower or processor business? It appears that all the successful licensees from 2015 were limited liability companies (LLCs), not one S- or C-Corporations. Is there some part of the statutes/regulations that require or suggest that an LLC is the preferred business structure?

No. Commission statute or regulation does not restrict or create any preference for a particular corporate structure of a medical cannabis licensee.

267. Can a certifying provider have an ownership interest in a medical cannabis grower, processor, or dispensary?

No. Health-General Article §13-3304(f)(1) provides that a certifying provider or the spouse of a certifying provider may not receive any gifts from or have an ownership interest in a medical cannabis grower, a processor, or a dispensary.

268. If an Applicant is applying for a grower license and a processor license, can the Applicant identify any of the same employees and contractors for both license Applications?

Yes. An Applicant can have the same employees/contractors on both a grower and processor Application.

269. Are there any restrictions on State employees when it comes to being an owner of a medical cannabis business?

Health-General Article §13-3305.1 prohibits a constitutional officer or a secretary of a principal department of the Executive Branch of the State government from being an owner or employee of any business entity that holds a medical cannabis license. Beyond that, the Commission's statutes do not ban such relationships. The Commission cannot speak to employer requirements or ethical obligations.

270. Is the use of predator mites as a remediation of certain types of bug infestations allowed?

Yes, the use of predator mites to remediate bug infestations is permissible.

271. If one has a grower, processor, and/or dispensary license in Maryland, can that entity open the grower, processor and/or dispensary business anywhere in the State or just the county where the license is issued?

After an Applicant secures a grower, processor, or dispensary Stage One Pre-Approval, the Applicant will have to build out its operating premises according to the specifications of the pre-approved Application. Those operating premises will be the only operating premises allowed under that license unless and until the licensee requested and received Commission approval for a change of location, pursuant to COMAR 10.62.08.09 (relocation of grower), 10.62.19.08 (relocation of processor), and 10.62.25.09 (relocation of dispensary).

272. Do the 'potential' grower and processor agents identified in an Applicant's Diversity Plan who sign Attachment A - Diversity Attestation also have to complete Attachment F – Authorization for Release of Information?

Yes. Attachment F must be completed by all grower and processor agents that the Applicant has hired or intends to hire for the Applicant's medical cannabis business.

273. I am of Asian and Afro-Hispanic descent. Would I qualify as 'a member of the most disadvantaged groups in the medical cannabis industry, as defined by the Commission?'

For purposes of the new Application, COMAR 10.62.01.01B(10)(a)(i) defines "African American as "an individual having origin in any of the black racial groups of Africa." COMAR 10.62.01.01B(10)(a)(iv) defines "Hispanic" as "an individual of Mexican, Puerto Rican, Central or South American, or other Spanish culture or origin, regardless of race."

It is important to note that for purposes of reviewing the Application, status as a member of a minority group shall initially be established on the basis of an individual's claim of group membership on a completed Application Attachment B claiming Disadvantaged Equity Applicant status or Attachment E if claiming membership in one of the most disadvantaged groups in the medical cannabis industry. However, the Commission is not required to accept this claim, and it may require that the Applicant provide further documentation to demonstrate that the claim is valid. The Commission will consider information demonstrating group membership, including but not limited to, group association, recognition as a group member by a particular community, and identification as a member of the group over a long period of time prior to the Application

274. Does the term "veteran" include individuals who are currently serving in the armed forces, or is this term limited to retired and/or non-active duty members of the armed forces?

The Diversity Plan section of the Application provides up to 5 points for Applicants who demonstrate diversity in the Applicant's goals for ownership, management, employment, and contracting to ensure that diverse participants and groups are afforded equality of opportunity.

Veteran participation is a way in which an Applicant can develop the Applicant's Diversity Plan. Veteran for purposes of the Diversity Plan applies to those currently serving in the armed forces as well as retired and non-active duty members.

275. Are veterans included as a minority in the provision that refers to 51% of an Applicant's ownership interest being held by one or more Disadvantaged Equity Applicants or individuals who are members of the most disadvantaged groups in the medical cannabis industry?

No, one's status as a veteran is not relevant to whether an individual qualifies as a Disadvantaged Equity Applicant. The individual must meet the definition of Disadvantaged Equity Applicant under COMAR 10.62.01.01B(10) (African American; American Indian/Native American; Asian; Hispanic or a Woman) and meet the Personal Net Worth cap of not more than \$1,713,333. Please note that the Commission identified that African Americans and American Indian/Native Americans are the most disadvantaged groups in the medical cannabis industry as reflected in the disparity analysis ordered by Governor Hogan and conducted by NERA Economic Consulting.

276. In the Economically Disadvantaged Area (EDA) section of the Application, one of the qualifying criteria applies if the Applicant has at least 51 percent of its ownership interest held by one or more individuals who have lived in an EDA for

5 of the preceding 10 years. Does an owner need to live in the EDA for at least 5 consecutive years of the preceding 10 years?

No, the 5 years spent living in an Economically Disadvantaged Area do not have to run consecutively.

277. Will the previous rankings of minority-owned companies be taken into consideration in the current Application cycle?

No. The 2019 Application evaluation will not consider any Applicant's prior ranking or evaluation for a Maryland medical cannabis license.

278. Please explain how the evaluation process is a blind process even though the Applicant is not required to redact addresses from the Application. An evaluator could easily use an Internet search engine (e.g. Google) to find out the identities of individuals named in an Application.

Addresses must be included for determining whether an Applicant fulfills the criteria in the Economically Disadvantaged Areas section of the Application. Each evaluator will be required to sign an Attestation, affirming under penalties of perjury, that the evaluator will conduct an objective assessment of each Application to determine which Applicants are best qualified to be awarded a license according to the criteria set forth by the Commission. Included in the Attestation is a provision requiring the evaluator to attest that he or she will not take any steps to attempt to learn, confirm, or otherwise discover the identity of any entity or individual associated with the Application.

279. This question corresponds to the Application under VI. Diversity & Social and Economic Equity Factors, 2. Disadvantaged Equity Applicant/Members of the Most Disadvantaged Groups in the Medical Cannabis Industry, Part I and II (p.18). In order to receive the full 5 points, please confirm that the same African American or American Indian/Native American owners can be identified to meet the criteria for both Parts I and II of VI.2. (pages 18, 19 (grower Application) and pages 17, 18 (processor Application)).

Yes, that is correct. The most disadvantaged groups in the medical cannabis industry, African Americans and American Indians/Native Americans, who meet the PNW cap fall within a subset of the definition of Disadvantaged Equity Applicants. Therefore, the same individuals can meet the criteria for both Parts I and II under the Diversity & Social and Economic Equity Factors section. An Applicant only needs to meet the criteria in Part II by having at least 51 percent ownership interest held by African Americans or American Indians/Native Americans, or demonstrate good faith efforts to achieve such ownership, to receive the full 5 points. Applicants who meet the criteria in only Part I concerning Disadvantaged Equity Applicants will receive 3 points.

280. Who from the State will be following up on Applicants that promise good faith efforts to have a specified percentage of its ownership interest held by Disadvantaged Equity Applicants or the most disadvantaged groups in the medical cannabis industry in the future? The "Good Faith Efforts" part of the Application appears to allow an Applicant business to achieve points and increase its chances of acquiring a license as long as the Applicant promises "good faith" with an "attempt" to employ minorities.

The Good Faith Efforts requirement applies to past efforts to identify minority investors to participate in the Applicant's business.

281. Will the finalized Application include more points for having minority ownership?

No. The 15 out of 100 points based on Diversity & Social and Economic Equity Factors reflect a significant effort to encourage minority and women participation in the medical cannabis industry. The diversity factors in the new Application make it the strongest in the nation for increasing diversity in the industry. An Applicant must score well on the Diversity Factors of the Application in order to have a reasonable chance of being awarded a license.

282. Please clarify the Application-related consequences for individuals who have developed or implemented a medical cannabis educational and business development training grant issued by the Commission.

There is a mandatory denial or disqualification of an Application if the Application discloses that the Applicant participated in developing or implementing a medical cannabis educational and business development training grant issued by the Commission.

283. Do I need a lobbyist for my Application to be considered? If not why is it being suggested that it is in my best interest to have one?

An Applicant does not need a lobbyist to complete or submit an Application or have an Application submitted. The Commission will evaluate the Applications through blinded, independent third-party evaluators. An Applicant receives no points or preference on the Application for retaining the services of a lobbyist. The Commission has never suggested that any Applicant retain the services of a lobbyist.

Application Q&As Received After February 11 at 5 p.m.

284. Is there a word count MINIMUM for each question in the Application?

No.

285. Does the Commission consider Supercritical CO₂ extraction technology solvent-based or solvent-less?

Supercritical CO₂ extraction technology is solvent-based.

286. Can hemp and CBD be provided from growers outside of licensed Maryland medical cannabis growers (just as the other herbal extracts would be, i.e., lavender, coconut oil, etc.)

A licensed processor may only acquire CBD from a licensed Maryland grower, unless authorized by the Commission pursuant to COMAR 10.62.23.03.

287. Do any of the signatures need to be delivered in wet ink?

No, signatures required on the application do not need to be delivered in wet ink.

288. If information in the addenda would merely be duplicative, should that specific addenda still be included in the Application?

The Application's *General Instructions* specify which Attachments are permitted or required. Applicants must include all of the required Attachments.

289. Should student loan debt should be considered a liability on the Personal Net Worth Statement? Should Applicants include a 401(k) account when calculating assets?

Yes, student loan debt is a liability for purposes of calculating Personal Net Worth. Conversely, a 401(k) should not be included in the calculation of Personal Net Worth. COMAR 10.62.01.01(28) excludes qualified retirement savings plans and individual retirement accounts from Personal Net Worth. A 401(k) plan is a qualified retirement savings plan, and therefore, should be excluded.

290. How many licenses can an Applicant apply for during the next licensing round? Is an Applicant limited to the number of licenses the Applicant may apply for in a geographic area, and is an Applicant limited with respect to the type (growing/processing) of licenses the Applicant is permitted to apply for? E.g., Is it permissible for an Applicant to apply for three grower licenses and three processor licenses in different locations?

An Applicant for a medical cannabis grower license may only submit one Application. There is no cap on the number of Applications an Applicant for medical cannabis processor license may submit. A separate non-refundable \$2,000 Application fee must be submitted with each Application. It is also important to remember that an Applicant may only be awarded one license in each licensing category (e.g. one medical cannabis grower license and one medical cannabis processor license).

291. Will Applicants be scored on Part E - Supporting Documentation? If so, how many points are allotted for Part E overall and for each of the required Addenda? Or, if Part E is pass/fail, what are the minimum requirements to pass?

Part E of the Application is not scored. However, an Applicant must submit the required documents outlined in Part E. If the documents are not included, the Commission will contact the Applicant who will be given up to 14 business days to cure. Failure to submit the requested documents within 14 days of the request will result in mandatory disqualification.

292. I am interested in submitting an Application for a grower license, but I was wondering how much cannabis growers are required to produce.

There is no minimum cannabis production requirement for a licensed medical cannabis grower.

293. Can multiple Applicants apply using the same property?

Yes, an Applicant may apply for a grower and processor license using the same property. If a medical cannabis grower Applicant and medical cannabis processor Applicant intend to locate on the same property, the premises of the licensed grower and processor must be separate. If two Applicants in the same licensing category apply using the same property and both are awarded Stage One Pre-Approvals, arrangements will have to be made for one of the Applicants to locate a new property prior to final licensure. Please note that location of the proposed property is not part of the competitive scoring of the Application.

294. If someone is on an Application in another state, can they be on an Application in Maryland?

Yes, individuals may apply in Maryland and other states simultaneously.

295. **Can you provide guidance to Applicants about whether to repeat information across their responses when the questions have overlapping content? For example, Part D Section I Question 3 - Horticultural Controls of the grower Application asks for “the type and rate at which any pesticides will be used,” and Part D Section IV Question 6 - Pesticide Monitoring and Controls asks for “the integrated pest management practices and techniques the grower Applicant will use.” Do you expect Applicants to include pesticides in both locations?**

Applicants are expected to answer each question fully. Points will be allocated based on the quality and completeness of the answer for each question.

296. **How many stages or gates are there in the entire online Application process (how many “submit” buttons in total)? If more than two, are the stages/gates successive, and are each closed once submitted?**

There are three successive stages to the online Application process: (1) Parts A-C, consisting of Applicant contact information; (2) Part D and Attachments, devoid of identifying Applicant/Business name information; and (3) Part D redacted of trade secrets/confidential financial data and two copies of all Attachments (a) unredacted and (b) redacted of trade secrets and confidential financial data. Once an Applicant submits any of the three parts of the Application, that stage of the Application is closed and the Applicant is not permitted to return and make any revisions.

297. **In Part D Section IV Question 2(b) of the processor Application, does “the original point of processing” refer to a grower or other processor from whom the Applicant receives products, or to a room within the Applicant’s processor facility where items are packaged?**

The original point of processing refers to the Applicant’s processor facility where items are processed.

298. **The following instructions in the *General Instructions* for both Applications seem to be in conflict. From Section IV after Application submission, it reads “Should the Commission request any additional information that it determines is necessary to process and fully investigate an Application, the Applicant shall provide the additional information within 5 business days after the request has been sent to the Applicant.” Section V states reasons an Application will be denied and states “Failure to provide any additional information requested by the Commission within 14 business days.” Please clarify which is correct regarding how long Applicants will have to provide additional information requested by the Commission.**

Failure to provide the additional requested information within 14 business days of the request is grounds for mandatory denial or disqualification of the Application.

299. **Section VII.3 of the *General Instructions* for both Applications states that Applicants must “satisfy the statutory burden of justifying any claim of trade secret information and/or confidential financial data.” However, there does not appear to be anywhere specified in the Application to provide such justification. In what format should Applicants provide this information?**

The justification for any claim of trade secret and confidential financial data should be uploaded as part of Attachment H – Trade Secret & Financial Data Notification.

300. **Attachment I for both Applications refers to “statutory requirements listed above,” but there are no statutory requirements listed in the Attachment. To what statutory requirements does this refer?**

The authority for the investigation and information that the Commission may obtain under Attachment I are established in the Commission’s regulations under COMAR 10.62.08.04.

301. **Should the redacted copy that must be redacted of trade secrets/confidential financial data also be redacted of Applicant identifying information?**

Any Attachment redacted of trade secrets/confidential financial data must contain Applicant identifying information.

302. **On the final grower & processor Applications, there are character limits for the answers to the questions on the Application instead of word limits. In Microsoft Word documents, there is a word and character count feature, yet there are two options for character counts, Characters (no spaces) and Characters (with spaces). Which choice should be used to count the characters on the Applications?**

The character count in the Applications include spaces.

303. **Does space between the words or punctuation marks - period, question mark, exclamation point, comma, semicolon, colon, dash, hyphen, parentheses, brackets, braces, apostrophe, quotation marks, returns - count towards the character count limit set for each question in the Application?**

Please see the response to Question 26 above. Spaces in the text responses count toward the character limits.

304. **Do contractors have to complete Attachment F and, therefore, consent to a background check investigation upon Stage One Pre-Approval?**

No. Contractors do not have to complete Attachment F.

305. **Does any person who completes Attachment K – Letter of Intent have to complete Attachment F – Authorization for Release of Information: Investor or Grower Agent?**

Attachment F must be completed by investors and grower agents (owners, employees, volunteers, officers, and directors). Attachment K must be completed by employees and contractors.