



## MARYLAND MEDICAL CANNABIS COMMISSION RESOLUTION

A Commission Resolution concerning

### **Ownership Interest of Less Than 5 Percent**

FOR the purpose of clarifying whether a person may hold less than a 5 percent equity interest in a certain number of publicly traded or privately held medical cannabis licenses under the Commission's authorizing statutes and regulations; allowing a person to hold less than 5 percent of more than 1 grower, 1 processor, and/or 4 dispensaries under certain circumstances; clarifying the definition of control of a medical cannabis license under the Commission's regulations; and generally relating to the transfer of ownership and control of a medical cannabis license.

WHEREAS, The Code of Maryland Regulations (COMAR) 10.62.01.01B.(35) states that "ownership interest" means "an equity interest in a licensed grower, processor, or dispensary, including in its shares or stock.";

WHEREAS, COMAR 10.62.01.01B.(10) states that "control" means "the authority to direct the management of a business through independent and unilateral decisions that guide the business; or the operation of technical aspects of the business.";

WHEREAS, COMAR 10.62.08.08E., 10.62.19.07E., and 10.62.25.08E. restrict the number of medical cannabis licenses in which a person may hold an ownership interest;

WHEREAS, COMAR 10.62.08.08B., 10.62.19.07B., and 10.62.25.08C. provide that a transfer of an ownership interest in a publicly traded company that is less than 5% does not require Commission review or approval;

WHEREAS, COMAR 10.62.08.12, 10.62.19.10, and 10.62.25.11 only require a licensee with publicly traded stock to file an annual ownership and control disclosure setting forth the name of any owners holding more than 5% of the voting shares, to the extent that information is known or contained in 13D or 13G SEC filings;

WHEREAS, The Commission adopted these exceptions to the transfer and reporting requirements for businesses with publicly traded stock because it would not be feasible for the Commission to track trading on a daily basis and enforce against any transfers of ownership that may violate the statutory or regulatory restrictions;

WHEREAS, The Commission recognizes that due to restrictions under federal law access to capital is limited for medical cannabis businesses, and access to capital is particularly limited for small-, minority-, and women-owned cannabis businesses;

WHEREAS, The Commission seeks to allow small-, minority-, and women-owned businesses to have access to the same pool of potential investors as businesses with publicly traded stock;


NOW THEREFORE BE IT RESOLVED, That the Commission hereby determines that a person may hold an ownership interest of less than 5 percent in more than 1 grower, 1 processor, and/or more than 4 dispensaries, as long as they do not have control over more than 1 grower, processor, and/or 4 dispensaries;

BE IT FURTHER RESOLVED, That whether a person has control of a medical cannabis business, as defined in COMAR 10.62.01.01B.(10), is a case-by-case determination made by the Commission based on a review of relevant aspects of the business's operations, including whether the holder of an ownership interest has the right or authority to: (1) appoint or remove directors, corporate level officers or their equivalent, (2) earn more than 5 percent of the profits or dividends, (3) execute contracts on behalf of the business; (4) make decisions regarding operations and strategic planning, capital allocations, acquisitions and divestments, (5) make marketing, production or financial decisions, or (6) exercise a significant influence over the corporate governance of the business;

BE IT FURTHER RESOLVED, That this resolution applies to a person who holds an ownership interest of less than 5 percent in a publicly traded or privately held medical cannabis business;

BE IT FURTHER RESOLVED, That the Commission directs staff to develop regulations that further clarify the circumstances under which a person may hold an ownership interest of less than 5 percent in more than 1 grower, more than 1 processor, and/or more than four dispensaries.

The above resolution was adopted by the Commission members at the April 13, 2022, meeting of the Maryland Medical Cannabis Commission.

  
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Tiffany D. Randolph, Esq., Acting Chair

04/13/2022

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Date