



The following guidance is provided by the Maryland Cannabis Administration (MCA) to assist existing medical cannabis businesses that convert to a standard medical and adult use license comply with new State laws and regulations governing cannabis that take effect July 1, 2023. This document is not legal advice. It is meant to highlight operational changes for **any transfers of ownership or control**. Please consult an attorney if you have any questions regarding the legal requirements that apply.

Secured Creditors and Receivership

Included in the proposed emergency regulations is a chapter allowing licensees to use their license as collateral for a loan. This chapter was previously approved by the Maryland Medical Cannabis Commission, but did not take effect prior to the passage of the Cannabis Reform Act. The emergency regulation is largely unchanged from the version that was approved by the Commission.

Under this chapter, a "secured creditor" may obtain a security interest in the proceeds of a sale of a cannabis license. A "secured creditor" is defined as a "lending institution defined under the Financial Institutions Article, §1-101, Annotated Code of Maryland that has been approved by the Administration to obtain a security interest in the proceeds from an Administration -approved sale of a grower, processor, or dispensary license." After the regulations take effect on July 1st, the MCA will provide interested lending institutions with a portal to submit documentation required for approval to become a "secured creditor" under this regulation. Once lending institutions have been approved, the MCA will provide updates on its website with the list of approved institutions.

Ownership and Control Restrictions

A person or entity **may not** have an ownership interest in or control of more than:

- 1 cannabis grower license (standard or micro);
- 1 cannabis processor license (standard or micro); and/or
- 4 cannabis dispensary licenses (standard or micro).

Transfer Restrictions

Converted Licenses

Businesses that convert a medical cannabis license to a standard medical and adult-use license are subject to a 5-year restriction on transferring ownership or control of a license. A business that converted on or before July 1, 2023 may not transfer a controlling ownership interest or control of the license prior to July 1, 2028, except under the following limited circumstances:

- Disability of the owner of the license;
- Incapacity of the owner of the license;
- Death of the owner of the licensee;
- Bankruptcy;
- Receivership in accordance with a lending agreement (Authorized in the new regulations discussed above); or
- Court order.

Important: if an entity that does not meet the definition of “secured creditor” seeks to obtain a security interest in the value of the license as part of a loan, MCA will not recognize that security interest as an exception to the 5-year transfer restriction.

Statutory Definitions

These restrictions only apply to a transfer of ownership or control of a license. Relevant terms defined in Title 36 of the Alcoholic Beverages and Cannabis Article include:

- “Owner” means a person with an ownership interest in a cannabis licensee;
- “Ownership Interest” means direct or indirect equity interest in a cannabis license, including shares or stock;
- “Control” means:
 - The decision-making authority over the management, operations, or policies that guide a business; or
 - Authority over the operation of the technical aspects of a business.
- “Control” includes:
 - Holding a right to veto significant events;
 - The right or authority to make or veto decisions regarding operations and strategic planning, capital allocations, acquisitions, and divestments;
 - The right or authority to appoint or remove directors, corporate-level officers, or their equivalent;
 - The right or authority to to make major marketing, production, and financial decisions; and
 - The right or authority to execute exclusive contracts or significant contracts in the aggregate of \$10,000 or greater on behalf of the licensee.

A “Passive Investor” is an individual or entity that:

- Holds an aggregate ownership interest of less than 5% in a cannabis license; and
- Does not have control of the license.

Important: The statutory prohibition against holding an ownership interest in more than 1 grower license, 1 processor license, and/or 4 dispensary licenses in Maryland **does not** apply to a person or entity that meets the requirements of a passive investor (e.g., less than 5% equity and do not have control of the licensed business).

Any complaint or information received by the Commission indicating an individual may have an unauthorized interest will be investigated.

MCA Application of Statutory Transfer of Ownership Restriction

“Transfer of ownership” of a cannabis license means the transfer of a controlling ownership interest in the license. The MCA considers the following to constitute transfer of ownership:

1. Transfers of 100% ownership interest of a license;
2. Transfers of 50% or more ownership interest of a license; or
3. Transfers of less than 50% ownership interest that convey a controlling ownership interest (e.g., License X is 60% owned by Investor A and 40% owned by Investor B; a proposed transfer of 20% from Investor A to Investor B would constitute a transfer of a controlling ownership interest).

The MCA will evaluate any request to transfer an ownership interest of a cannabis license to determine whether it proposes a restricted transfer of ownership.

MCA Application of Statutory Transfer of Ownership Restriction

A business may not transfer control of license until July 1, 2028. Indicia of control are included in the statutory definition (included above), which may also be viewed in Alcoholic Beverages and Cannabis Article, 36-101, Annotated Code of Maryland.

Questions?

Email mca.policy@maryland.gov or visit cannabis.maryland.gov.