

## **CABINET FOR HEALTH AND FAMILY SERVICES**

### **Office of the Secretary**

#### **(New Administrative Regulation)**

#### **915 KAR 1:020. Cannabis business licenses.**

RELATES TO: KRS Chapter 13B, Chapter 218B, 304.39-110, 523.100

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses. This administrative regulation establishes those procedures.

##### **Section 1. General Requirements for Cannabis Business Licenses.**

- (1) The cabinet shall issue a license, by name and address, to a cannabis business only for the specific location identified by the cannabis business during the application and issuance process. A license is only valid for the person or entity named in the license and only for the activity and location specified in the license.
- (2) A licensed cannabis business shall conspicuously display its license within the premises of the cannabis business in a manner that is visible to visitors upon initial entry into its facility.
- (3) A license shall not be issued to a cannabis business for operation within a personal residence or any other location where the cabinet or its authorized agents or law enforcement have limited access.
- (4) A license shall not be issued to a cannabis business for a site or facility located on lands owned by the United States of America or the Commonwealth of Kentucky.
- (5) A license is valid for one (1) year from the date of issuance as shown on the license.

##### **Section 2. License Fees for Cannabis Businesses.**

- (1) A cannabis business shall pay the applicable license fee by credit card or automated clearing house (ACH) transfer to the cabinet within fifteen (15) calendar days of receipt of the invoice from the cabinet. The cabinet shall not issue a license to a cannabis business that fails to timely pay the applicable license fee.
- (2) The initial nonrefundable license fees shall be:
  - (a) Tier I cultivator: \$12,000;
  - (b) Tier II cultivator: \$25,000;
  - (c) Tier III cultivator: \$50,000;
  - (d) Tier IV cultivator: \$100,000;
  - (e) Processor: \$25,000;
  - (f) Producer: \$25,000 plus the applicable cultivator tier initial license fee;
  - (g) Dispensary: \$30,000; and
  - (h) Safety compliance facility: \$12,000.
- (3) The annual renewal license fees, which are refundable if the renewal application is denied, shall be:
  - (a) Tier I cultivator: \$12,000;
  - (b) Tier II cultivator: \$25,000;
  - (c) Tier III cultivator: \$50,000;
  - (d) Tier IV cultivator: \$100,000;
  - (e) Processor: \$15,000;
  - (f) Producer: \$15,000 plus the applicable cultivator tier renewal license fee;
  - (g) Dispensary: \$15,000; and
  - (h) Safety compliance facility: \$12,000.

### Section 3. Initial Licensure of Cannabis Businesses and Use of Lottery.

(1) The cabinet shall publish notice of the number and category of cannabis business licenses available for distribution at the close of an initial license application period and provide the time frame during which initial license applications shall be accepted by the cabinet. This notice shall be published on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(2) In order to promote patient access to medicinal cannabis across the Commonwealth, the cabinet shall issue dispensary licenses within designated regions. The cabinet shall publish a map clearly identifying the medicinal cannabis regions on the Web site of the Kentucky Medical Cannabis Program. The eleven (11) medicinal cannabis regions in the Commonwealth are:

(a) Region 1 (Bluegrass): The geographical region comprised of the counties of Anderson, Bourbon, Boyle, Clark, Fayette, Franklin, Garrard, Harrison, Jessamine, Madison, Mercer, Scott, and Woodford;

(b) Region 2 (Kentuckiana): The geographical region comprised of the counties of Bullitt, Henry, Jefferson, Oldham, Shelby, Spencer, and Trimble;

(c) Region 3 (Northeast): The geographical region comprised of the counties of Bath, Boyd, Carter, Elliott, Fleming, Greenup, Lewis, Mason, Menifee, Montgomery, Morgan, Nicholas, Robertson, and Rowan;

(d) Region 4 (South Central): The geographical region comprised of the counties of Allen, Barren, Butler, Edmonson, Logan, Metcalfe, Monroe, Simpson, and Warren;

(e) Region 5 (Cumberland): The geographical region comprised of the counties of Bell, Casey, Clinton, Cumberland, Harlan, Knox, Laurel, Lincoln, McCreary, Pulaski, Rockcastle, Russell, Wayne, and Whitley;

(f) Region 6 (Mountain): The geographical region comprised of the counties of Breathitt, Clay, Estill, Floyd, Jackson, Johnson, Knott, Lawrence, Lee, Leslie, Letcher, Magoffin, Martin, Owsley, Perry, Pike, Powell, and Wolfe;

(g) Region 7 (Pennyrile): The geographical region comprised of the counties of Caldwell, Christian, Hopkins, Lyon, Muhlenberg, Todd, and Trigg;

(h) Region 8 (West Kentucky): The geographical region comprised of the counties of Ballard, Calloway, Carlisle, Crittenden, Fulton, Graves, Hickman, Livingston, McCracken, and Marshall;

(i) Region 9 (Lincoln Trail): The geographical region comprised of the counties of Adair, Breckinridge, Grayson, Green, Hardin, Hart, Larue, Marion, Meade, Nelson, Taylor, and Washington;

(j) Region 10 (Northern Kentucky): The geographical region comprised of the counties of Boone, Bracken, Campbell, Carroll, Gallatin, Grant, Kenton, Owen, and Pendleton; and

(k) Region 11 (Green River): The geographical region comprised of the counties of Daviess, Hancock, Henderson, McLean, Ohio, Union, and Webster.

(3) The cabinet shall issue at least four (4) dispensary licenses per medicinal cannabis region. For regions containing an urban-county government or a consolidated local government, the cabinet shall issue at least six (6) dispensary licenses, two (2) of which shall be issued to eligible cannabis businesses that physically locate their dispensary in the counties with an urban-county government or a consolidated local government. For all counties without an urban-county government or a consolidated local government, there shall be no more than one (1) dispensary per county.

(4) A dispensary licensee shall not change its retail location to another location within the same region without prior cabinet approval. A dispensary licensee shall not change its retail location to outside of the region where it was initially licensed.

(5) The licenses for cultivators, processors, producers, and safety compliance facilities are not subject to regional restrictions within the Commonwealth, and those licensees

shall operate at the physical address identified on their respective licenses.

(6) Applicants for initial cannabis business licenses who comply with all application requirements contained in KRS Chapter 218B and 915 KAR 1:010, and whose applications are deemed complete by the cabinet, shall be eligible to receive the license requested. If the number of eligible applications does not exceed the maximum number of licenses available within a cannabis business category following the close of an initial license application period, the cabinet shall provide written notice to the eligible applicants that a license shall be issued to them upon timely payment of the applicable license fee. When an eligible applicant timely pays the applicable license fee, the cabinet shall issue a copy of the license to the applicant that contains the cannabis business's name, license number, physical location, issue date, and expiration date.

(7) If the number of eligible applications exceeds the maximum number of licenses available within a cannabis business category following the close of an initial license application period, the cabinet shall conduct a lottery to issue the licenses for that cannabis business category. The cabinet shall notify the eligible applicants of their entry into the lottery and publicly announce the date, time, and manner of randomly selecting eligible applicants for the requested license. A lottery to select the licensees in each cannabis business category, as needed, shall be held in a manner that can be observed by the public.

(8) The cabinet may consult or contract with a third-party lottery operator or other public agencies with relevant expertise in conducting lotteries. The entity selected to conduct the lottery shall conduct an independent lottery for each cannabis business category where the number of eligible applicants exceeds the number of available licenses. The cabinet shall assign a number to each eligible applicant in each license lottery and maintain the confidentiality of the list(s) containing the eligible applicants and their assigned numbers until after the random drawings have occurred.

(9) The cabinet shall provide written notice to the eligible applicants selected through the lottery process that a license shall be issued to them upon timely payment of the applicable license fee. When an eligible applicant timely pays the applicable license fee, the cabinet shall issue a copy of the license to the applicant that contains the cannabis business's name, license number, physical location, issue date, and expiration date.

(10) The cabinet shall provide written notice to eligible applicants that were not selected through the lottery process informing them of the same.

(11) If at the conclusion of the lottery selection process an eligible applicant declines the license or fails to pay its license fee within the required timeframe, the cabinet may conduct supplemental license lotteries as needed until all available cannabis business licenses have been issued and initial license fees paid. For any supplemental lottery for a license within a cannabis business category, eligible applicants who were not previously issued a license through the lottery process for that cannabis business category shall be entered into the supplemental lottery if their selection would comply with any applicable geographic restrictions contained in this administrative regulation.

#### Section 4. Requirements for Licensees Prior to First Day of Cannabis Business Activities.

(1) Prior to its first day of cannabis business activities in the Commonwealth, a licensee shall provide written confirmation to the cabinet that:

(a) The licensee has complied and will continue to comply with all applicable requirements of KRS Chapter 218B, including KRS 218B.095 and 915 KAR Chapter 1, and shall make available all records and documentation verifying such compliance upon the request of the cabinet;

(b) The licensee has submitted its complete physical address and the global positioning system (GPS) coordinates for any cannabis business activities to the cabinet and confirmed its business is not located within 1,000 feet of an existing elementary or

secondary school or a daycare center. For the purpose of this administrative regulation, 1,000 feet shall be measured in a straight line from the nearest property line of an existing elementary school, secondary school, or daycare center to the nearest property line of the licensee's place of business. The cabinet shall have an opportunity to inspect the location prior to the first day of cannabis business activities at that location in order to identify any deficiencies for correction;

(c) The licensee has conducted and shall continue to conduct criminal background checks of each person seeking to be a principal officer, board member, agent, volunteer, or employee of the cannabis business before that person begins work and shall not employ, take on as a volunteer, or have as a board member, principal officer, or agent any person who was convicted of a disqualifying felony offense or is younger than twenty-one (21) years of age. The licensee shall maintain records of these background checks and provide same to the cabinet during subsequent inspections or upon request;

(d) The licensee has obtained and shall maintain workers compensation insurance for all employees in the Commonwealth and shall pay all required employer contributions to the Kentucky Office of Unemployment Insurance;

(e) The licensee has obtained and shall maintain, at a minimum, commercial general liability insurance for \$1,000,000 per occurrence and \$2,000,000 per aggregate and commercial automobile insurance as required by Kentucky law, specifically KRS 304.39-110, for any vehicle used to transport medicinal cannabis or medicinal cannabis products;

(f) The licensee has established written standard operating procedures required by KRS Chapter 218B and 915 KAR Chapter 1, including those specific to its cannabis business category, and shall provide written or electronic copies of the procedures to the cabinet during inspections or upon request. The standard operating procedures that apply to cannabis businesses include:

1. Security;
2. Recordkeeping;
3. Employee qualifications, supervision, and training;
4. Quality assurance;
5. Adverse event reporting and recall;
6. Waste disposal and sanitation;
7. Transportation of medicinal cannabis;
8. Inventory management, including storage and labeling of medicinal cannabis;
9. Cash management and anti-fraud procedures;
10. Preventing unlawful diversion of medicinal cannabis; and
11. Incident reporting procedures to notify the cabinet;

(g) The licensee continues to maintain sufficient capital for operations of its cannabis business for, at a minimum, the term of the license;

(h) The licensee has implemented appropriate security measures to deter and prevent theft of medicinal cannabis and unauthorized entrance into areas containing medicinal cannabis;

(i) The licensee has and shall continue to display its license at all times in a conspicuous location within the premises of the cannabis business in a manner that is visible to visitors upon initial entry into its facility;

(j) The licensee's principals, agents, employees, and volunteers have completed all trainings required by the cabinet to be completed prior to its first day of cannabis business activities in the Commonwealth;

(k) The licensee understands how to properly use the Commonwealth's designated electronic monitoring system and seed to sale tracking system for medicinal cannabis and shall use those systems as required throughout the entirety of its licensure period;

- (l) The licensee consents to reasonable inspections, examinations, searches, and seizures; and
  - (m) The licensee swears and affirms that all information and documentation provided to the cabinet is true and correct and that any false statement made to the cabinet by the licensee is punishable under the applicable provisions of KRS 523.100.
- (2) A licensee shall also provide the cabinet with thirty (30) calendar days advance notice of its intended first day of cannabis business activities in the Commonwealth and allow the cabinet an opportunity to inspect the licensee's site and facility prior to the first day of cannabis business activities. The licensee shall promptly correct any deficiencies identified by the cabinet during this inspection and shall not commence operations until deficiencies are corrected and approved by the cabinet. If the licensee fails to provide the notice required under this section or fails to correct identified deficiencies, the cabinet may take one (1) or more of the actions described in Section 12 of this administrative regulation.
- (3) Once a cultivator or producer has received approval from the cabinet to commence operations, the cultivator or producer shall:
- (a) Bring a start-up inventory of medicinal cannabis seeds, seedlings, and plants into its facility;
  - (b) Submit a written request to the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) requesting that the cabinet open a window in the state's designated seed to sale tracking system for the cultivator or producer to enter its start-up inventory of medicinal cannabis seeds, seedlings, and plants into the system. This written request shall include the number and strain of all medicinal cannabis seeds, seedlings, and plants brought into the facility;
  - (c) Have fourteen (14) calendar days from receipt of the cabinet's approval of the cultivator or producer's written request in which to enter its start-up inventory into the state's designated seed to sale tracking system. A cultivator or producer shall enter its start-up inventory into the state's designated seed to sale tracking system as follows:
    - 1. Seeds shall be entered into the system as a package;
    - 2. Seedlings and plants shall be entered into the system as a batch; and
  - (d) Notify the cabinet in writing via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) when all its start-up inventory has been fully and accurately entered into the state's designated seed to sale tracking system and confirm the number and strain of medicinal cannabis seeds, seedlings, and plants brought into the facility.
- (4) Following acquisition of its start-up inventory, a cultivator or producer may submit a written request to the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) requesting that the cabinet open a window in the state's designated seed to sale tracking system for the cultivator or producer to enter new medicinal cannabis seeds, seedlings, or plants into the system. This written request shall:
- (a) State the proposed date to bring new inventory into the facility; and
  - (b) Provide the number and strain of all new medicinal cannabis seeds, seedlings, and plants that the cultivator or producer requests to bring into the facility.
- (5) Upon receipt of the cabinet's approval of a written request made pursuant to subsection (4) of this section, the cultivator or producer shall have seven (7) calendar days to enter its new inventory into the state's designated seed to sale tracking system. A cultivator or producer shall enter its new inventory into the state's designated seed to sale tracking system as described in subsection (3)(c) of this section. A cultivator or producer shall notify the cabinet in writing via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) when all new inventory has been fully and accurately entered into the state's designated seed to sale tracking system and confirm the number and strain of medicinal cannabis seeds, seedlings, and plants brought into the facility.

Section 5. Requirements for Licensees During Licensure Period.

(1) A licensee shall only hold licenses in one (1) cannabis business category at any given time, except as provided in Section 10(4) of this administrative regulation. A licensee may hold multiple licenses in the same cannabis business category as long as each license contains a separate and distinct physical address where the cannabis business conducts licensed cannabis activities and the licensee is otherwise in compliance with the requirements of KRS Chapter 218B and 915 KAR Chapter 1, including any geographic restrictions contained in this administrative regulation.

(2) Duty to report.

(a) During the licensure period, a licensee shall notify the cabinet in writing of any change in facts or circumstances reflected in the initial license application, supplemental written confirmations, or any license renewal application submitted to the cabinet, or any newly discovered fact or circumstance which would have been included in the application or information provided to the cabinet if known at the time the information was submitted. This duty to report includes:

1. Notifying the cabinet of any physical change, alteration, or modification to a licensed facility that materially or substantially alters the facility or its usage, including an increase or decrease in the total square footage of the facility;
2. Significant electrical modifications that require inspection by local authorities; and
3. Sealing off, creation of, or relocation of a common entryway, doorway, passage, or other means of ingress or egress when the common entryway, doorway, or passage alters or changes limited access areas.

(b) During the licensure period, a licensee shall notify the cabinet following knowledge or discovery of the following events:

1. Inventory discrepancies;
2. Diversion, theft, or loss of any medicinal cannabis or medicinal cannabis product;
3. Unauthorized destruction of medicinal cannabis;
4. Any criminal proceeding involving the licensee's owners, principal officers, board members, employees, volunteers, financial backers, or agents arising out of actions taken on the licensee's premises or while using licensee property;
5. Security alarm activation or other event that requires response by law enforcement or security personnel;
6. Any loss, unauthorized dissemination, or unauthorized alteration of records related to medicinal cannabis, cardholders, employees, volunteers, or agents;
7. Accidents involving transport vehicles that occur while the licensee is transporting or delivering medicinal cannabis;
8. Any act involving cultivating, processing, producing, testing, transporting, or dispensing medicinal cannabis by any person that may create a health or safety risk to cardholders or the general public;
9. A dispensary declines the sale of medicinal cannabis to a cardholder; and
10. A dispensary desires to prohibit a cardholder from entering its premises.

(c) The notifications required under this subsection shall be:

1. Provided on a form prescribed by the cabinet and available on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>, that includes time and date of the event, individuals involved, and a detailed description of the event; and
2. Sent via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) within twenty-four (24) hours of discovery or knowledge of the event.

(d) If the licensee fails to provide the notice required under this section, the cabinet may take one (1) or more of the actions described in Section 12 of this administrative regulation.

(e) In the event a local government prohibits all cannabis business operations within its territory in accordance with KRS 218B.130, a licensee located within the affected territory shall notify the cabinet in writing via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) within twenty-four (24) hours of notification or discovery of this prohibition, including all information known regarding the prohibition, and may make a written request to the cabinet to change its cannabis business location in accordance with Section 9 of this administrative regulation.

(3) Inspection and investigation.

(a) The cabinet may conduct announced or unannounced inspections or investigations to determine the licensee's compliance with KRS Chapter 218B and 915 KAR Chapter 1. These investigations and inspections may occur during regular working hours and at other reasonable times in order to inspect the licensee's place of business, question privately any such principal officer, board member, agent, employee, or employee's representative, and investigate such facts, conditions, practices, or other matters deemed appropriate to determine whether the licensee is operating in compliance with KRS Chapter 218B and 915 KAR Chapter 1. If a licensee refuses such entry onto its premises, the cabinet may apply to the circuit court in the county in which the licensee is located for an order to enforce the right of entry.

(b) Following completion of an inspection or investigation, the cabinet shall have the authority to confiscate, possess, transport, and destroy any medicinal cannabis that has been deemed noncompliant with the standards established by KRS Chapter 218B and 915 KAR Chapter 1.

(c) The cabinet's authorized representatives shall also have the authority to:

1. Administer oaths;
2. Examine witnesses under oath;
3. Take depositions;
4. Certify to official acts;
5. Review records and accounts;
6. Take photographs;
7. Secure any other evidence deemed necessary to evaluate compliance with KRS Chapter 218B and 915 KAR Chapter 1; and
8. Issue subpoenas to compel the attendance of witnesses and parties and the production of books, accounts, correspondence, memoranda, and other records considered necessary and relevant to the matter under investigation by the cabinet.

(d) When a witness or party fails to comply with a subpoena issued by the cabinet, the circuit court in the county in which the witness or party is located may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena or order issued from such court or a refusal to testify therein, and may adjudge such person guilty of contempt of court and punish him or her as provided by law in other contempt cases. In any proceeding brought under this paragraph, a circuit court may modify or set aside the subpoena.

(e) An investigation or inspection may include:

1. Inspection of a licensee's site, facility, vehicles, equipment, books, records, papers, documents, data, and other physical or electronic information;
2. Interviews of licensee's principal officers, board members, agents, employees, volunteers, or employee representatives;
3. Interviews of licensee's former principal officers, board members, agents, employees, volunteers, or employee representatives; and
4. Inspection of equipment, instruments, tools, machinery, and vehicles that are used to grow, process, package, transport, and test medicinal cannabis.

(f) The cabinet and its authorized agents shall have free access to review and, if necessary, make copies of books, records, papers, documents, data, or other physical or

electronic information that relates to the business of the licensee, including financial data, sales data, shipping data, pricing data, and employee data.

(g) Failure of a licensee to provide the cabinet and its authorized agents immediate access to any part of a licensee's site or facility, requested material, physical or electronic information, or individual as part of an inspection or investigation may result in the imposition of a civil monetary fine, suspension, or revocation of its license, or an immediate cessation of operations pursuant to a cease-and-desist order issued by the cabinet if continued operations would present a risk to the health, safety, or welfare of cardholders or the public.

(h) The cabinet and its authorized agents shall have access to any area within a licensee's site or facility, including any area being used to store medicinal cannabis, and are authorized to collect samples and test samples for testing.

(4) Training.

(a) Every principal, agent, employee, and volunteer of a licensee who has direct contact with cardholders, or physically handles cannabis seeds, seedlings, mature cannabis plants, medicinal cannabis, or medicinal cannabis products, shall complete applicable training required by the cabinet, which may include trainings for cultivating, processing, testing, and retail sale of medicinal cannabis and usage of the Commonwealth's designated electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The cabinet shall provide written notice to licensees of the availability of any required training and the frequency to complete the training.

(b) The cabinet shall publish a Guide to Worker Safety and Health in the Kentucky Medical Cannabis Industry on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>. Licensees shall maintain a physical copy of the Guide to Worker Safety and Health in the Kentucky Medical Cannabis Industry in their facility in a manner that is readily accessible to its employees or agents and ensure that employees receive annual training on the contents of the guide.

(c) A licensee shall train its principals, agents, employees, and volunteers on its established standard operating procedures within thirty (30) days of starting employment and once every calendar year thereafter.

(d) A licensee shall retain any training participation records of its principals, agents, employees, and volunteers and make them available for inspection by the cabinet upon request for a period of five (5) years.

(5) Insurance requirements.

(a) A licensee shall obtain and maintain commercial general liability insurance for, at a minimum, \$1,000,000 per occurrence and \$2,000,000 per aggregate.

(b) A licensee shall obtain and maintain commercial automobile insurance as required by Kentucky law, specifically KRS 304.39-110, for any vehicle used to transport medicinal cannabis or medicinal cannabis products.

(c) A licensee shall obtain and maintain workers' compensation insurance coverage for employees in the Commonwealth and shall pay all required employer contributions to the Kentucky Office of Unemployment Insurance.

(d) The insurance requirements contained in this section shall begin prior to the licensee's first day of cannabis business activities in the Commonwealth and continue for as long as the licensee is operating under a license issued by the cabinet.

(6) Reports.

(a) The cabinet may require ongoing reporting of operational and financial information from the licensee in a form and manner prescribed by the cabinet.

(b) The cabinet shall require any reports necessary to carry out its responsibilities under KRS Chapter 218B and 915 KAR Chapter 1.

#### Section 6. Failure to be Operational.

- (1) If a licensee has not met the timeline estimates provided in its initial license application to begin cannabis business activities in the Commonwealth, the licensee shall notify the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) within two (2) calendar days of determining a need to adjust its timeline. In its written notice to the cabinet, the licensee shall identify any operational deficiencies and provide an explanation for failing to adhere to its timeline estimates.
- (2) Within seven (7) calendar days of providing the written notice required under this section, the licensee shall submit a corrective action plan to the cabinet that sets forth the licensee's updated timeline and a date certain for correcting the identified operational deficiencies.
- (3) If the licensee fails to comply with its corrective action plan, the cabinet may impose penalties or sanctions as outlined in Section 12 of this administrative regulation.

#### Section 7. Closure of a licensed Cannabis Business Location.

- (1) A licensee shall notify the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov) immediately, but in no event fewer than thirty (30) calendar days prior to the projected date of closure, upon making a determination that it intends to close a cannabis business location.
- (2) A licensee shall not accept or purchase seeds, seedlings, medicinal cannabis plants, medicinal cannabis, medicinal cannabis products, medicinal cannabis accessories, equipment, or medicinal devices or instruments for the closing location as of the date of closure notice submitted to the cabinet.
- (3) The notice shall be accompanied by the licensee's written plan for closing its cannabis business location that includes:
  - (a) The projected date of closure;
  - (b) How the licensee intends to notify, prior to the projected date for closure, any person or entity to which the licensee provides medicinal cannabis or medicinal cannabis services from the closing location;
  - (c) How the licensee intends to dispose of seeds, seedlings, medicinal cannabis plants, medicinal cannabis, medicinal cannabis products, or other plant matter projected to still be at the closing location at the time of the projected closure; and
  - (d) How the licensee intends to dispose of equipment, devices, instruments, or medicinal cannabis accessories at the closing location.
- (4) A licensee shall not remove or destroy any seeds, seedlings, medicinal cannabis plants, medicinal cannabis, other plant matter, medicinal cannabis products, equipment, medicinal cannabis accessories, or medicinal devices or instruments until the cabinet has approved its plan for closing the location and shall comply with all applicable requirements regarding disposal of medicinal cannabis contained in 915 KAR Chapter 1.
- (5) The cabinet may enter and inspect the cannabis business location and facilities following receipt of the licensee's closure plan to determine whether to approve the closure plan. If the cabinet denies the closure plan, it shall notify the licensee in writing and require the licensee to submit a revised closure plan within seven (7) calendar days of the date of the denial notice. The cabinet shall review and consider the revised closing plan and issue a determination within seven (7) calendar days of receipt.
- (6) If the cabinet approves the licensee's closure plan, the licensee shall surrender its license for the closing location to the cabinet on or before the date for closure provided in the plan.

#### Section 8. Request for Approval of a Change in Cannabis Business Ownership.

- (1) If there is an impending change in ownership of a licensee from the ownership listed in the initial license application, the licensee shall submit a written request for approval of a change in ownership to the cabinet via electronic mail to

kymedcanreporting@ky.gov. The cabinet shall consider the requirements for ownership of a cannabis business contained in KRS Chapter 218B and 915 KAR Chapter 1 as well as any other factors that the cabinet deems relevant in making its determination on the request. The cabinet shall review the request and notify the licensee in writing whether the request is approved or denied.

(2) For each new individual or entity that is part of the proposed change in ownership, the licensee shall include in its request the information required of owners in the initial license application. The licensee shall also provide the cabinet with the names of all outgoing individuals or entities previously listed as owners.

(3) If the cabinet determines that a request for approval of a change in ownership is lacking sufficient information upon which to make a determination, the cabinet shall notify the licensee in writing of the areas that require additional information and documentation. The licensee shall have fifteen (15) calendar days from the mailing date of the notice to provide the requested information and documentation to the cabinet. A licensee's failure to provide the required information and documentation to the cabinet by the deadline shall be grounds for the denial of the requested change in ownership.

#### Section 9. Request for Approval of a Change in Cannabis Business Location.

(1) A licensee desiring to change the location of a site or facility shall submit a written request for approval of a change in location to the cabinet via electronic mail to kymedcanreporting@ky.gov. A change in location of a site or facility shall not occur unless the cabinet approves the change in writing. The cabinet shall consider the location requirements for a cannabis business contained in KRS Chapter 218B and 915 KAR Chapter 1 in making its determination on the request, and any other factors that the cabinet deems relevant. The cabinet shall review the request and notify the licensee in writing whether the request is approved or denied.

(2) A written request for approval of a change in location shall include the reason(s) for requesting the change and other information about the proposed new location, including:

- (a) The proposed new physical address of the cannabis business and the GPS coordinates for any proposed cultivation, processing, producing, testing, or dispensing activities;
- (b) Evidence that the licensee has the authority to use the proposed site as a cannabis business;
- (c) Confirmation that the proposed location is not within 1,000 feet of an existing elementary or secondary school or a daycare center at the time the request is made; and
- (d) A site plan for the cannabis business.

(3) If the cabinet in its discretion approves the request, the cabinet shall issue an amended license to the licensee reflecting the new physical address of the cannabis business. The expiration date of the amended license shall be the same as the expiration date of the previous license.

(4) Within ninety (90) calendar days of the issuance by the cabinet of an amended license under this section, the licensee shall change the location of its operation to the new location designated in the new license. Simultaneously, the licensee shall cease to operate at the former location and surrender its existing license to the cabinet. The following conditions shall apply:

- (a) At no time may a licensee operate or exercise any of the privileges granted under the license in both locations;
- (b) The cabinet may extend the ninety (90) day deadline for relocation for up to an additional ninety (90) calendar days;
- (c) The licensee shall notify the cabinet via electronic mail to kymedcanreporting@ky.gov at least fifteen (15) calendar days prior to beginning cannabis business activities at the new location; and

- (d) The cabinet may conduct an inspection to determine the appropriateness of the new location, and upon notification from the cabinet, the licensee shall immediately correct any deficiencies identified by the cabinet during this inspection and shall not commence operations at the new location until the deficiencies have been corrected and approved by the cabinet.
- (5) For dispensary licenses, the cabinet shall not approve a change of location that is outside the boundaries of the medicinal cannabis region for which the license was issued or that otherwise is not in compliance with the location restrictions contained in Section 3(3) of this administrative regulation.

#### Section 10. Request to Sell Cannabis Business License.

- (1) A licensee desiring to sell its cannabis business license shall submit a written request for approval of the sale to the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov). The sale of a cannabis business license shall not occur unless the cabinet approves the sale in writing. The cabinet shall review the request and notify the licensee in writing whether the proposed sale is approved or denied. The cabinet shall consider the initial license application requirements for a cannabis business contained in KRS Chapter 218B and 915 KAR 1:010, and any other factors that the cabinet deems relevant in making its determination on the request.
- (2) A written request to approve a license sale shall include the sale price, the reason(s) for requesting the sale, and information about the proposed purchaser, including:
- (a) All information and documentation required to be submitted by a cannabis business as part of the initial license application process in order to show the proposed purchaser would be eligible for entry into a license lottery conducted according to this administrative regulation;
  - (b) Signed attestations from the proposed purchaser that are required as part of the initial license application process;
  - (c) A transition plan for transferring the license from the licensee to the proposed purchaser; and
  - (d) A notarized affidavit from the proposed purchaser swearing and affirming that all information and documentation provided to the cabinet along with the request is true and correct, and an acknowledgement that any false statement made to the cabinet as part of the proposed sale process is punishable under the applicable provisions of KRS 523.100.
- (3) The cabinet shall approve a licensee's sale of a license if the proposed purchaser and any new location or facilities meet the requirements of KRS Chapter 218B and 915 KAR Chapter 1.
- (4) The cabinet shall deny a licensee's sale of a license to any proposed purchaser who currently holds a license in a different cannabis business category than the one offered for sale (such as the proposed purchaser seeks to purchase a dispensary license while currently licensed as a tier I cultivator), except that a cultivator may sell its license to another licensed cultivator in the same or different cultivator tier (such as the proposed purchaser may purchase a tier II cultivator license while currently licensed as a tier I cultivator). Cultivators may hold licenses in more than one (1) cultivator tier at any given time as long as each license contains a separate and distinct physical address where cultivator conducts licensed cannabis activities and the licensee is otherwise in compliance with the requirements of KRS Chapter 218B and 915 KAR Chapter 1.

#### Section 11. Issuance of Additional Cannabis Business Licenses.

- (1) Beginning January 1, 2025, the cabinet shall, on a quarterly basis, review the need for issuance of new licenses in each cannabis business category.
- (2) In making its determination whether to issue new licenses, the cabinet may consider:
- (a) The population of the Commonwealth;

- (b) The number of active cardholders;
  - (c) Changes to the list of qualifying medical conditions for medicinal cannabis;
  - (d) Market supply and demand;
  - (e) Geographic distribution of dispensaries and other cannabis businesses;
  - (f) Workforce development opportunities; and
  - (g) Any other factors that the cabinet deems relevant to its analysis.
- (3) If the cabinet determines there exists a need for additional cannabis business licenses in the Commonwealth, the cabinet shall issue a notice documenting the basis for this determination, including a list of the factors it considered to arrive at that determination.
- (4) The cabinet shall publish on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>, the notice required by this section as well as a notice of initial license application availability. This notice shall provide the timeframe during which initial license applications shall be accepted by the cabinet and the category and number of cannabis business licenses available for distribution at the close of the application period. Applicants for new cannabis business licenses shall adhere to the requirements of 915 KAR 1:010 regarding initial license applications and follow the initial license application instructions. The process for issuing new licenses shall comply with the requirements of this administrative regulation.

#### Section 12. Penalties and Sanctions.

- (1) In addition to any other penalty imposed by law for violations of KRS Chapter 218B and 915 KAR Chapter 1, the cabinet may take one (1) or more of the following actions:
- (a) Suspend or revoke a license if any of the following occur:
    - 1. The licensee or any of its agents commit multiple violations or a serious violation of the requirements of KRS Chapter 218B and 915 KAR Chapter 1;
    - 2. The licensee or any of its agents fail to maintain effective control against diversion of medicinal cannabis from its facility or under its control;
    - 3. The licensee or any of its agents violate a provision of other state or local laws regarding the operation of its cannabis business;
    - 4. The licensee or any of its agents engage in conduct, or an event occurs, that would have disqualified the cannabis business from being issued a license or having its license renewed; or
    - 5. The licensee submitted false or misleading information on any application submitted to the cabinet.
  - (b) Impose a civil fine of not more than \$10,000 for each violation and an additional fine of not more than \$1,000 for each day of the continuing violation. In determining the amount of each fine, the cabinet shall take the following into consideration:
    - 1. The seriousness of the violation;
    - 2. The potential harm resulting from the violation to cardholders or the general public;
    - 3. The willfulness of the violation;
    - 4. Previous violations, if any, by the licensee being assessed;
    - 5. The economic benefit to the licensee being assessed for failing to comply with the requirements of KRS Chapter 218B, 915 KAR Chapter 1, or an order issued by the cabinet; and
    - 6. The economic detriment to the licensee.
  - (c) Issue a cease-and-desist order to immediately stop or restrict the operations of a licensee to protect the public's health, safety, and welfare. The following applies to issuing a cease-and-desist order:
    - 1. An order may include a requirement that a licensee cease or restrict some or all of its operations. In addition, the order may prohibit the use of some or all of the medicinal cannabis grown, processed, or to be sold by the licensee;

2. An order may be issued by an authorized agent of the cabinet immediately upon the completion of an inspection or investigation if the agent observes or suspects an operational failure or determines that the conditions will likely create a diversion of medicinal cannabis, contamination of medicinal cannabis, or a risk to cardholders or the general public;
3. An order may be issued by an authorized agent of the cabinet in circumstances where a licensee fails to provide timely notice of closure of a cannabis business location in accordance with Section 7 of this administrative regulation and the cabinet suspects the imminent closure of the cannabis business shall likely create a diversion of medicinal cannabis or a risk to cardholders or the general public;
4. An order may include:
  - a. An immediate evacuation of the site and facility, and the sealing of the entrances to the facility;
  - b. A quarantine of some or all of the medicinal cannabis found at the facility; and
  - c. The suspension of the sale or shipment of some or all of the medicinal cannabis found at the facility.
- (d) Issue a written warning if the cabinet determines that either:
  1. The public interest shall be adequately served under the circumstances by the issuance of the warning; or
  2. The violation does not threaten the safety or health of cardholders or the general public, and the licensee shall take immediate action to remedy the violation.
- (e) Require a licensee develop and adhere to a corrective action plan approved by the cabinet. The cabinet shall monitor compliance with the corrective action plan. Failure to comply with the corrective action plan may result in the cabinet taking additional action under the applicable provisions of this section as it deems appropriate.
- (2) A person who aids, abets, counsels, induces, procures, or causes another person to violate KRS Chapter 218B or 915 KAR Chapter 1, or an order issued by cabinet, shall be subject to the civil penalties provided for under this section.
- (3) Before the cabinet may revoke or suspend a license, the cabinet shall provide the licensee with written notice specifying the nature of the alleged violation(s) and allow the licensee an opportunity to appear and be heard pursuant to KRS Chapter 13B. Any resulting hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.
- (4) The cabinet shall provide a licensee with written notice of imposition of a civil fine, order of restitution, cease-and-desist order, written warning, or corrective action plan via certified mail to the address on the license. The licensee may, within thirty (30) calendar days after the date of the mailing of the cabinet's notice, file a written request for an administrative hearing regarding the action taken. The hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.

#### Section 13. Technical Advisories.

- (1) The cabinet may issue technical advisories by memorandum to assist licensees in complying with the KRS Chapter 218B and 915 KAR Chapter 1.
- (2) Technical advisories shall not have the force of law or regulation, but shall provide guidance on the cabinet's interpretation of, and how a licensee may maintain compliance with, KRS Chapter 218B and 915 KAR Chapter 1.
- (3) Notice of the availability of a technical advisory shall be published on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

#### Section 14. Minimal Performance Standards for Biennial Accreditation.

- (1) As part of the license renewal process, licensees shall meet the minimum performance standards established in 915 KAR 1:010, Section 6 in order to be approved for a renewal license.

(2) If a licensee successfully meets the minimum performance standards established in 915 KAR 1:010, Section 6 over a two (2) year period, the cabinet shall recognize the licensee as an accredited cannabis business in the Commonwealth.

(3) The recognition provided under this section shall expire two (2) years after the date of issuance, and shall be renewed if the licensee continues to:

(a) Operate in the Commonwealth as of the expiration date; and

(b) Meet the minimum performance standards established in 915 KAR 1:010, Section 6.

*SAM FLYNN, Executive Director*

*ERIC C. FRIEDLANDER, Secretary*

APPROVED BY AGENCY: April 9, 2024

FILED WITH LRC: April 18, 2024 at 11:45 a.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall, if requested, be held on July 22, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by July 15, 2024, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until July 31, 2024. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

**CONTACT PERSON:** Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.