Iowa Department of Public Health
Office of Medical Cannabidiol
REQUEST FOR PROPOSAL # 58819004
To License Medical Cannabidiol Dispensaries

Written Questions and Response Document

Round 1: Written Questions and Responses for the time period of 1/25/18-2/12/18
Posted: 2/19/18

Q1. I am looking to learn how state law will affect local laws in terms of commercial cannabis regulation. I have called cities within Iowa to verify how medical cannabis dispensaries are classified within the zoning ordinance for the city and have been told it's either unclassified, or it is prohibited. I was hoping to get some clarification on this and how to determine where a location could potentially be located.

A1. There are no provisions in Iowa Code 124E, the Medical Cannabidiol Act, that address zoning of dispensaries at the state level. Under the authority of state home rule and zoning enabling acts, local governments regulate land use through municipal ordinances. To locate ordinances for a particular county, city, or town, check the municipality or county's website.

Q2. I am a chiropractor. The rules stated a dispensary may not be located in a healthcare facility or have an owner as a health care provider. I am a chiropractor, I cannot write a prescription for CBD oil, so am I included as a healthcare provider and is a chiropractic office included as a location?

A2. Iowa Code Section 124E.9(4) states that "a medical cannabidiol dispensary shall not share office space with, refer patients to, or have any financial relationship with a health care practitioner." Per Iowa Code Section 124E.2, health care practitioner means "an individual licensed under chapter 148 to practice medicine and surgery who is a patient's primary care provider." This does not include chiropractors.

Q3. I have read the part of the RFP that references Annual Fees, it states in the RFP those are currently estimated to be between $75,000-$125,000 and are due by December 1, 2018. It also references Iowa Code Section 124E.9 which I have reviewed but appears to merely reference that the cannabidiol manufacturers and dispensaries will share in the cost of the administrative oversight of this new program.

My questions are as follows:
1) When will the exact fee amount be determined?
2) Is that total per manufacturer and dispensary or is that total to be divided up by actual number of manufacturers and dispensaries awarded?

3) Will this be an ongoing annual fee with same due date each year?
4) What if the laws change, essentially no longer allowing the use of cannabidiol for medicinal purposes in the state of Iowa, would any of fee be refunded?

A3. As described in the adopted administrative subrule 641-154.40(6)a(3), "licensed dispensaries shall pay an annual fee to the department to cover costs associated with regulating and inspecting dispensaries and for other expenses necessary for the administration of the medical cannabidiol program. The department shall assess the fee with the notice of approval of license renewal each year on August 1, payable by the dispensary to the department no later than December 1." The exact amount will be determined in the August 1 assessment. It is estimated that year one annual fees for each dispensary (i.e., location) will be between $75,000 and $125,000. The amount may change each year, but will be assessed on August 1 and will be payable by December 1 each year. Per adopted Administrative subrule 641-154.40(6), all fees are non-refundable unless the administrative rule specifies otherwise. Therefore, annual fees are nonrefundable. If Iowa Code Chapter 124E were changed by the legislature, the department would follow any provisions in the law about the use of fees that had been previously remitted by dispensaries to the department.

Q4. How will the one thousand feet distance from a school requirement be calculated? Door to door, property line to property line, or in some other manner?

A4. The distance should be measured from property line to property line, such that the shortest distance between the properties is at least one thousand feet.

Q5. Are applicants permitted to revise the city and county of the locations they indicated in a letter of intent, or applicants locked into the city and county highlighted?

A5. The location of the dispensary on the application must be in the same County designated as the proposed location submitted in the letter of intent to apply. The RFP language in section 1.06, B reads as follows: " <u>There must be one Intent to Apply Letter submitted for each application (i.e., dispensary location)</u>. Failure to submit a letter (by the deadline) for each dispensary location application will result in rejection of the application or applications for which no Intent to Apply Letter was submitted."

Q6. <u>Section 2 (page 21)</u> – With respect to the specific location of the dispensary, will successful applicants be permitted to change locations within the same city and county if the applicant is not able to come to lease terms with a landlord? The RFP timeline is a short amount of time to come to a lease agreement, and applicants may not want to enter into a legally binding relationship without knowing if they will be licensed. Once licensed, an applicant would have no leverage in negotiations with a landlord if the applicant is not permitted to change locations after the license award. Assuming that an applicant provided satisfactory information with respect to the new location, including what was required by the RFP, would a change in this situation be permitted?

A6. Once a location is licensed, the licensee shall work with the Department if changes in location become necessary. The department may require documentation to be submitted for location changes.

Q7. <u>Section 4(c) (page 22)</u> – With respect to displays of medical cannabidiol, if products are locked but able to be seen from within the facility or through a window, will an applicant be in violation of the requirements described in this section?

A7. Yes, if the products can be seen through a window, the applicant would be in violation. Per adopted administrative subrule 641-154.44(3), a dispensary shall arrange displays of medical cannabidiol, interior signs, and other exhibits to reasonably prevent public viewing from outside the dispensary.