

10.22.21 CCB Meeting Recommendations

Baseline Application Requirements

Application requirements

- Reviewed application requirements in Massachusetts and New Jersey
- Reviewed summaries of criminal conviction restrictions in AK, CA, CO, MA, NV, OR, and WA
- Meet with VSS, CCB ED / GC, DFR, Dept. of Tax, OPR, and VSECU
- Banking Roundtable on 9/1/21

Provisional License

- Ensure applicant does not have any events / associations that would be categorically disqualifying
 - Cole Memo / FinCEN compliance
 - Preventing the distribution of marijuana to minors
 - Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels
 - Preventing the diversion of marijuana from states where it is legal under state law in some form to other states
 - Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity
 - Preventing violence and the use of firearms in the cultivation and distribution of marijuana
 - Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use
 - Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands
 - Preventing marijuana possession or use on federal property
 - “presently poses a threat to public safety or the proper functioning of the regulated market” – 883(b)
 - Ownership limitations – 901(d)(3)

Provisional License

- Type of license sought including tier and indoor / outdoor
- Documentation that the CE is an entity registered to do business in Vermont
- Federal tax identification; EIN; SSN
- Information about the proposed CE including its legal name, any registered alternate name under which it may conduct business, and a copy of its articles of organization and bylaws
- List of all persons or entities having direct or indirect control
- Any contractual, management, or other written document that explicitly or implicitly conveys direct or indirect control over the CE
- For each individual named in any application CE application, disclose interest in any other CE license or application in Vermont;
- Documentation disclosing whether any individual named in the application have past or present CE business interests in other jurisdictions;
- Documentation detailing the amounts and sources of capital resources available to the applicant from any individual or entity that will be contributing capital resources to the applicant for purposes of establishing or operating the identified CE

Provisional License (cont'd)

- Criminal and administrative history records for each executive officer, all significantly involved persons, and persons with a financial interest who also have decision making authority for the proposed CE
- Signed authorization to share info with appropriate agencies
- Proof that the significantly involved person and any other person with a financial interest who also has decision making authority for the proposed CE is 21 years of age or older
- Any other requirements established by the commission pursuant to regulation
- Applicant must either demonstrate tax compliance or demonstrate a good faith effort to become tax compliant. Confirmation of tax compliance is not required for cannabis profits.

Suitability standards for licensure

- OPR - 3 VSA 129a:
 - Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession.
- Other states
 - AK – felony conviction w/in 5 years; enumerated list of other disqualifying offenses
 - CA – any conviction “substantially related to the qualifications, functions, or duties of the business.”
 - CO – felony conviction w/in 5 years; controlled substance felony conviction w/in 10 years
 - MA – any felony conviction except possession of cannabis (not distribution); commission may consider rehabilitation on a case-by-case basis
 - NV – enumerated list of disqualifying offenses
 - OR - Convictions “substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license” may result in application denial.
 - WA – Felony conviction w/in 10 years; 2 misdemeanors within past 3 years

Suitability standards for licensure

Presumptive disqualification:

- Offenses related to the proper functioning of the regulated market:
 - Any state or Federal felony offense involving fraud, deceit, or embezzlement
 - Any offense that implicates Cole Memo priorities
 - Trafficking of a regulated substance (other than cannabis)
- Offenses related to public safety – excluding non-violent drug offenses
 - Non-listed misdemeanor – 2 year look back
 - Non-listed felony other than those related to proper functioning of market – 5 year look back

Suitability standards for licensure

- For listed offenses / crimes related to public safety or the proper functioning of the regulated market:
- Evidence of rehabilitation
 - The nature and responsibility of the position that the person with a conviction would hold, has held, or currently holds;
 - The nature and seriousness of the crime or offense;
 - The circumstances under which the crime or offense occurred;
 - The date of the crime or offense;
 - The age of the person when the crime or offense was committed;
 - Whether the crime or offense was an isolated or repeated incident;
 - Any social conditions that may have contributed to the commission of the crime or offense; and
 - Any other evidence of rehabilitation

Criminal and administrative history records

- The individual's full legal name and any aliases;
- The individual's address;
- The individual's date of birth;
- A photocopy of the individual's driver's license or other government-issued identification card;
- Authorization to obtain a full set of fingerprints submitted in a form and manner as determined by the Board; and
- Any other authorization or disclosure deemed necessary by the Board, for the purposes of conducting a background check.
- Each individual and entity listed on the application must disclose actions in VT or another jurisdiction:
 - A description of any criminal action, whether felony or misdemeanor, that resulted in a conviction, guilty plea, plea of nolo contendere or admission to sufficient facts;
 - A description of any civil action, including actions related to a professional, occupational, or fraudulent practice;
 - A description of any administrative action, including actions related to a medical- or adult-use marijuana operation;
 - A description of any disciplinary action taken in any jurisdiction against a license, registration, or certification held by the individual or entity, such as a suspension or revocation, including, but not limited to, a license to prescribe or distribute controlled substances; and
 - A description of any license denial.

Baseline application requirements for insurance and banking

- Documentation of general liability and product liability insurance coverage
- Documentation of bond or escrow for wind-down costs
- State Tax ID and SPAN number
- Criminal and administrative history records
- Authorization to release information
- All documentation required for provisional licenses
- Depository account with a financial institution required, but may be waived by CCB if applicant:
 - Can demonstrate hardship, and
 - Has sufficient cash management plan.

Untruthfulness to the CCB

- Submission of information in connection with a License application, waiver request or other Board action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity; including lack of disclosure or insufficient disclosure; or
 - making statements during or in connection with a Board inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.
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- Result: Presumptive Negative Suitability Determination; enforcement investigation; suspension / revocation of license; fines
 - Share info of untruthfulness with appropriate agencies
 - Follow 3 VSA 129a: Unprofessional Conduct

Priority of licensure system

- 7 VSA § 903 criteria
- Medical patients
- Chronological priority
- Consider the needs of the supply chain / proper functioning of industry