Non-Profit Producer License
Request for Applications

The New Mexico Department of Health (“DOH” or “Department”) is requesting applications from parties interested in being licensed as a non-profit medical cannabis producer in New Mexico.

Overview

In 2007, the New Mexico Legislature enacted the Lynn and Erin Compassionate Use Act, NMSA 1978, § 26-2B-1 et seq., which created the New Mexico Medical Cannabis Program (“MCP”, “the program”), administered by the DOH. The stated purpose of the Compassionate Use Act is to allow the beneficial use of medical cannabis in a regulated system, for alleviating symptoms caused by debilitating medical conditions and their medical treatments. NMSA 1978, § 26-2B-2.

The statute permits patients enrolled in the medical cannabis program to possess an “adequate supply” of medical cannabis, and requires that the Department identify the amount that qualified patients may possess, which must be “no more than reasonably necessary to ensure the uninterrupted availability of cannabis for a period of three months and that is derived solely from an intrastate source”. NMSA 1978, § 26-2B-3(A).

The statute requires that the Department “develop a distribution system for medical cannabis that provides for cannabis production facilities within New Mexico housed on secured grounds and operated by licensed producers”. NMSA 1978, § 26-2B-7(A)(6). The Department rules governing the MCP are at 7.34.3 NMAC and 7.34.4 NMAC.

In accordance with the Compassionate Use Act, the Department is issuing this Request for Applications (“RFA”) for the purpose of selecting suitable medical cannabis producers. Producer licenses will be awarded on a competitive basis based on an evaluation of the timely submitted responses to this RFA.

RFA Submission Deadline

For an application to be considered, a completed application must be hand-delivered to the Medical Cannabis Program office at the Runnels Building at 1190 St. Francis Drive, Santa Fe, New Mexico, Suite S-3400 (on the 3rd floor), during regular business hours on or before 4:30 p.m. MDT on Friday, May 1, 2015. DOH will time-stamp each application upon its receipt and the time-stamped copy shall serve as the official record of when the application was delivered to DOH. **When you deliver your copies of your completed application to the Department, you must hand the application materials to a Department employee and ask that it be time-stamped at the time of delivery. Do not leave an application unattended at the front desk or elsewhere.**

It is the applicant’s responsibility to allow sufficient time to address potential delays. **It is**
the applicant’s sole responsibility to ensure that their application is complete, received and time-stamped on or before the submission deadline. Additional Terms and Conditions

Applicants may submit a modification to their application, with an accompanying explanatory cover letter, at any time prior to the submission deadline.

The Department may disqualify any applicant who:

- Fails to submit, in accordance with Department rule and the instructions of this RFA, a completed application, including the required application fee, prior to the submission deadline;

- Submits incomplete, false, inaccurate, unresponsive or misleading information in response to this RFA;

- Submits materials that are illegible in whole or in part;

- Fails to timely notify the Department of changes in the information provided in response to this RFA;

The decision of the Department to disqualify an applicant or to not award a producer license to an applicant shall be final. In accordance with Department rule, and except as otherwise provided by law, there shall be no right to judicial review of a licensure determination by the Department.

An applicant awarded a producer license shall operate in accordance with the representations made in its RFA submission. A licensee who fails to operate in accordance with the representations of its approved application may have its licensure revoked, suspended, or subject to other penalties.

Communications with the Department

All questions about the RFA or RFA process must be forwarded to the Department by email only to mcp.applications@state.nm.us. Questions and answers of a substantive nature may be posted on the DOH website at http://www.nmhealth.org/mcp so that applicants will have access to the same information. The Department encourages applicants to submit questions and concerns as soon as possible, as Department staff may be unable to timely respond to questions that are received shortly before the application submittal deadline.

To ensure the proper and fair evaluation of all applications, ex parte communications (i.e., unsolicited communications including, but not limited to, in-person, telephone, written or internet communications) initiated by the applicant to any employee of the Department, other than questions submitted to the e-mail address above, are prohibited. Any violation of this prohibition may result in the disqualification of the applicant.

In evaluating an application, the Department reserves the ability to conduct interviews, contact references, and contact state regulators in any other state(s) where the applicant,
applicant’s backers or others associated with the applicant have engaged in, or sought to be engaged in, the state’s medical cannabis program. The Department also reserves the right to visit proposed production or distribution locations, as well as those of other cannabis-related businesses associated with the applicant or the applicant’s backers, directors or personnel.

The Department reserves the right to waive minor irregularities in any application, and to request clarifications or modifications to an application that otherwise substantially meets the requirements of 7.34.4 NMAC and the terms of this RFA.

After completing the review and scoring of the applications and conducting any other analysis it considers necessary, the Department shall determine how many non-profit producers to license. The Department’s decision to award or not award a license to an applicant shall be final.

The Department anticipates that only a small number of applicants will be granted licensure, and that many applications will be denied. Issuance of this RFA and the review and/or scoring of an application is in no way a guarantee that an application will be accepted or that a license will be granted.

How to Apply

- Familiarize yourself with the provisions of the Lynn and Erin Compassionate Use Act, NMSA 1978, §26-2B-1 et seq., and the Department of Health’s Medical Cannabis Program rules that are contained at 7.34.3 NMAC and 7.34.4 NMAC.
- Complete the Non-Profit Producer License Application Form.
- Prepare comprehensive responses, and provide relevant responsive materials (as applicable), for each item requested in this RFA, which includes Appendices A and B.
- Be sure to number all the pages in the application sections, and ensure that the materials in the application are typewritten in a legible, comprehensible manner, utilizing a font size of no less than 12 points in the main body of all portions of the application.
- All attachments, exhibits or other information produced in response to the RFA must include a header referencing the item number and a subpart of the RFA to which it responds so that it is clear to the Department that all requested information is provided.
- Please note that contents of the application may be subject to disclosure, in accordance with the New Mexico Inspection of Public Records Act, NMSA 1978, §14-2-1 et seq.
- Hand-deliver your completed application package, including an application fee of ten thousand dollar ($10,000), to the Medical Cannabis Program Office address identified above.
- Payment of the application fee may be made by check or money order, and shall be made payable to NM MCP.
- A complete application package shall include one original paper version and five paper copies of the application (including all materials submitted in support of the
application). The application shall be single-sided and securely bound, preferably in a 3-ring binder. It is recommended that you keep a completed copy of the materials submitted for your own records. If you wish to do so, you may bring an additional copy of the application and ask that it be time-stamped by Program staff before it is returned to you.

In accordance with the Department rule 7.34.4.8(V) NMAC, a portion of the application fee will be refunded to an applicant whose application is ultimately denied. Please note that pursuant to Department rules, applicants who are licensed will be responsible for payment of an additional, annual licensing fee before receiving a license, and that the application fee will not be applied towards any licensing fee.

**Required Information and Materials**

Applicants will be evaluated on a competitive basis by the Department based upon the content of their applications, and based upon the criteria of (and in consideration of) Department rules 7.34.3 NMAC and 7.34.4 NMAC. The following information and materials must be submitted as part of the completed application.

A. **SUMMARY INTRODUCTION**

The application must include a brief summary (no longer than five double-spaced pages) of the applicant’s qualifications, experience and industry knowledge relevant to the development and operation of a medical cannabis production business.

B. **PRODUCTION PLAN**

A copy of the applicant’s Production Plan must be included with the application.

A licensee must operate in accordance with the Production Plan submitted as part of its application unless the Department approves a modification to the Production Plan in writing.

In addition to any other requirements contained in the rules found at 7.34.4 NMAC, note that the Production Plan in an application must include the following information:

1. The applicant’s plan for the growth, cultivation, and harvesting of medical cannabis, including anticipated number of plants, method(s) of cultivation (e.g., greenhouse, hydroponic, indoor vs. outdoor, etc.);

2. If the applicant intends to cultivate cannabis using a hydroponic method: a description of the water source to be used, as well as the type and extent of water filtration to be used, as applicable;

3. An explanation of how the applicant will limit employee exposure to potentially unsafe chemicals or other unsafe conditions;
4. A description of the applicant’s expected production capacity, to include any ability of the applicant to expand capacity within the anticipated production location;

5. The street address of the anticipated production facility;

6. A description of the equipment that shall be used in the production of cannabis;

7. Documents sufficient to establish that the applicant is authorized to conduct business in New Mexico and that state and local building, fire and zoning requirements and local ordinances are met for the proposed location of the production facility;

8. If the property is not owned by the applicant, provide a written statement signed by the property owner and landlord certifying that they have consented to the applicant operating a production facility on the premises;

9. Any text and graphic materials that will be shown on the exterior of the proposed production facility;

10. A description of the proposed production facility showing streets, property lines, buildings, parking areas, and outdoor areas, if applicable, that are within the same block as the production facility;

11. A report from a surveyor, or an attestation from a county or municipal zoning official, demonstrating that buildings to be used by the applicant are not within 300 feet of any school, church, or daycare center;

12. An appropriately labeled diagram or written description of the proposed production facility, which shall, at a minimum, identify the following:

   a. The location and square footage of the area where cannabis to be grown;

   b. The square footage of the areas where cannabis to be harvested;

   c. The square footage of the areas where cannabis to be packaged and labeled;

   d. The square footage of the areas where cannabis to be produced and manufactured;

   e. The square footage of the overall production facility;

   f. The square footage and location of areas to be used as storerooms or stockrooms;

   g. The location of any approved safes or approved vaults that are to be used to store cannabis;
h. The location of the toilet facilities;

i. The location of all break rooms and personal belonging lockers; and

j. The locations of all areas that may contain cannabis or cannabis-derived products, showing walls, partitions, counters and all areas of ingress and egress. Said diagram shall also reflect all production, propagation, vegetation, flowering, harvesting, storage and manufacturing areas.

13. A written acknowledgement that production, at any time, shall not exceed the total of mature female plants, seedlings, and male plants that the nonprofit entity has been approved by the Department to produce, and that inventory of usable cannabis shall reflect current patient needs;

14. A description of the applicant’s knowledge of U.S. Environmental Protection Agency agricultural worker protection standards;

15. A description of the applicant’s knowledge of New Mexico Department of Agriculture pesticide registration, licensing and use requirements; and

16. A detailed description of any air treatment or other system that will be installed and used to reduce off-site odors.

C. BUSINESS PLAN

A copy of the applicant’s Business Plan must be included with the application.

A licensee must operate in accordance with the Business Plan submitted as part of the producer’s application, unless the Department approves a modification to the business plan in writing. In addition to any other requirements contained in the rules found at 7.34.4 NMAC, note that the Business Plan must show how the applicant intends to fund its operations and become a successful producer, including information concerning costs for staff, water, other utilities, technology, and its funding sources.

D. SALES AND DISTRIBUTION PLAN

A copy of the applicant’s Sales and Distribution Plan must be included with the application.

A licensee must operate in accordance with the Sales and Distribution Plan submitted as part of the producer’s application unless the Department approves a modification to the Sales and Distribution Plan in writing.

In addition to any other requirements contained in the rules found at 7.34.4 NMAC, note that the Sales and Distribution Plan must identify the applicant’s plan for the safe distribution of cannabis and cannabis-derived products; the facilities and equipment that will be used in the distribution of cannabis and cannabis-derived products, and distribution criteria for qualified patients or primary caregivers appropriate for cannabis services that describes the method by which and locations at
which distribution will occur.

The Sales and Distribution Plan must also include the following:

1. A description of anticipated places of distribution;

2. A description of cannabis and cannabis-derived products anticipated to be distributed;

3. Any plans for delivery by the applicant or use of courier services for the purpose of delivery, including the anticipated cost to patients for the delivery service;

4. The applicant’s marketing plan, including any web materials and educational materials such as brochures, posters, or promotional items;

5. A description and sample of the packaging of the usable cannabis and cannabis-derived products that the nonprofit producer shall utilize, including a label that satisfies the labeling requirements of this rule;

6. A detailed description of the proposed method of transportation of cannabis and cannabis-derived products;

7. A description of measures to be taken by the applicant to ensure the confidentiality of patients and primary care givers and information that could identify qualified patients and primary care givers;

8. A description of the private entity’s means for educating the qualified patient and the primary caregiver on the limitations of the right to possess and use cannabis;

9. A description of the means the private entity shall employ to make qualified patients or the primary caregiver aware of the quality of the product;

10. A description of ingestion options of usable cannabis and cannabis-derived products provided by the private entity;

11. A description of inhalation techniques that shall be provided to qualified patients for the private entity’s cannabis and cannabis-derived products;

12. A description of potential side effects and how the private entity will educate qualified patients and the qualified patient’s primary caregivers regarding potential side effects patients for the applicant’s cannabis and cannabis-derived products;

13. A description of the means the private entity shall employ to make qualified patients or the primary caregiver aware of how to report adverse events related to medical cannabis use;

14. A description of the means the private entity shall employ to make qualified patients or the primary caregiver aware of how to report concerns regarding the private entity’s products and services;
15. A written acknowledgement that production, at any time, shall not exceed the total of mature female plants, seedlings contained in any production licensed issued to the applicant;

16. An attestation that no one is permitted to consume medical cannabis or cannabis-derived products on the production or distribution location of the private entity, if the applicant receives a producer license;

17. An attestation that if the applicant becomes licensed, the applicant will require the presentation of a department-issued identification card and a valid New Mexico photo identification card or a passport from every purchaser before selling or otherwise distributing medical cannabis or cannabis derived products to qualified patients and primary caregivers; and

18. A properly labeled diagram or written description of the proposed distribution location(s), which shall, at a minimum, identify the following:
   a. The total square footage of the building;
   b. The layout of areas to be accessible to the public, and areas to be accessible only by employees and authorized personnel;
   c. The square footage and location of areas to be used as storerooms or stockrooms;
   d. The location of any approved safes or approved vaults that are to be used to store cannabis;
   e. The location of the toilet facilities;
   f. The location of all break rooms and personal belonging lockers; and
   g. The locations of all areas that may contain cannabis or cannabis products that shows walls, partitions, counters and all areas of ingress and egress.

E. SECURITY PLAN

A copy of the applicant’s Security Plan must be included with the application.

A licensee must operate in accordance with the Security Plan submitted as part of the producer’s application unless the Department approves a modification to the Security Plan in writing.

In addition to any other requirements contained in the rules found at 7.34.4 NMAC, note that the Security Plan must include:

1. a detailed description of the methods and device or series of devices that shall be used to provide security in production and distribution locations;

2. a detailed description of any processes and/or controls that will be implemented to prevent the diversion, theft or loss of medical cannabis;

3. a detailed description of the measures and procedures that the producer will follow to ensure that access to the production facility premises will be limited only to employees;
4. a detailed description of the services to be offered by the selected security company at all production and distribution locations; and

5. a detailed description of the process that the private entity will take to ensure that access to the production facility premises will be limited only to employees and authorized persons.

F. QUALITY ASSURANCE PLAN

A copy of the applicant’s Quality Assurance Plan must be included with the application.

A licensee must operate in accordance with the Quality Assurance Plan submitted as part of the producer’s application unless the Department approves a modification to the Quality Assurance Plan in writing.

In addition to any other requirements contained in the rules found at 7.34.4 NMAC, note that the Quality Assurance Plan must include:

1. the applicant’s methods and processes to ensure purity;

2. the applicant’s methods and processes to ensure consistency of dose;

3. the applicant’s arrangements for routine testing by a department approved laboratory;

4. the means and processes the applicant shall employ to make qualified patients and primary caregivers aware of how to report adverse events related to medical cannabis use to the Department; and

5. the means and processes the applicant shall employ to make qualified patients and primary caregiver aware of how to report concerns regarding a producer’s products to the Department.

G. FINANCIAL AND ORGANIZATIONAL INFORMATION

A copy of the applicant’s Financial and Organizational Information must be included with the application.

A licensee must operate in accordance with the organizational structure submitted as part of the producer’s application unless the Department approves a modification to the organizational structure in writing.

In addition to information submitted in the Application Form any other requirements contained in the rules found at 7.34.4 NMAC, note that the Organizational Structure Materials must include:

1. a copy of the applicant’s articles of incorporation;
2. a copy of the applicant’s by-laws;

3. a copy of the applicant’s current business license;

4. a copy of the applicant’s Tax and Revenue registration certificate;

5. a copy of a certificate of good standing from the New Mexico Taxation and Revenue Department; certification from the New Mexico Secretary of State that the applicant is a nonprofit corporation in good standing pursuant to Section 53-8-1 et seq. NMSA 1978;

6. written verification that the applicant’s board of directors includes (at a minimum) five voting members, including one medical provider limited to a physician (MD or DO), a registered nurse, nurse practitioner, licensed practical nurse, or physician assistant, and three patients currently qualified under department regulations and the Lynn and Erin Compassionate Use Act, NMSA 1978, Section 26-2B-1 et seq.;

7. any agreements between any two or more members of the applicant that relate in any manner to the assets, property or profit of the applicant or any other comparable documents, that relate to the structure, organization, management or control of the applicant;

8. a current organizational chart for the applicant that includes position descriptions and the names of all persons holding each position in the chart, to the extent such positions have been filled;

9. resumes for all persons holding the positions list in the organizational chart. To the extent such information is not revealed by a resume, include additional pages with each resume setting out the employee’s particular skills, education, experience or significant accomplishments that are relevant to owning or operating a production facility;

10. a copy of all compensation agreements with producer backers, directors, owners, officers, other supervisory employees, and any other persons required to complete Appendices A and B. For purposes of this RFA, a compensation agreement includes any agreement that provides, or will provide, a benefit to the recipient whether in the form of salary, wages, commissions, fees, stock options, interest, bonuses or otherwise;

11. a detailed description of the nature, type, terms, covenants and priorities of all outstanding loans, mortgages, trust deeds, pledges, lines of credit, notes, or other forms of indebtedness issued or executed, or to be issued or executed, in connection with the medical cannabis operations of the applicant;

12. complete copies of all federal, state and foreign (with translation) tax returns filed by the applicant for the last three years, or for such period the applicant has filed such returns if less than three years;
13. complete copies of the most recently filed federal, state and foreign (with translation) tax returns filed by each: (i) producer backer; and (ii) each backer member identified in Section B of Appendix A; and

14. a financial statement setting forth the elements and details of all business transactions connected with the application.

H. PERSONNEL MATERIALS

A copy of the applicant’s Personnel Materials must be included with the application.

In addition to any other requirements contained in the rules found at 7.34.4 NMAC, note that the Personnel Materials submitted with the application must include:

1. Separate nationwide and statewide criminal history screening documentation for employees and contractors of the applicant;

2. Copies of personnel policies and procedures developed, implemented, and to be maintained on the premises of the private entity’s facilities, and verification that the applicant will comply with such policies and procedures;

3. Samples of the personnel records to be retained by the private entity for each employee as required by this rule, including:
   a. application for employment;
   b. state and federal employment documentation; and
   c. a written job descriptions or employment contracts developed for all employee positions, to include duties, authority, responsibilities, qualifications, and supervision;

4. A training curriculum to be maintained on-site (unless the applicant intends to enter into contractual relationships with outside resources capable of meeting employee training needs) that addresses, at a minimum, the following topics:
   a. state and federal confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA);
   b. professional conduct and ethics;
   c. the Lynn and Erin Compassionate Use Act and Department of Health rules;
   d. informational developments in the field of medical use of cannabis; and
   e. employee safety and security training addressing, at a minimum, the proper use of the security measures and controls that have been adopted, and specific
procedural instructions on how to respond to an emergency, including a robbery or violent accident; and

5. Proof of HIPAA training for all individuals associated with the applicant’s medical cannabis operations, including all board members, persons having direct or indirect authority over management or policies, and employees.

I. AGRICULTURAL AND PRODUCTION EXPERIENCE

In addition to any other requirements contained in the rules found at 7.34.4 NMAC, the following material related to the applicant’s agricultural and production experience must be included with the application:

A detailed description of the skill, knowledge and experience of the applicant in agriculture and other production techniques required to produce medical cannabis. For purposes of this response, the applicant may include the experience of any person employed by the applicant, including the person’s name and position with the applicant.
**Maximum Point Totals**

The Department will evaluate applications and score applicants based on the information provided for the following categories. The Department will compare the total scores of all applicants and rank applicants accordingly.

The categories to be considered, and the maximum number of points that may be assessed to each category, are as follows:

- Production Plan – 200 points;
- Business Plan and Qualifications, including Business Experience and Agricultural and Production Experience – 100 points;
- Sales and Distribution Plan – 200 points;
- Security Plan – 150 points;
- Quality Assurance Plan – 150 points;
- Financial and Organizational Information – 100 points;
- Personnel Materials – 50 points;
- Organization and clarity of materials – 50 points.