

Recreational Marijuana Program Compliance Education Bulletin

Bulletin CE2020-06
October 15, 2020



The Oregon Liquor Control Commission is providing the following information to recreational marijuana licensees and applicants.

The bulletin is part of OLCC's compliance education. It is important that you read it, and understand it. If you don't understand it please contact the OLCC for help.

Failure to understand and follow the information contained in this bulletin *could result in an OLCC rules compliance violation affecting your ability to work or operate your business.*

Bulletin CE2020-06 covers the following issues:

- Temporary Rule Changes
- License Application Streamlining
- Business Structure Changes for Current Licensees

Questions regarding the contents of this bulletin may be sent to marijuana@oregon.gov.

Temporary Rule Changes

On October 15, 2020, the Commission adopted temporary rules intended to provide relief to the industry and allowing OLCC greater flexibility in the processing of marijuana license applications. The main changes implemented in these temporary rules are:

- Revising the definition of who needs to be identified as an "applicant" for the license, including raising the threshold from the 10% to 20% ownership.
- Changing license application requirements, including reducing the amount of information and documentation which was previously required.
- Modifying when OLCC may request fingerprints for a background check to once per license year, rather than specifically in conjunction with a renewal application.
- Applicants can change the location of their proposed licensed premises prior to licensure, except for Producers who are prohibited by law from making that type of change until January 2022.
- Changes to notification and preapproval requirements when licensees make changes to business structures or financial interests (see below).
- Simplified paperwork requirements for Producer propagation endorsement and medically designated canopy registration.

In the coming months, the Commission will go through a permanent rulemaking process to finalize the rules, making adjustments based on feedback from the industry and other stakeholders. Anyone wanting to provide comment or input on proposed rules should subscribe to OLCC's email updates to stay apprised of the most recent activities, including dates and deadlines for public comment.

License Application Streamlining

In light of the current licensing backlog, Commission staff have been developing a comprehensive strategy to improve the processing time frame for all licensing actions. The agency believes that implementing the flexibility afforded by this temporary rule package and making internal process adjustments will significantly reduce the time it takes staff to evaluate each license application. The goal is to make the entire licensing process more efficient, timely, and predictable.

There are three main features that characterize the agency's new streamlined approach to licensing:

1. Collecting fewer documents as part of the license application.
2. Relying on the applicant's attestation that they have provided complete and accurate information.
3. Giving the applicant the responsibility for knowing and understanding the laws and rules around marijuana licenses, and ensuring that their business will comply with those rules.

As part of the streamlining process, OLCC will ask applicants to complete updated paperwork which aligns with the temporary rule. We recognize that many applicants have already filled out and submitted paperwork for the license application, but the new set of paperwork is straightforward and will significantly reduce the time it takes OLCC staff to evaluate the license application.

Under the streamlined licensing process, a complete application will typically include:

- An [Application Packet](#) for the appropriate license type. These forms have been streamlined to collect the minimum necessary amount of information. They also now include attestations that OLCC staff will rely on to be accurate when determining whether a license can be issued.
- A [Marijuana Applicant Questionnaire](#), along with an [Individual History](#) form for each individual who qualifies as an "applicant" for the license. The Applicant Questionnaire replaces all of the business structure forms that OLCC has historically collected. OLCC license investigators will no longer routinely collect detailed paperwork describing the structure and ownership of the business and analyze that information to determine which individuals and legal entities are "applicants." Instead, it is the responsibility of the business to completely and accurately identify all "applicants." The investigation process will not routinely consider other persons with a "financial interest," although OLCC retains the authority to do so if necessary.
- A map or sketch of the proposed premises and a floor plan for any indoor areas. New [Premises Map Instructions](#) are available that identify what information needs to be included on the map and floor plan. OLCC staff will rely on the applicant's attestation that the map and floor plan(s) are complete and accurate.
- A [Land Use Compatibility Statement \(LUCS\)](#). This requirement has not changed. An application must include this form, signed by the local government where the proposed premises is located, showing that the proposed license type is not a prohibited use at the proposed premises.

OLCC staff will continue to evaluate each applicant's relevant criminal history and their record of compliance when previously licensed before issuing a license.

If an applicant has previously submitted fingerprints for a background check with another marijuana license application, OLCC staff will use the results of that license investigation rather than having the person submit new fingerprints. If an applicant has not previously submitted fingerprints, they will need to do so before the application is assigned to a license investigator.

OLCC will continue to contact applicants to confirm that they are prepared to complete the licensing process within 60 days before assigning them to a license investigator. As part of this contact, OLCC staff will provide

instructions for applicants to submit fingerprints. Do not submit fingerprints until you have received these instructions from OLCC staff.

The licensing timelines established in OAR [845-025-1135](#) still apply:

- An applicant must complete the application process within 60 calendar days of being contacted by their license investigator.
 - If an applicant does not complete the process in 60 days and **has not** previously been in a “hold” status, the OLCC will un-assign the application and place it on hold until the Commission is able to reassign it; the reassignment will NOT take place until after other applications have been processed. Due to the volume of other license actions waiting to be processed, there could be a significant wait time before the OLCC reassigns the application.
 - If an applicant does not complete the process in 60 days and **has** previously been in a “hold” status, the application will be deemed incomplete and inactivated.

Business Structure Changes for Current Licensees

OLCC recognizes that the requirement to obtain prior approval from OLCC before accepting certain investments or entering into business arrangements has been a significant challenge for the industry. To address that challenge, the temporary rule package makes substantial changes to the requirements around business structure changes for marijuana licensees.

Under the temporary rules adopted October 15, 2020, any change in ownership or financial interest that is below 51% no longer requires prior approval from OLCC. The requirement to notify OLCC depends on the nature of the change; see below for details. Any change in ownership that is 51% or greater still requires a new license application be submitted and requires prior approval from OLCC before making the change.

Additional information can be found in OLCC’s [Guidance on Disclosing Interests in a Recreational Marijuana Business](#).

Changes that involve adding “applicants” or removing “licensees”

Changes of this type include:

- A person accumulating, directly or indirectly, 20% or greater ownership of the business.
- A person being entitled to receive 20% or more of the revenue or profits of the business.
- An applicant corporation naming a new corporate officer, an applicant manager-managed LLC naming a new LLC manager, or an applicant partnership naming a new general partner.
- Any person obtaining an “ownership interest” in the business – e.g. being entitled to exercise operational control over the business.
- Any person who previously qualified as an “applicant” or “licensee” being removed from the business.

If the change in business structure involves adding or removing individuals or legal entities that qualify as “applicants” or “licensees,” OLCC needs to be notified of the change.

For a publicly traded corporation that is adding or removing a principal officer, or has a shareholder who accumulates 20% or more of the voting stock, OLCC must be notified within 60 calendar days of the change occurring.

For all other changes of less than 51% where an individual or legal entity that qualifies as an “applicant” or “licensee” is being added to or removed from the business structure, OLCC must be notified prior to the change

occurring. The business does not need OLCC approval before making the change, but OLCC may request fingerprints and evaluate whether any new applicants are licensable. If the Commission determines that an individual or legal entity is not licensable, the licensee may remove that individual or legal entity from the business. If the licensee does not remove that individual or legal entity from the business, the Commission will propose license suspension or revocation under OAR 845-025-1115.

Changes that do not involve adding “applicants” or removing “licensees”

Changes of this type include:

- Any change in persons with a financial interest who do not qualify as “applicants,” including most loans.
- Adding members or shareholders who hold or control less than 20% of the business and do not have an “ownership interest” in the business (e.g. being entitled to exercise operational control).
- Removing members or shareholders who do not qualify as “applicants” or “licensees.”
- Changes in percentage ownership among members and shareholders that don’t cross the threshold of 20% direct or indirect ownership.

Licensees are not required to notify OLCC of changes that do not involve the addition or removal of individuals or entities that qualify as “applicants” or “licensees.”

While licensees are not required to notify OLCC of these changes, OLCC has the authority to require disclosure, additional information, and background checks as needed for smaller interests or other forms of financial arrangements on a case-by-case basis. Under OAR [845-025-1115\(3\)](#), the Commission may refuse to issue or renew a license to any applicant or licensee if any person having a financial interest in the business is found to be un-licensable.

Questions?

If you have any questions about these changes or this Bulletin please send them to marijuana.licensing@oregon.gov.