



# Illinois Department of Financial and Professional Regulation

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## Office of the Secretary

JB PRITZKER  
Governor

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Secretary

September 22, 2020

### **Conditional Adult Use Dispensing Organization License Supplemental Deficiency Notice Process**

The following is a description of the status of the Illinois Department of Financial and Professional Regulation's ("the Department") review of the applications for the 75 Conditional Adult Use Dispensing Organization Licenses ("Conditional Licenses"). In the coming weeks, the Department will post on its website more detailed information regarding this process, including all relevant deadlines. There is no need for applicants to take any steps at this time to participate in the process described below.

A. Applicants for a Conditional License have submitted applications for 75 Conditional Licenses to be awarded in 17 regions of the State of Illinois under the Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq.* (the "Act").

B. The Act outlines criteria for the Department to award the Conditional Licenses. The Act assigns points to certain categories of information so that an application could receive up to 252 points. The application required applicants to provide this information in 20 separate exhibits (Exhibits A through T).

C. The Department engaged KPMG to review and score the applications for Conditional Licenses based on scoring metrics provided by the Department.

D. During the initial phase of the scoring process, KPMG identified some applications that could not be scored because some or all of the electronic files submitted by the applicant could not be accessed due to damage or a corrupted file. The Department notified those applicants and allowed them to resubmit their respective applications in a form that could be reviewed. The Department also asked KPMG to conduct a review of the applications to determine if the applications were deficient because they failed to provide certain elements the Department required. For those applications identified as deficient through this review, the Department sent deficiency notices giving applicants 10 days to respond to the items identified in the notice.

E. For the applications that passed through the initial phase described above, KPMG scored the applications and identified applications that tied for the highest possible score of 252 points. Because the number of tied top-scoring applications exceeded the number of available Conditional Licenses, the Department announced that it will conduct a lottery, as required by its administrative rules, 68 Ill. Adm. Code 1291, to determine which applications will receive the 75 Conditional Licenses. On September 3, 2020, the Department announced a list of tied applicants that are potentially eligible for the lottery. Since September 3, 2020, upon request from any applicant, the Department has provided applicants the total score received on their scored applications and each exhibit.

F. Several applicants that did not qualify for the lottery have raised concerns about the process the Department used to issue deficiency notices and other issues relating to the scoring process. Some applicants have raised these issues in lawsuits filed in state and federal court.

G. The Department is committed to ensuring that its process for issuing the Conditional Licenses is fair to all applicants. In light of the issues that have been raised about the deficiency notice and scoring process, the Department has determined that (i) conducting the lottery and issuing Conditional Licenses based on the current scores without first addressing those issues will undermine confidence in the licensing process, and (ii) providing an additional opportunity to cure deficiencies will ensure fairness.

Accordingly, in furtherance of the Act's purposes, the Department will take the following actions:

1. To redress issues that have been raised related to the Department's scoring and initial deficiency notice process, the Department will provide applicants a supplemental deficiency notice. The supplemental deficiency notice will give applicants that did not receive the maximum number of points on any exhibit at least 10 days to (a) submit an amended application exhibit; (b) request that the Department review any original application exhibit for potential scoring errors or inconsistencies (*e.g.*, the same applicant submitted the identical supporting document for the same exhibit on multiple applications but did not receive the same score on each exhibit); or (c) do nothing and keep the current score on that exhibit. Applicants may choose one of the three options for any exhibit that received less than a full score, but they cannot choose more than one option for a single exhibit.

2. No applicant will be permitted to change ownership in response to the supplemental deficiency notice, except in the instance of a death of an owner that occurred after the date the application was submitted but before the date of the supplemental deficiency notice to be issued by the Department.

3. The Department will review all timely responses to the supplemental deficiency notice and will issue the resulting final score for all scored applications.

4. If an applicant fails to submit one of the allowed responses within the required timeframe identified in the supplemental deficiency notice, either by providing an amended exhibit or by requesting that an original exhibit be rescored, the Department will not review or rescore the exhibit and the original score for that exhibit will stand.

5. Under Section 15-30(f)(2) of the Act, the Department may deny any application if the Department determines that the applicant failed to disclose or falsely stated any information called for in the application.

6. Following this process, the Department will award the 75 Conditional Licenses among tied applicants pursuant to a lottery consistent with the Department's administrative rules, 68 Ill. Adm. Code 1291.

7. After the Department awards the 75 Conditional Licenses, any applicant may seek judicial review of the Department's final administrative decision under the Illinois Administrative Review Law, as provided by Section 15-175 of the Act, 410 ILCS 705/15-175.