



IDFPR

Illinois Department of Financial and Professional Regulation

Division of Professional Regulation

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ADVISORY NOTICE

To date, the Department has received many questions regarding the Conditional License process. This document provides answers to frequently asked questions. Questions have been summarized or shortened where appropriate. The Department did not respond to individual fact-specific questions.

The Department encourages all applicants to familiarize themselves with all requirements of the Cannabis Regulation and Tax Act (“CRTA”), available [here](#). While this document serves as a helpful guide, the CRTA includes many other requirements and provisions all dispensary licensees will be required to adhere to.

August 24, 2022 UPDATE: Since originally publishing the FAQs, the Department has received many questions regarding the Conditional License process and potential challenges new conditional licensees may face related to Management Service Agreements (“MSAs”). Historically, the Department has interpreted MSAs as requiring the managing entity and its managing members to register as Principal Officers of the underlying licenses. To offer conditional licensees an opportunity to enter into an MSA during the conditional phase, the Department may accept a modified version of an MSA, referred to as a Conditional Management Service Agreements (“CMSAs”) under certain conditions which are further explained on Page 4.

TABLE OF CONTENTS

1. Business Operations	(2)
2. Changes to Conditional License Ownership.....	(3)
3. Conditional License Process.....	(5)
4. Fees and Finances	(7)
5. Location and Zoning	(8)
6. Security	(9)
7. Tax Compliance	(9)
8. Technical.....	(10)

1. Business Operations

- **When can Conditional Licensees begin sales of cannabis?**
 - A Conditional Adult Use Dispensing Organization License (“Conditional License”) does not mean that dispensary may begin selling cannabis to purchasers. The Conditional License phase is intended to allow licensees to prepare to become fully operational by building out its dispensary and being inspected by the Department. Only once a Conditional Licensee is issued an Adult Use License under Section 15-36 of the CRTA may it begin sales to purchasers. *410 ILCS 705/15-36*. “Conditional Adult Use Dispensing Organization License” means a contingent license awarded to applicants for an Adult Use Dispensing Organization License that reserves the right to an Adult Use Dispensing Organization License if the applicant meets certain conditions described in this Act, but does not entitle the recipient to begin purchasing or selling cannabis or cannabis-infused products. *410 ILCS 705/1-10*.

- **Is a separate entrance and exit required in the dispensary for customers?**
 - There is no requirement in the Act of a separate entrance and exit. If the entrances and exits are not separate, the dispensary’s video surveillance equipment must be able to capture video that allows for facial recognition of all individuals entering or exiting. *410 ILCS 705/15-100(i)(2)*.

- **Will deli style ever be allowed?**
 - Dispensaries are not permitted to display unpackaged product through something like a window case under the current Act or Rules.

- **What is the customer to employee ratio allowed on the sales floor?**
 - There is no ratio specified, but applicants should take into consideration occupancy limits set by local governments and the requirement of adequate staffing for a location pursuant to their policies and procedures.

- **Are there any rules surrounding dummy packaging on the sales floor?**
 - Nothing in the Act or Rules prohibits dummy packaging as long as the packaging does not contain cannabis which must remain securely stored.

- **Can dispensary licensees open a packaged flower, make it a sample, and allow customers to look at it?**
 - Dispensary licensees may not open a packaged flower, make it a sample, and/or allow customers to look at it. *410 ILCS 705/15-80* states all cannabis tampered with must be destroyed. *410 ILCS 705/15-100(c)(5)* states all cannabis must be stored and dispensed from the restricted access area during operational hours which can only be accessed by dispensing organization agents.

- **Can the cannabis leaf be displayed on apparel, signage, etc.?**
 - Please review *410 ILCS 705/55-20* for advertising and promotions specifics, including a specific prohibition against displaying the image of a cannabis leaf. *410 ILCS 705/55-20(a)(6)*.

- **Can a dispensary have a drive through?**
 - Pursuant to 410 ILCS 705/15-70(p)(7) dispensaries are prohibited from operating drive-through windows.

- **What information and plans from an application is the Department making a condition of the license?**
 - Pursuant to Sections 15-30(i), 15-35(k), and 15-35.10(k) of the CRTA, if an applicant is awarded a Conditional License, the information and plans provided in the application, including any plans submitted for bonus points, become a condition of the Conditional License and any Adult Use Dispensing Organization License (“AUDO License”) issued to the holder of the Conditional License, except as otherwise provided by this Act or by rule. A dispensing organization has a duty to disclose any material changes to the application. The Department shall review all material changes disclosed by the dispensing organization and may reevaluate its prior decision regarding the awarding of a Conditional License, including, but not limited to, suspending or permanently revoking a Conditional License. Failure to comply with the conditions or requirements in the application may subject the dispensing organization to discipline up to and including suspension or permanent revocation of its authorization or Conditional License by the Department. *410 ILCS 705/15-30(i); 410 ILCS 705/15-35(k); and 410 ILCS 705/15-35.10(k).*

2. Change or Transfer of Conditional Licenses

The Department received a number of questions related to the sale of a Conditional License, adding or removing Principal Officers during the Conditional License phase, and when a dispensary licensee may alter its ownership makeup or make changes to its ownership structure.

- If a Principal Officer identified on an original application or through the supplemental process is no longer a Principal Officer, the ownership interest of the removed Principal Officer must be reallocated to the remaining Principal Officer(s). Removal of a Principal Officer will not affect the scoring of an application. No new Principal Officers may be added at this time.
- Conditional Licenses cannot be sold, transferred, or assigned.
- Once an entity is issued its AUDO License, it may apply to the Department to change its ownership. Change of Ownership guidance is available [here](#).

- **Are new Principal Officers allowed during the Conditional Phase?**
 - Conditional Licenses’ ownership cannot be altered during the conditional phase, unless the ownership changes as a result of the death of a Principal Officer. If a Principal Officer of a Conditional Licensee dies during the conditional phase, the deceased party’s interest must be reallocated to the existing Principal Officers. In such a scenario, the Conditional Licensee should contact the Department directly about a death.

- **Are Management Service Agreements allowed during the Conditional Phase?**
 - No. Management Service Agreements (“MSAs”) require new Principal Officers to be added to an ownership structure, and because Conditional Licenses may not be sold, transferred, or assigned, MSAs may not be entered into during the Conditional Phase.
 - **Update:** Traditional MSAs remain prohibited during the Conditional Phase. However, the Department will not consider an MSA to be part of the licensee’s ownership or control such that the Conditional Managing Entity (“CME”)’s agents or members must register as Principal Officers of the licensee if the following conditions are met. The Department may consider such agreements during the conditional phase to be Conditional Management Service Agreements (“CMSAs”).
 - The CMSA contains explicit provisions stating that the agreement is temporary and terminates upon the Conditional Licensee receiving an AUDO License.
 - The CMSA contains an explicit provision that the CME will exert no ownership or control over the Conditional Licensee or corresponding AUDO License nor have any provision granting CME an ownership interest in Conditional Licensee prior to, during, or as a result of the managing services rendered to Conditional Licensee.
 - A CMSA may cover handling of the day-to-day operations as well as hiring of subcontractors or other managerial functions, but ultimate corporate control and decision making must remain with the Conditional Licensee
 - The CMSA does not include any provision granting CME any rights of exclusivity should Conditional Licensee obtain an AUDO License
 - The CMSA identifies flat fees as the form of payment
 - The CMSA does not take effect until approved by the Department
 - The CMSA cannot be assigned, transferred, sold, or any combination thereof
 - The CMSA once entered into cannot be changed, modified or amended during the Conditional Phase
 - The Department or either Party can nullify or refuse to approve any CMSA deemed to be coercive or otherwise objectionable to the stated purposes of the CRTA. For this reason, the Department strongly recommends that both Parties to the CMSA be represented by separate attorneys licensed in the jurisdiction where the agreement is negotiated and agreed to.

3. Conditional License Process

- **The Department states that Conditional Licenses will be awarded on a rolling basis. What can companies do to ensure that they will receive a Conditional License as quickly as possible, and what forms or information are required?**
 - The Department has previously outlined its plan for issuing the 185 Conditional Licensees in this [Next Steps](#).
 - July 22, 2022 or earlier: 119 Conditional Licenses for the Naperville-Chicago-Elgin BLS Region.
 - August 5, 2022 or earlier: 39 Conditional Licenses for BLS Regions with multiple licenses available will be issued (Peoria, Rockford, St. Louis, Northwest, West Central, East Central, South).
 - August 19, 2022 or earlier: 27 Conditional Licenses for BLS Regions with a single license available will be issued (Bloomington, Cape Girardeau, Carbondale-Marion, Champaign-Urbana, Danville, Davenport-Moline-Rock Island, Decatur, Kankakee, Springfield).
 - Any delays with issuing individual licenses (e.g., due to a compliance check issue) will not pause the entire licensing schedule.
 - Entities are required to submit a completed [Principal Officer Affirmation Form](#) for each application number that was awarded a license. In addition, the Department must perform tax compliance checks on all current Principal Officers associated with the application and ensure no entity or individual violates the 10-license limitation imposed by Section 15-30 of the CRTA. *410 ILCS 705/15-30(k)*.
- **Some of the removed Principal Officers identified on the Principal Officer Affirmation Form may have also received notice that they were not tax compliant. Does the Principal Officer Affirmation Form serve as notice to the Department that those individuals identified as being removed no longer need to also prove they are tax compliant?**
 - Any Principal Officers identified as being removed on a group's Principal Officer Affirmation Form are no longer required to prove tax compliance. All remaining Principal Officers and the entity need to prove tax compliance.
- **Once the Conditional License is issued, what are the steps in the dispensary buildout and site inspection process that require approval from the Department so that the Adult Use License can be issued?**
 - Background checks: In order for a Conditional Licensee to be issued its AUDO License, the Department must perform background checks on all of the Conditional Licensee's Principal Officers. *410 ILCS 705/15-25(g)*; *410 ILCS 705/15-35(f)*; and *410 ILCS 705/15-35.10(f)*.
 - Zoning Approval: Conditional Licensees must also receive zoning approval from the local government in which its proposed dispensary will operate in, and upon doing so, submit a [Notice of Proper Zoning Form](#) to FPR.CannabisAdministration@illinois.gov.
 - Floor Plans: Applicants can take a number of steps to ensure compliance prior to requesting an inspection. Applicants may submit their floor plan to the Department for review prior to beginning construction to receive feedback on areas that need

improvement. Once an applicant has completed construction, they may submit a [Request for Inspection Form](#). Applicants will then be given a pre-inspection form, which will need to be attested to and signed by a Principal Officer, indicating they have completed their own inspection on forms provided by the Department. Once the Department receives the pre-inspection form, it will schedule a final inspection. ***It is important to note that any issues found during the final inspection are required to be resolved prior to issuance of an AUDO License. This will result in a delay of issuance of the AUDO License. Priority will be given to those Applicants who have not been previously inspected and found non-compliant.***

- **Is there an option to extend the conditional period if a licensee is not operational within 6 months?**
 - Conditional Licensees have 180 days upon issuance of its Conditional License to find a suitable location. If a Conditional Licensee is unable to find a location within the first 180 days, the Department may extend the period for finding a physical address another 180 days if the Conditional Licensee demonstrates a concrete attempt to secure a location and a hardship. *410 ILCS 705/15-25(e); 410 ILCS 705/15-35(c); and 410 ILCS 705/15-35.10(c)*. The Department will issue separate guidance on the extension process in the coming weeks.
- **What is the expected timeline and process for Adult Use Dispensing Organization licenses to be issued?**
 - AUDO Licenses will be issued on a rolling basis as Conditional Licensees complete all of the requirements for the Conditional License Phase referenced in the above section.
 - Principal officers will also be required to submit updated Principal Officer Applications. “All Principal Officers must submit a complete online application with the Department within 14 days of the dispensing organization being licensed by the Department or within 14 days of Department notice of approval as a new Principal Officer.” *410 ILCS 705/15-50(e)*. The Principal Officer Application is available [here](#).
- **What types of criminal offense charges or convictions against an Adult Use Principal Officer could lead the Department to deny a license to an applicant?**
 - While there are no statutory excluded criminal offenses specific to Adult Use Principal Officers, as Section 15-145 of the CRTA states, “*The Department may deny issuance, refuse to renew or restore, or may reprimand, place on probation, suspend, revoke, or take other disciplinary or non-disciplinary action against any license or agent identification card*” including but not limited to offenses that would be considered “*unprofessional, dishonorable, or unethical conduct of a character likely to deceive, defraud, or harm the public.*” *410 ILCS 705/15-145(a)*.
 - All Principal Officers must register with the Department by filling out and submitting the [Application for Proposed Principal Officer of an Adult Use Dispensing Organization](#). On the Application, Principal Officers are required to answer all questions truthfully including the questions pertaining to previous convictions and charges. In addition to the questions on the Application, Principal Officers are required to submit the additional exhibits outlined in the Application including their fingerprints ([Out of State Fingerprint Instructions](#) and [Fingerprint](#)

[Instructions](#)) and [Fingerprint Consent Form](#) for statutory background checks.

4. Fees and Finances

- **What is the renewal period and fee process for AUDO Licenses?**
 - Renewal periods for AUDO Licenses are March 31st of every even-numbered year. *410 ILCS 705/15-45(a)*. The full authority AUDO Licenses cost \$60,000 to be renewed during the renewal period. *410 ILCS 705/15-45(d)(1)*.
- **Will AUDO licensing fees be prorated based on when they are due relative to the next renewal date?**
 - The \$60,000 fee for an AUDO License will be prorated relative to the next renewal date. The Department will work with each Conditional Licensee during the inspection process in the conditional phase on the amount owed as well as the process for delivering the check required.
- **Will applicants who qualified for fee waivers during the application process automatically qualify for a reduced AUDO licensing fee? Or will they need to apply again?**

Applicants should resubmit documentation to demonstrate they qualify for a fee waiver. The Department will record whether the applicant may qualify for a fee waiver during initial licensure, but not at renewal due to increases in revenue. The Department will reassess between the Conditional License phase and collecting the fee for the new AUDO License and will confirm as soon as possible.
- **Can the escrow (\$50,000) be deposited in a federally insured bank, or does the escrow need to be put into a specialty bank like the operating account?**
 - “A dispensing organization must establish and maintain an escrow or surety account in a financial institution in the amount of \$50,000.” *410 ILCS 705/15-55*. “Financial institution” has the same meaning as “financial organization” as defined in [Section 1501](#) of the Illinois Income Tax Act, and also includes the holding companies, subsidiaries, and affiliates of such financial organizations. *410 ILCS 705/1-10*. Further information is contained within the links for the [Escrow Form](#) and [Surety Form](#).
- **Is there a fee if an AUDO License is sold to a non-Social Equity Applicant?**
 - Section 7-25 of the CRTA provides parameters regarding the transfer of license awarded to Qualified Social Equity Applicant to be paid by the new license holder. *410 ILCS 705/7-25*.

5. Location and Zoning

- **Once we have received our Conditional Licenses, how do we notify the Department regarding dispensary locations we have found?**
- **If an applicant identified an address for their dispensary in their application but now needs to change that address, how can they make that change with the Department?**
 - Conditional licensees should contact the Department at FPR.CannabisAdministration@illinois.gov regarding any change of address of its proposed dispensary location after it has been issued its Conditional License. During the conditional license phase, change of locations are expected based on zoning approvals and other considerations, and all Conditional Licensees will be required to submit a [Notice of Proper Zoning Form](#). If a change of location occurs after the [Notice of Proper Zoning Form](#) has been approved by the Department, the Conditional Licensee will need to submit a new form to the Department. All Conditional Licensees should keep in mind the 180-day process explained above if changing its location.
 - Conditional Licensees may only operate in the BLS region in which its associated application won. The Department will confirm that any proposed location is in the BLS region in which that unique application won.

- **How will the 1,500-foot prohibition be enforced?**
 - The Department has published guidance regarding the 1,500-foot prohibition, available [here](#).

- **What are the requirements for submission of zoning approval of a location?**
 - Local governments, and not the Department, are responsible for zoning approval. Prior to issuing a full authority Adult Use License, the Department is required to inspect the dispensary site and proposed operations and verify that they are in compliance with the Act and local zoning laws. *410 ILCS 705/15-36 (b)(1)*. Applicants will need to submit a [Notice of Proper Zoning Form](#) and a [Request for Inspection Form](#) to the Department.

- **If a BLS Region was originally supposed to have 1 license, and now has been allotted more licenses than it was originally zoned for as a result of HB 1443, what happens if the applicant is denied zoning in their BLS Region?**
 - Zoning is specific to local units of governments such as municipalities or counties, and is not tied to BLS regions. *410 ILCS 705/55-25. “If, within 180 days of being awarded a Conditional Adult Use Dispensing Organization License, a dispensing organization is unable to find a location within the BLS Region in which it was awarded a Conditional Adult Use Dispensing Organization License under this Section because no jurisdiction within the BLS Region allows for the operation of an Adult Use Dispensing Organization, the Department may authorize the Conditional Adult Use Dispensing Organization License holder to transfer its Conditional Adult Use Dispensing Organization License to a BLS Region specified by the Department.” 410 ILCS 705/15-25(e-5); 410 ILCS 705/15-35(d); and 410 ILCS 705/15-35.10(d).*

6. Security

- **What is the definition of restricted access and limited access area of a dispensary?**
 - Restricted access areas and limited access areas and their specific requirements are described in greater detail in 410 ILCS 705/15-100 of the CRTA. In general, however, a restricted access area is an area limited to authorized personnel in which cannabis is stored and a limited access area is an area in which cannabis sales may occur.
 - The [Medical Rules](#) define a Restricted Access Area as: “*a room or rooms, or other contiguous area under control of the dispensing organization and on the registered premises with access limited to dispensary agents, the [Department of Financial and Professional Regulation], [the Illinois State Police], emergency personnel and service professionals as described in this Part, where cannabis is stored, held, packaged, sold or processed for sale.*” 68 IAC 1290.10.
 - The CRTA defines a Limited Access Area as: “*room or other area under the control of a cannabis dispensing organization licensed under this Act and upon the licensed premises where cannabis sales occur with access limited to purchasers, dispensing organization owners and other dispensing organization agents, or service professionals conducting business with the dispensing organization, or, if sales to registered qualifying patients, caregivers, provisional patients, and Opioid Alternative Pilot Program participants licensed pursuant to the Compassionate Use of Medical Cannabis Program Act are also permitted at the dispensary, registered qualifying patients, caregivers, provisional patients, and Opioid Alternative Pilot Program participants.*” 410 ILCS 705/1-10.

- **What are the vault specifications and requirements for a dispensary?**
 - Vaults, safes, and all other security measures must comport with 410 ILCS 705/15-100 of the CRTA. Dispensaries may have more than one vault, made of any material, so long as the vaults meet the security requirements.

7. Tax Compliance

- **If an individual filed for a tax filing extension, are they considered tax compliant? Or would they have to file immediately even though an extension would give a longer timeline?**
- **If people are making tax or other payments to the State in quarterly installments, do they need to pay their next quarterly installment before the tax compliance due date?**
 - The Department is unable to answer tax-related inquiries. It is recommended that applicants contact the Illinois Department of Revenue directly (REV.prd@Illinois.gov) who can address any specific tax liabilities and filings.

8. Technical

- **Do I need to maintain my KPMG account?**
 - No, there is no need to maintain a KPMG account.

- **If the Department contacts an applicant via phone (in the event all other means of communication fail), how can an applicant verify the call is coming from the Department?**
 - Applicants should ask for the caller's name and title. The Department will never request an applicant's social security number or other sensitive information over the phone. If an applicant is concerned about a call, they may request the Department's staff to send an email to their email address. Applicants can also request correspondence by regular mail, but this may cause delays as expected with the mail system.

- **How can applicants ask questions of the Department outside this FAQ window?**
 - Applicants should ensure they have FPR.AdultUseCannabis@illinois.gov and FPR.CannabisAdministration@illinois.gov marked to avoid spam filters. The Department will send updates as they become available from those addresses. If Applicants have questions once they are issued a Conditional License, they should contact FPR.AdultUseCannabis@illinois.gov. A response will be provided as soon as possible.
 - The Department also anticipates future FAQs rounds so that all Conditional Licensees may have access to consistent information.

- **How can the attorney of an of an applicant receive access to the original application materials, which include the applicant's personal data, fingerprints, and signature?**
 - The Department is prohibited from disclosing confidential information, such as an application or its contents, to individuals other than the applicant. *410 ILCS 705/55-30*. If an applicant requests a copy of its own application, it must submit a written request to the Department at FPR.CannabisAdministration@illinois.gov from the primary or alternate email address on file for that application. Individuals not identified as a primary or alternate contact may be authorized by the primary or alternate contact to discuss such matters with the Department by submitting a [Third Party Authorization Form](#).