



State of New Jersey
CANNABIS REGULATORY COMMISSION

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December 7, 2021

Robert Divito
Sierra dba Element 7 LLC
8033 SUNSET BLVD
#987
Los Angeles, CA 90046

Re: FINAL AGENCY DECISION
Denial of Dispensary Permit Endorsement to Operate an Alternative Treatment Center ("ATC") Pursuant to the 2019 Request for Application ("RFA") Process

Dear Robert Divito:

The New Jersey Cannabis Regulatory Commission ("CRC") has received and reviewed your application for a dispensary permit endorsement, submitted on 8/21/2019, to operate an Alternative Treatment Center ("ATC") pursuant to N.J.S.A. 24:6I-1 *et seq.* Following thorough review by the selection committee, and subject to the post-award accountability measures listed below, the CRC has denied your application for a dispensary permit endorsement.

By way of background, on July 1, 2019, the Department of Health ("Department") posted a Request for Applications ("RFA") to operate up to twenty-four ATCs, of which up to eight such centers would be in the Northern and Central regions of the state, up to seven would be in the Southern region of the state, and one would be in a region to be determined at the time of award based on patient need. The RFA sought to award permits for up to fifteen dispensaries, five cultivation sites, and four vertically integrated ATCs (granting the ability to cultivate, manufacture, and dispense medicinal cannabis and medicinal cannabis products). On August 2, 2019, the RFA was updated to clarify provisions related to the application fees required for vertically integrated permit applications.

To allow for a robust industry with room for different operators, prospective applicants were restricted in the number of applications they could submit. Applicants seeking a vertically integrated permit could submit only one application and could not seek any other permit or endorsement. Applicants not seeking a vertically integrated permit were allowed to submit up to one application per region for a maximum of three applications.

No applicant could be awarded more than one permit under the 2019 RFA, and no applicant could hold more than one cultivation endorsement, one manufacturing endorsement, and one dispensary endorsement as a result of the awards made pursuant to the RFA.

Applications for dispensary permit endorsements were due to the Department no later than August 22,

2019, at 3:00 PM. Applicants had the choice of whether to submit the application online and only submit signed coversheets and checks in person, or to submit the entire application in hard copy/paper form.

The Department received a total of 198 applications, including 40 applications for cultivation permit endorsements, 109 applications for dispensary permit endorsements, and 49 applications for vertically integrated permits. An initial completeness review of all 198 applications was conducted by the Department. Of the 198 applications, 2 were submitted as incomplete applications.

Pursuant to N.J.A.C. 8:64-6.2 (now N.J.A.C. 17:30A-6.2 and 6.4), the Department convened a selection committee in conjunction with the RFA. The selection committee was composed of a total of nine individuals in full-time State service from the Department of Health, the Department of the Treasury, the Department of Environmental Protection, and the Department of Labor.

Selection committee members possessed the following expertise:

- Three members were experienced in the regulation of the cultivation, manufacturing, and dispensing of medicinal cannabis;
- One member had expertise in quality assurance, public health, and emergency preparedness;
- One member had expertise in public health, pharmaceutical assistance, and fiscal management;
- One member had expertise in the management of environmental resources and public affairs;
- One member had expertise in workforce development;
- One member had expertise in labor compliance; and
- One member had expertise in business development and the certification of minority-owned, women-owned, and veteran-owned businesses.

Prior to beginning work on the selection committee, members completed a confidentiality agreement and a business disclosure form so the Department could verify that none of the selection committee members had any outside business interests that would conflict with their work on the committee. Once the completeness review concluded, selection committee members were provided a list of the applicants they would be scoring, including the names of principals, owners, and directors. Every selection committee member signed a certification stating they possessed no conflicts of interest with respect to the applicants.

The Department organized three trainings for selection committee members:

- Two initial trainings, one on September 19, 2019, and one on September 23, 2019. Each selection committee member attended one of these trainings.
- A refresher training on February 23, 2021, after the stay on proceedings was lifted on February 17, 2021 (discussed in further detail below).

The trainings included an overview of the Department's regulations, an overview of the medicinal cannabis market as it existed in September of 2019, and a comprehensive review of the terms of the RFA,

the scoring criteria, and the assignments for each team.

The selection committee was divided into three teams of three, with each team responsible for scoring a portion of each permit endorsement application in accordance with specific measures. Each team was responsible for a maximum of 100 points for every permit endorsement sought (100 points for cultivation and dispensary applications, and 300 points for vertically integrated applications, which includes three endorsements).

In December of 2019, following a challenge by several disqualified applicants, the Superior Court of New Jersey, Appellate Division, issued a stay that barred the Department from undertaking any additional work on the 2019 RFA. Despite the Department's efforts to continue reviewing applications while the Court reviewed the appellants' claims, the Department was prohibited from reviewing, scoring, and awarding any permits under the 2019 RFA process. The stay imposed by the Appellate Division was vacated on February 18, 2021.¹

Upon the selection committee's impartial and thorough review of the applications against the criteria set forth in the RFA, the following thirty applicants were chosen for dispensary permit endorsements based on scoring and regional priority:

Control #	Applicant Name	Region	Total Score
19-0016	Middle Valley Partners LLC	Central	273.33
19-0009	Community Wellness Center of NJ	North	267.33
19-0013	The Law Offices of Juliana Diaz LLC	South	266.33
19-0076	Monmouth Wellness and Healing LLC	Central	265.33
19-0064	GR Vending NJ LLC	North	265.00
19-0003	McGraw Holdings New Jersey, Inc.	Central	257.67
19-0073	Eastern Green Inc. d/b/a Starbuds	South	257.33
19-0111	Design 710	South	257.33
19-0061	NJ Kindness	South	257.00
19-0011	Restore NJ LLC	South	252.33
19-0037	Yuma Way NJ LLC	North	251.67
19-0083	Monteverde NJ, Inc.	Central	251.33
19-0067	Terrapin	North	250.00
19-0092	Organic Remedies NJ, Inc.	South	248.67
19-0112	Oceanfront Holdings LLC	North	248.33
19-0086	11 th Colony, LLC	North	247.67
19-0048	Honeygrove Corp.	South	245.67
19-0035	New Jersey PharmaCanna LLC	North	242.67
19-0069	1 st Choice Health and Wellness	North	241.67
19-0005	Silver Leaf Wellness LLC	Central	240.33

¹ Pursuant to N.J.S.A. 24:6I-24(a), the CRC assumed all responsibility for the Medicinal Marijuana Program from the Department of Health on April 12, 2021. With this transfer of authority came the responsibility to review and approve or deny applications submitted pursuant to the 2019 RFA.

19-0042	Garden State Botanicals	Central	240.00
19-0012	GLCPC LLC	Central	239.67
19-0101	Sanctuary Medicinals	Central	239.00
19-0032	Theory Wellness of NJ LLC	Central	236.33
19-0017	Nature's Touch Med NJ LLC	North	235.00
19-0084	Woah Flow	Central	233.33
19-0055	NJ Patients Care LLC	North	229.33
19-0051	Circe Therapeutics LLC	South	226.67
19-0104	Life Compassion Center Dispensary LLC	South	222.00
19-0102	Holistic Solutions LLC	South	205.00

The highest possible score for dispensary endorsement applications was 300 points (100 points total from each of the three teams on the selection committee). Total scores for all applications ranged from 273.33 points to 103.67 points.

The CRC selected award recipients in accordance with an objective methodology that ensures that there is an adequate supply of medicinal cannabis to meet the needs of registered patients, which is a significant component of the purpose and intent of N.J.S.A. 24:6I-1 et al. The selection methodology formulated by the CRC and the post-award measures (1) address patient need; (2) prioritize the highest scoring applicants while also complying with the distribution set out in the 2019 RFA; (3) are driven by data; and (4) include accountability measures that ensure that awardees operate to the standards proposed in their applications. The resulting awardees are expected to get up and running quickly and begin addressing patient need as soon as practicable.

Additionally, to keep pace with expanding patient enrollment, which has continued even after the broad decriminalization of marijuana, the CRC decided to double the dispensary awards issued under the 2019 RFA from fifteen to thirty. Doubling the number of dispensary awards issued is consistent with the statutory charge and authority of the CRC to meet patient need and is reflective of expansion of the patient population over the last two years, the projected expansion in the future, and the anticipated loss of operational capacity that may be associated with the launch of personal-use cannabis sales in the future. Increasing the number of ATCs that can operate in the market also encourages product innovation and price reductions for patients (driving ATCs to compete for the support of the medicinal cannabis patient community) while allowing for a more resilient marketplace (having operators available to supply medicinal cannabis items even if one operator fails).

Furthermore, the CRC has a cohort of qualified applicants who have been waiting for two years to help serve New Jersey's medicinal market and increasing the number of awards issued will put these awards more in line with actual market needs for 2021 and beyond, while enabling market players to better deliver value, access, and product availability to New Jersey's patients.

Unlike cultivation facilities, the location of dispensaries is important. Just as it is important for patients to have easy access to pharmacies to access their medications, having an even regional distribution of access points for medicinal cannabis dispensaries is important. Consistent with these goals, the CRC determined to double the number of dispensary permit endorsements in each region from five to ten (for a total of thirty) and selected the highest scorers in each region such that selected applicants receive only

one permit award. The current medicinal cannabis market has failed to produce adequate supply on a consistent basis to keep pace with demand, and by doubling the number of dispensary awards the CRC is issuing awards that align with its principles.

In accordance with the above criteria and analysis, the CRC utilized an even regional distribution, with the possibility to award multiple applicants seeking to operate in the same town if they had scored high enough. Of New Jersey's 565 municipalities, only a fraction allows medicinal cannabis businesses, and for that reason, even if another dispensary or awardee is present in that municipality, the award will still increase competition and therefore help reduce pricing and increase access to patients. The State does not discourage pharmacies from opening in an area just because another pharmacy is nearby; similarly, the CRC supports competition and access for patients and seeks to pick the highest scoring applicants while focusing on regional distribution.

To determine the order in which the regions are chosen, the CRC used a formula similar to that used to determine the region receiving the fourth vertically integrated permit from the 2019 RFA: the sum of the ratio of patients in a region to patients statewide and the ratio of population in the region to the population statewide, divided by the ratio of dispensaries in the region to dispensaries statewide.

The resulting order of selections is

1. Central Region
2. Northern Region
3. Southern Region

Therefore, the recommended selection methodology is:

1. Select the highest scoring application from the Central Region that has not already received a permit award;
2. Select the highest scoring application from the Northern Region that has not already received a permit award;
3. Select the highest scoring application from the Southern Region that has not already received a permit award; and
4. Repeat the selection order until ten applications are selected for award in each region.

Pursuant to the methodology described above, the awards are as follows:

1. The first round of awardees is:

Control #	Applicant Name	Region	Total Score
19-0016	Middle Valley Partners LLC	Central	273.33
19-0009	Community Wellness Center of NJ	North	267.33

19-0013	The Law Offices of Juliana Diaz LLC	South	266.33
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2. The second round of awardees are:

Control #	Applicant Name	Region	Total Score
19-0076	Monmouth Wellness and Healing LLC	Central	265.33
19-0064	GR Vending NJ LLC	North	265.00
19-0073	Eastern Green Inc. d/b/a Starbuds	South	257.33

3. The third round of awardees are:

Control #	Applicant Name	Region	Total Score
19-0003	McGraw Holdings New Jersey, Inc.	Central	257.67
19-0037	Yuma Way NJ LLC	North	251.67
19-0111	Design 710	South	257.33

4. The fourth round of awardees are:

Control #	Applicant Name	Region	Total Score
19-0083	Monteverde NJ, Inc.	Central	251.33
19-0067	Terrapin	North	250.00
19-0061	NJ Kindness	South	257.00

5. The fifth round of awardees are:

Control #	Applicant Name	Region	Total Score
19-0005	Silver Leaf Wellness LLC	Central	240.33
19-0112	Oceanfront Holdings LLC	North	248.33
19-0011	Restore NJ LLC	South	252.33

6. The sixth round of awardees are:

Control #	Applicant Name	Region	Total Score
19-0042	Garden State Botanicals	Central	240.00
19-0086	11th Colony, LLC	North	247.67
19-0092	Organic Remedies NJ, Inc.	South	248.67

7. The seventh round of awardees are:

Control #	Applicant Name	Region	Total Score
19-0012	GLCPC LLC	Central	239.67
19-0035	New Jersey PharmaCanna LLC	North	242.67
19-0048	Honeygrove Corp.	South	245.67

8. The eighth round of awardees are:

Control #	Applicant Name	Region	Total Score
19-0101	Sanctuary Medicinals	Central	239.00
19-0069	1 st Choice Health and Wellness	North	241.67
19-0051	Circe Therapeutics LLC	South	226.67

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9. The ninth round of awardees are:

Control #	Applicant Name	Region	Total Score
19-0032	Theory Wellness of NJ LLC	Central	236.33
19-0017	Nature's Touch Med NJ LLC	North	235.00
19-0104	Life Compassion Center Dispensary LLC	South	222.00

10. The tenth round of awardees are:

Control #	Applicant Name	Region	Total Score
19-0084	Woah Flow	Central	233.33
19-0055	NJ Patients Care LLC	North	229.33
19-0102	Holistic Solutions LLC	South	205.00

Based on a full and thorough review of each application against the requirements set forth in the RFA, the composite scores enumerated by the Commission, the selection methodology detailed above, and in accordance with the purposes of N.J.S.A. 24:6I-1 et al. and P.L.2009, c.307 and the regulations promulgated thereunder, the CRC hereby **DENIES** the following application:

Applicant: Sierra dba Element 7 LLC

Region: Central

Score: 150.67

You have the right to appeal the Commission's decision to the Superior Court of New Jersey, Appellate Division, by Friday, January 21, 2022 (45 calendar days from the date of this letter) in accordance with the Rules Governing the Courts of the State of New Jersey. All appeals should be directed to:

Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
P.O. Box 006
Trenton, New Jersey 08625

Should any awardee fail to accept their award within five (5) business days of the award notification, or if an award is rescinded due to an awardee's failure to abide by the post-award accountability terms and conditions, the next highest scoring applicant, such that the award would be consistent with the regional requirements of the 2019 RFA, will be presented to the Commission for consideration of an award.

Any applicant with questions regarding the 2019 RFA process and methodology, and any unsuccessful applicant that wishes to file a grievance with the Commission, may do so by submitting their question or grievance in writing to crc.licensing@crc.nj.gov by 5:00 p.m. Eastern Time on Wednesday, December 15, 2021. Multiple questions/grievances can be submitted together but must be numbered. Responses to submissions deemed relevant to the 2019 RFA process and methodology will be provided by 5:00 p.m. Eastern Time on Friday, January 14, 2022. The question and grievance period should only be used for the purpose of addressing questions and complaints related to the 2019 RFA process and methodology. All other questions should be submitted through the Commission website and will be answered in the regular course of business.

Pursuant to N.J.A.C.8:64-6.5 (now N.J.A.C. 17:30A-6.5) and the terms of the RFA, your check(s) valuing \$4,000.00 will be destroyed. Thank you for your interest in operating an ATC.

Sincerely,

A handwritten signature in black ink, appearing to be 'Dianna Houenou', with a long horizontal line extending to the right.

Dianna Houenou
Chairperson
New Jersey Cannabis Regulatory Commission