



TEAM KENTUCKY®

MEDICAL CANNABIS PROGRAM

2024 Legislative and Regulatory Update

Kentucky Association of Counties – May 8, 2024

Agenda

- Introduction
- About Us
- Background/Timeline
- Legislative Update
- Regulatory Update
 - *Business Regulations*
 - *Patient & Caregiver Regulations*
 - *Local Government Regulations*
- Questions and Discussion

About Us

Kentucky Medical Cannabis Program

- The **Kentucky Medical Cannabis Program (KMCP)** sits within the Cabinet for Health and Family Services and was established to implement the requirements established in KRS 218B to govern the safe and effective use of medical cannabis in Kentucky.
- The Kentucky Medical Cannabis Program will be overseen and implemented by the **Office of Medical Cannabis** starting on July 1, 2024.



Our Mission

Our mission is to ensure Kentuckians suffering from serious medical conditions have safe, affordable access to medical cannabis. As medical cannabis is a healthcare necessity for Kentuckians with cancer, multiple sclerosis, epilepsy, post-traumatic stress disorder, and other serious conditions, our program will prioritize patient safety, access, and affordability.

kymedcan.ky.gov

Executive Leadership



Eric Friedlander
Secretary, Cabinet
for Health and
Family Services



Sam Flynn
Executive
Director



Oran S. McFarlan
Deputy Executive
Director



Chafic George
Director of
Enforcement and
Compliance



Alyssa Erickson
Director of
Education and
Outreach



Nick Therrell
Director of
Licensure and
Access



Shelby Lewis
Executive Policy
Advisor



Malaya Rivers
Executive
Administrative
Secretary

Supporting Board and Workgroups








**Board of
Physicians and
Advisors**



**Team Kentucky
Medical Cannabis
Workgroup**

Board of Physicians and Advisors



The board is tasked with reviewing and recommending the following:

-  Protocols for determining the amount of medical cannabis that patients and caregivers can possess
-  Protocols, quality improvement metrics, and minimal performance standards for the biennial accreditation process of licensed cannabis businesses
-  Peer-reviewed scientific data, and make recommendations to the General Assembly regarding THC limits in production
-  Peer-reviewed scientific data, and make recommendations to the General Assembly regarding methods of use of medical cannabis;
-  Peer-reviewed scientific data, and make recommendations to the General Assembly to add or remove conditions from the list of qualifying medical conditions

The board must also perform other duties related to the use of medical cannabis upon request by the Secretary of the Cabinet.

Team Kentucky Medical Cannabis Workgroup

The Team Kentucky Medical Cannabis Workgroup is comprised of members who have relevant experience in health care, education, or other applicable workforce types. It was established by Executive Order 2023-600. The purpose of the workgroup is to:

-  Study evolving medical cannabis industry policy and the state of medical cannabis policy in the Commonwealth to make recommendations to the Kentucky Medical Cannabis Program on emerging best practices.
-  Deliver ongoing recommendations on changes necessary to ensure Kentucky patient cardholders and caregivers have safe access to affordable medical cannabis products.

Timeline

Activities Leading to Executive Order



April 21

Governor announces research into medical cannabis for Kentucky



September 30

Governor releases summary report showing support for medical cannabis

2022



June 14

Team Kentucky Medical Cannabis Advisory Committee is formed

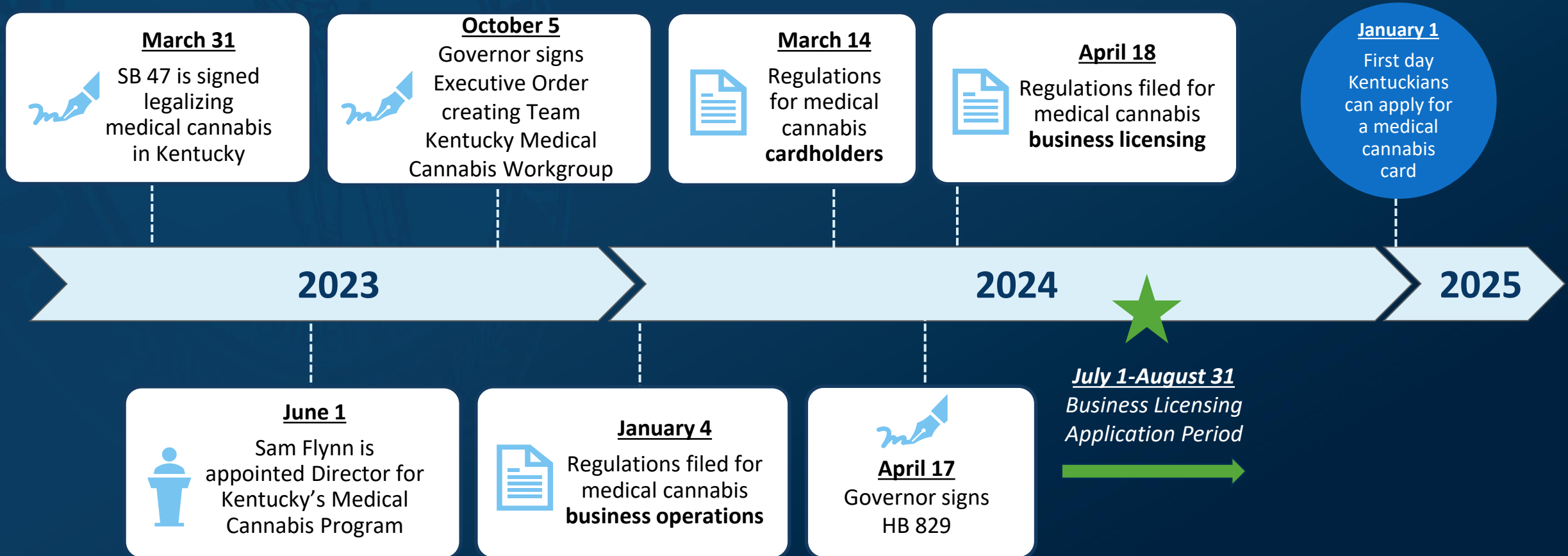


November 15

Governor signs executive order covering qualifying medical conditions

Timeline

Senate Bill 47 Implementation



Authorizing Legislation – 2023 SB 47

2023 Senate Bill 47

Established regulatory structures to:



License and regulate medical
cannabis businesses



Issue medical cannabis cards
to patients and caregivers



Authorize medical practitioners
to recommend the use of
medical cannabis

2023 Senate Bill 47

Senate Bill 47

The **law** that established the structure for medical cannabis in Kentucky

KRS Chapter 218B

The **statutory chapter** that codifies Senate Bill 47 and governs medical cannabis in Kentucky

Kentucky Medical Cannabis Program

The **Cabinet** responsible for implementing the Program and promulgating administrative regulations governing the Program

New Legislation – 2024 HB 6 and HB 829

House Bill 6: Budget Bill

HB 6: Budget Bill: Free Conference Report 1

16 **(4) Office of Medical Cannabis:** Included in the above appropriations is \$5,215,000 in
17 General Fund and \$2,906,200 in Restricted Funds in fiscal year 2024-2025 and \$5,154,600 in
18 General Fund and \$1,986,200 in Restricted Funds in fiscal year 2025-2026 to support staffing
19 and operations of the Office of Medical Cannabis. No funds shall become available until the
20 Board of Physicians and Advisors, as defined in KRS 218B.020(2), finds there is a propensity of
21 peer-reviewed, published research with sufficient evidence as to the efficacy of medical cannabis
22 for the persistent reduction of symptoms of diseases and conditions. The Office shall utilize
23 Restricted Funds to the fullest extent possible before expending the General Fund moneys.
24 Notwithstanding KRS 45.229, any portion of General Fund not expended for this purpose shall
25 lapse to the Budget Reserve Trust Fund Account (KRS 48.705). Mandated reports shall be
26 submitted pursuant to Part III, 24. of this Act.

House Bill 6: Budget Bill

The Board of Physicians and Advisors Made Their Finding on April 15, 2024.

“Pursuant to 2024 House Bill 6, the Board of Physicians and Advisors, as defined in KRS 218B.020(2), finds there exists a propensity of peer-reviewed, published research with sufficient evidence as to the efficacy of medical cannabis for the persistent reduction of symptoms of diseases and conditions.”

House Bill 829



Creates an **Office of Medical Cannabis** to administer the Program



Moves up licensing of cannabis business to July 1, 2024



Adds a pharmacist to the Board of Physicians and Advisors



Removes Provisional Registration Receipt loop-hole



Places restrictions and notice requirements on local government opt-outs

House Bill 829

- Requires the Program, “when reviewing and considering cannabis business application, [to] prioritize the review of applications submitted by an individual or entity who is an existing Kentucky hemp business in good standing with the Kentucky Department of Agriculture, if they meet the application requirements set forth in this chapter and administrative regulations promulgated by the cabinet thereunder.”
- Requires the Program to create a Medicinal Cannabis Advisory Pamphlet to provide at dispensaries for cardholders.
- Clarifies that licensed medical cannabis dispensaries may not sell medical cannabis prior to January 1, 2025.

Regulatory Update

New Regulations

As of April 18, 2024, the Program has filed 17 regulations establishing the processes and procedures for medical cannabis businesses and registered cardholders.

- Regulations regarding cannabis businesses establish how cultivators, processors, producers, safety compliance facilities, and dispensaries will apply, become licensed, and operate in the Commonwealth.
- Regulations regarding patients, designated caregivers, and practitioners establish the procedures to receive a written certification and a medical cannabis card, supply limits, and procedures to publish a list of varieties of medical cannabis.

Business Regulations *Overview*

Business Operations

- Ten (10) ordinary regulations
- Filed on January 4, 2024
- Provides operational rules for cultivators, processors, producers, dispensaries, and safety compliance facilities licensed in the Commonwealth.
- Provides how medical cannabis products will be packaged, labeled, transported, advertised, and tested.

Business Licensing

- Two (2) administrative regulations and two (2) emergency regulations
- Filed on April 18, 2024
- Provide how medical cannabis businesses can apply to become licensed in the Commonwealth.
- Allows individuals and businesses to apply for cannabis business licenses beginning July 1, 2024

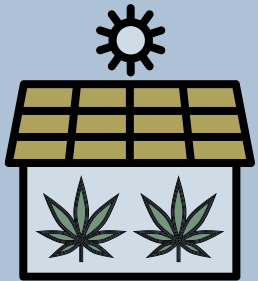
Business Regulations *Timeline*



Business Regulations

License Types

Cultivator



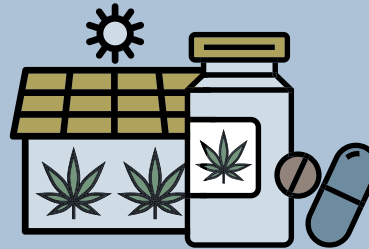
Responsible for **planting, raising, harvesting, trimming, and curing** medical cannabis

Processor



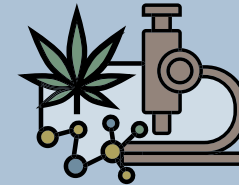
Responsible for **processing and packaging** raw plant material into usable product formats

Producer



Vertically-integrated license combining Cultivator and Processor licensees

Safety compliance facility



Responsible for **contamination and purity testing** of raw plant material and products

Dispensary



Responsible for **purchasing and selling finished products** to cardholders

**Producer licenses will not be available during initial license application availability period*

Business Regulations

Safety and Security Requirements

Testing



All harvest and production batches are subject to **testing for THC and cannabinoid concentrations and toxins.**

Recalls



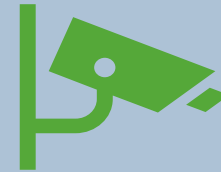
Cannabis businesses may initiate **voluntary or mandatory recalls** based on complaints or risks to public safety and health.

Age Restrictions



All patients **under 18** are required to have a registered caregiver, and no product packaging can appeal to **minors.**

Surveillance and Alarms



Professionally monitored **surveillance and alarm systems** must be used to prevent unauthorized access.

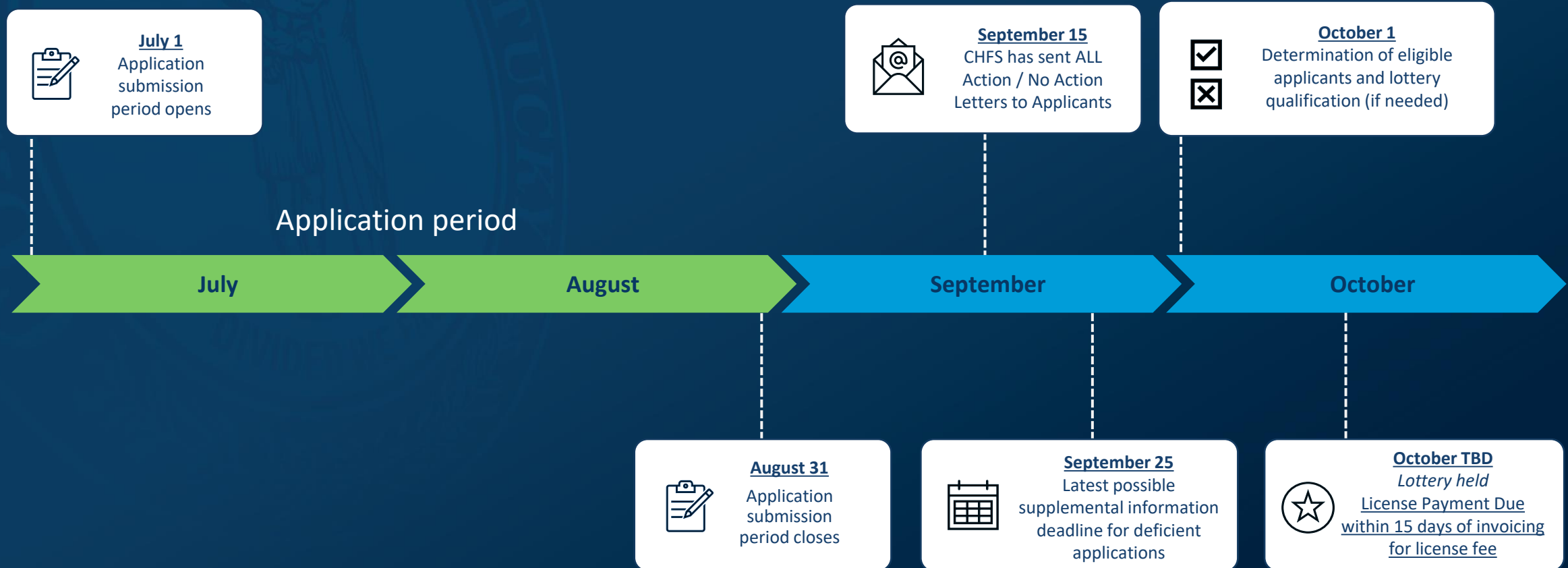
Physical Security and Lighting



All entrances and exits to and from the facility must be **locked** during non-working hours with **proper lighting** used at all times.

Business Regulations

Licensing Application Submission and Review Timeline

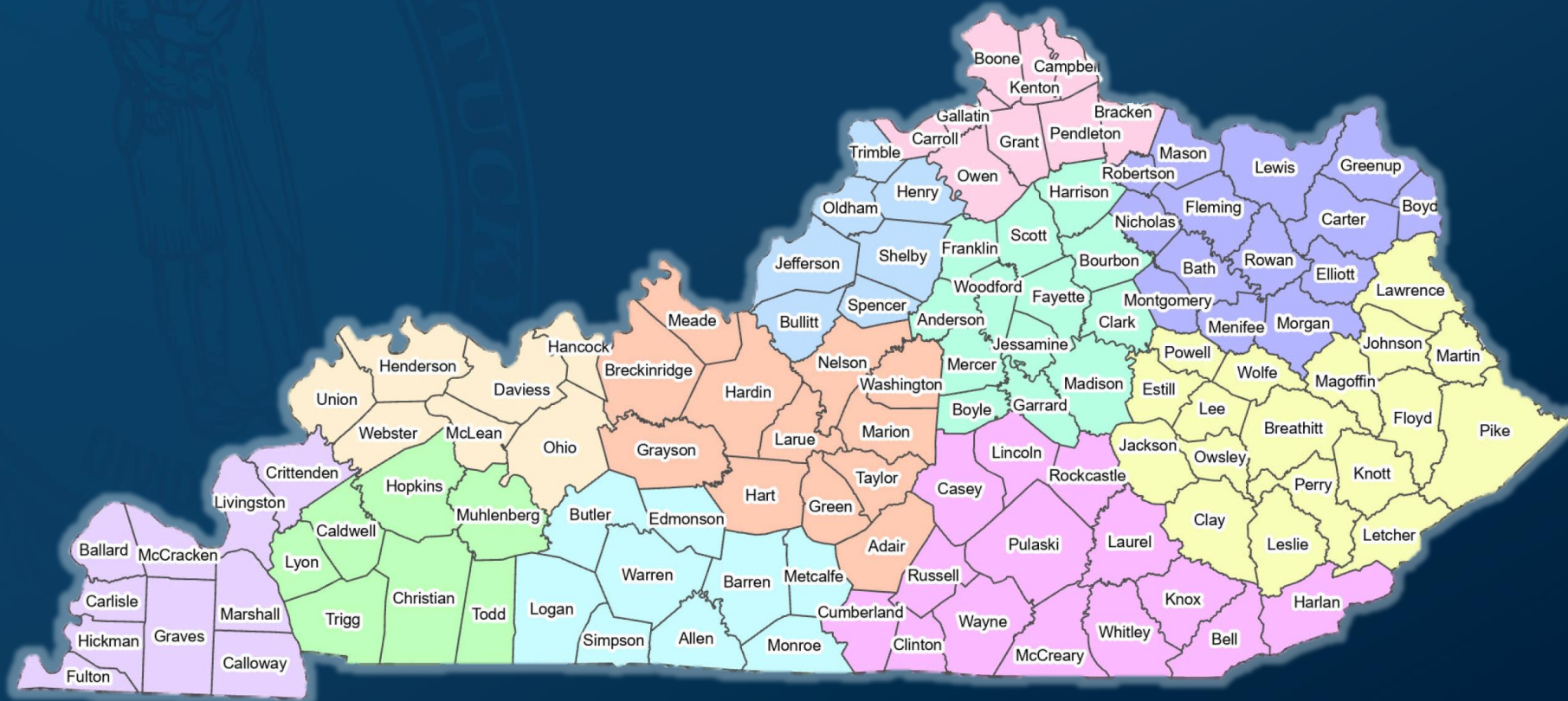


Business Regulations

Initial License Availability

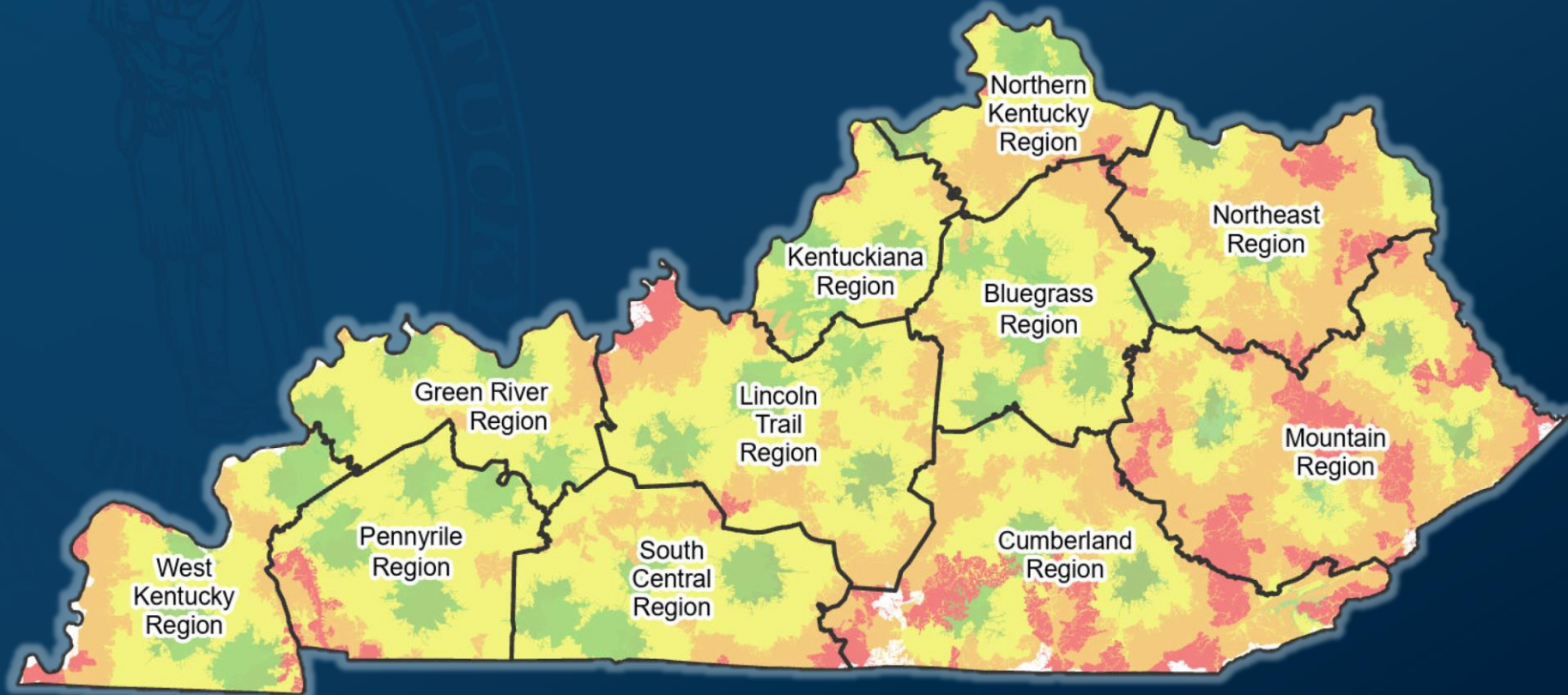
Business license category	Initial licenses to be issued
Tier I cultivator	10
Tier II cultivator	4
Tier III cultivator	2
Tier IV cultivator	0
Processor	10
Dispensary	48
Safety compliance facility	No Limitation

Business Regulations *Dispensary Regions*



Dispensary licenses will be issued in eleven (11) regions.

Business Regulations *Drive Time Analysis*



Regions were established based on drive times.

Business Regulations

Licensing Fees

Business License Category	Initial License Fee	Annual Renewal Fee
Tier I cultivator	\$12,000	\$12,000
Tier II cultivator	\$25,000	\$25,000
Tier III cultivator	\$50,000	\$50,000
Tier IV cultivator	\$100,000	\$100,000
Processor	\$25,000	\$15,000
Dispensary	\$30,000	\$15,000
Safety compliance facility	\$12,000	\$12,000

Business Regulations *Lottery Process*

Step 1



A file with **qualified applicant information** will be prepared by the executive director of the Cabinet's Office of Medical Cannabis and kept confidential.

Step 2



The Cabinet will **de-identify the file using unique numerical identifiers**, and the encrypted file will be sent to Kentucky Lottery Corporation (KLC).

Step 3



KLC will conduct an **anonymous, randomized lottery** following KLC drawing procedures established with the Cabinet.

Step 4



The **lottery results** will be provided by KLC to the Cabinet using an encrypted file listing the numerical identifiers selected by the lottery.

Step 5



The Cabinet's General Counsel will compare this file to the original and **re-identify the unique numerical identifiers** and send the results to the Office of Medical Cannabis.

Step 6



The Cabinet will **announce the results** during a live broadcast.

Patient & Caregiver Regulations

Overview

- On March 14, 2024, the Program filed ordinary regulations establishing how medical cannabis patients and caregivers can become cardholders.
- These regulations also establish procedures for how patients can receive a written certification and apply for a card.

Patient & Caregiver Regulations

How to become a registered cardholder in Kentucky



Visit a medical
cannabis
practitioner to
**obtain a written
certification**



**Submit an
application** to the
Cabinet beginning
January 1, 2025



Receive an
application decision
from the Cabinet
and **download a
registry ID card**

Patient & Caregiver Regulations

Qualification Criteria for Kentuckians

Residency



**Be a resident of
Kentucky**

Medical status



**Have a diagnosed,
qualifying medical
condition**

No prior disqualifying felony offenses



**Have no
disqualifying
felony offense
convictions**

Patient & Caregiver Regulations

Qualifying Conditions (Under Senate Bill 47)

- Cancer
- Post-traumatic stress disorder
- Multiple sclerosis
- Chronic pain
- Epilepsy
- Chronic nausea
- Muscle spasms

Patient & Caregiver Regulations

Application Requirements



Cardholder's information



Written certification from medical practitioner



Application fee



Notarized signature page

Patient & Caregiver Regulations

Cardholder Fees

	<u>Annual fee</u>
Qualified patients	\$25
Designated caregivers	
Visiting qualified patients	

Patient & Caregiver Regulations

Registry ID Cards (Medical Cannabis Cards)



Patient registry ID Card



Caregiver registry ID Card



Minor patient registry ID Card



Patient & Caregiver Regulations

Beware of Medical Cannabis Cards Scams

VERIFY

WHAS11 abc
ON YOUR SIDE

VERIFY | Misleading medical marijuana 'cards' being sold at \$149 apiece

A business operating in Louisville is charging for medical marijuana 'certifications' that don't exist yet, without any doctors working in-person at the storefront.

Beware of scams

- No organization can provide a medical cannabis card at this time.
- No licensed business is currently selling medical cannabis in Kentucky.
- Starting January 1, 2025, the only way to obtain a card will be through the Cabinet's official website at:

www.kymedcan.ky.gov

KENTUCKY

FOX56

Medical marijuana card scams are growing in Kentucky

Patient & Caregiver Regulations

Patient Supply Limits (30-day period)

4oz/112g

Raw plant material

OR

28 grams

Concentrate

OR

**3,900
milligrams**

THC infused in
cannabis products

Authorized Physician Regulations *Overview*

The Program is required to establish processes for:

- Providing practitioners with the written certification form
- Issuing medical cannabis cards
- An electronic monitoring system for cardholders
- A public list of authorized physicians

The Kentucky Board of Medical Licensure (KBML) and the Kentucky Board of Nurses (KBN) is required to establish processes for:

- Authorizing licensed medical practitioners to provide written certifications for medical cannabis

Regulatory Requirements

Electronic Monitoring Systems

**Business
Licensing
Portal**

**Patient &
Caregiver
Registry**

**“Seed-to-
Sale”
Tracking**



Local Government Laws *Overview*

- Local governments may enact ordinances regarding or entirely prohibit licensed cannabis businesses within their jurisdictions
- If a city is within the jurisdiction of a county government that prohibits cannabis business operations, that city may approve licensed cannabis business operations within their city limits through ordinance or public vote
- A public question and petition may be initiated to permit licensed cannabis businesses to operate within a jurisdiction if the local legislative body of that jurisdiction has prohibited such operations through ordinance
- Note: School boards must establish policies to permit or prohibit minor registered patients to consume medicinal cannabis at school pursuant to KRS Chapter 218B

Local Government Regulations *Relevant Statutes*

Summary



Local governments may **prohibit** medical cannabis businesses from operating in their jurisdiction



Cities may allow cannabis businesses to operate through **passage of ordinance or by public vote**



School boards must **create policies regarding consumption** of medical cannabis on school property



Constituents of a local government may **challenge prohibitions** via public question by petition

Local Government Regulations

Statutory Requirements - Local Governments

KRS 218B.130 provides:

- Local governments may enact ordinances that are not less restrictive than the statues or regulations governing the Program relating to time, place, and manner of cannabis business operations.
- Local governments may not “...enact ordinances that impose an undue burden or make cannabis business operations unreasonable or impractical...”
- Local governments may “...establish and assess reasonable local fees to compensate for any additional costs caused by the operation of cannabis businesses within its territory.”
- If a local government prohibits cannabis business operations within its territory prior to January 1, 2025, a licensed cannabis business located within that territory must comply with the prohibition and relocate if they desire to continue business operations.

Local Government Regulations

Statutory Requirements - City Governments

If a county or local government prohibits medical cannabis businesses from operating in their territory, KRS 218B.130 sets forth how cities within that jurisdiction may allow licensed cannabis businesses to operate within city limits.

If a county, consolidated local government, charter county government, or unified local government prohibits all cannabis business operations, the legislative body of a city located within the county, consolidated local government, charter county government, or unified local government may:

- Approve cannabis business operations within the limits of the city through the passage of an ordinance; or
- Enact resolutions directing that the question of allowing cannabis businesses to operate within the limits of the city be submitted to the voters who are eligible to vote in that city's elections at the next regular election

Local Government Regulations

Statutory Requirements - Local Governments

- If a local government prohibits cannabis business operations in their jurisdiction, they **must** notify the Program in writing within five (5) days after passage of such an ordinance or after results of the ballot question are certified.

Local Government Regulations

Statutory Requirements – Local Schools

KRS 218B.045 requires local boards of education to establish policies regarding medical cannabis and students who are registered qualified patients:

- HB 829 requires each local board of education, each board of directors of a public charter school, and each governing body of certified private school to develop policies for the use of medical cannabis on school grounds.
- Schools may “...either prohibit the use of medical cannabis on school property or permit the use of medicinal cannabis on school property by a pupil who is a registered qualified patient as deemed necessary by the pupil’s parent or legal guardian.”

Local Government Regulations

Statutory Requirements – Local Schools

KRS 218B.045 requires local boards of education to establish policies regarding medical cannabis and students who are registered qualified patients:

If a school allows the use of medical cannabis on school property, the school must include the following in their policy:

- 1) Require medical cannabis be administered by “a school nurse or under the supervision of appropriate school staff” or “by the parent or legal guardian of the pupil...;”
- 2) Require medical cannabis be administered out of view of other students; and
- 3) A process for how a school nurse or other staff may “...refuse to administer or supervise the administration of medicinal cannabis.”

These policies must be established by December 1, 2024.

Local Government Regulations

Statutory Requirements - Petitions

Under KRS 218B.130, the public may also initiate a public question by petition to allow licensed cannabis businesses to operate within a local government jurisdiction that has prohibited such business operations.

- KRS 218B.130(5) outlines the requirements for how this petition process must be conducted.
- KRS 218B.130(6) requires that if the petition fails to pass, a 3-year waiting period must be observed before the question of medical cannabis sales and business operations may be included on the ballot again. If the vote passes, then cannabis business operations may be conducted within the territory.

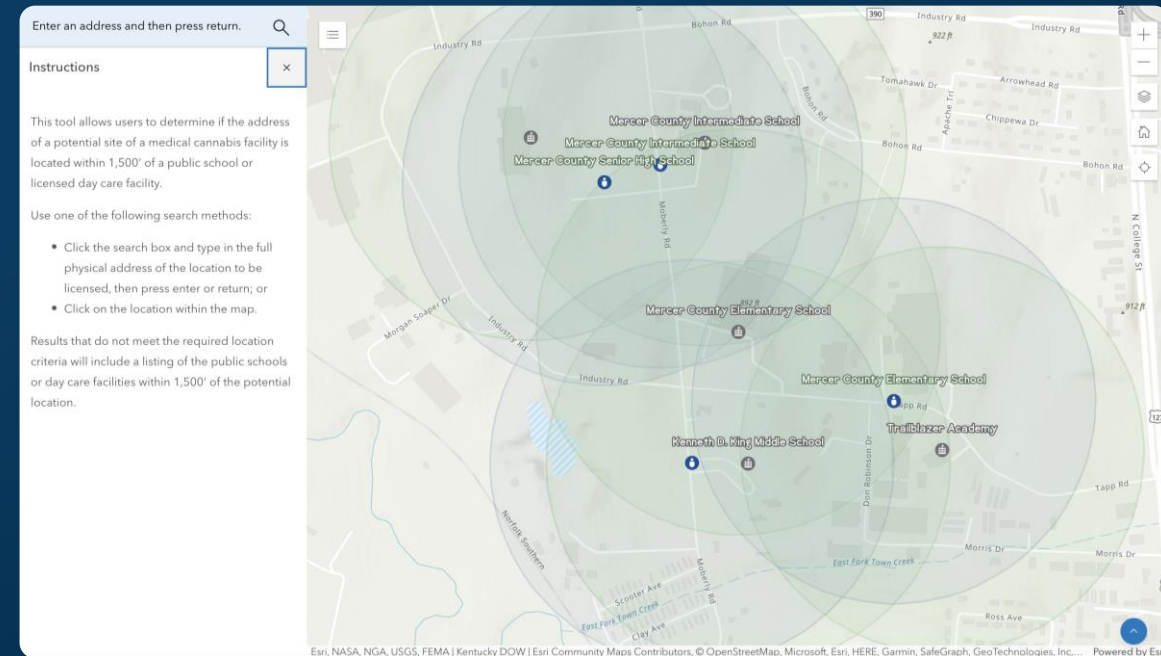
Local Government Regulations

Statutory Requirements – Additional Guidance

Zoning Tool

Resource for prospective businesses available at:

kymedcan.ky.gov



Kentucky law **prohibits** cannabis businesses from locating within **1,000 feet** of existing elementary or secondary schools or a daycare centers.

Questions/Discussion