



Missouri Department of Health and Senior Services

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Randall W. Williams, MD, FACOG
Director



Michael L. Parson
Governor

September 4, 2020

Subject: Notice Regarding your Confidential Application Information

Dear Medical Marijuana Facility Applicant,

In all of the appeals from denials and conditional denials of applications for medical marijuana licenses (dispensary, manufacturing, and cultivation), the Department has resisted disclosing information from your application and others. That resistance is based on the promise you received, in Article XIV, that your application would be “confidential.” Two developments at the Administrative Hearing Commission (AHC) threaten that confidentiality as explained below. Absent a change in the AHC position, either by a change in the view of the AHC itself or as ordered by a court, you can expect that your application—including its most sensitive aspects—will be disclosed and become public.

In recent decisions, the AHC has now read the “confidential” clause in Article XIV to not protect confidentiality if the application information is sought by an unsuccessful applicant in an AHC proceeding. In other words, the AHC has determined that unsuccessful applicants can, on appeal, gain access through discovery tools to all aspects of all other applications—or at least other applications for the same type of license - dispensary, manufacturing, or cultivation. The AHC has entered such orders, so far, in these cases:

20-0213, Heya Kirksville Cultivation v. DHSS

20-1120, Verdant Creations Missouri 2-5, v. DHSS

20-0524, King Garden Midwest v. DHSS

To further defend the constitutional protection regarding confidentiality of information from your application and others, the Department is seeking a writ of prohibition, asking the circuit court for Cole County to prohibit the AHC from requiring disclosure of information submitting in other applications, such as yours. That petition is pending as 20AC-CC00327. The Department is also seeking stays of AHC cases where the confidentiality question is now at issue.

If you wish to be heard on the issue of the confidentiality of your application materials and other information submitted to DHSS, or have any questions about this notification, please contact our Office of the General Counsel at MM-OGC@health.mo.gov.

Thank you,

Amy Moore, Deputy Director and Counsel
Lyndall Fraker, Director

Section for Medical Marijuana Regulation
Department of Health and Senior Services

www.health.mo.gov

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