

Title 35, Part XI,
Chapter 29 – Appeal Process for Medical Cannabis Dispensaries

- 100 The Department may fine, suspend, or revoke a Medical Cannabis Dispensary License at its discretion for a violation of the Mississippi Medical Cannabis Act or any rules and regulations by the licensee or any of its employees or agents. If a licensee wishes to appeal this decision, the licensee shall file its administrative appeal within twenty (20) days of receipt of the initial notice. The Review Board shall then conduct a hearing on the record, at which time the burden shall be on the licensee to prove that the Department’s decision was:
1. Unsupported by substantial evidence;
 2. Arbitrary or capricious;
 3. Beyond the power of the administrative agency to make; or
 4. Violated some statutory or constitutional right of the aggrieved party.
- 101 The Department shall provide its initial notice of suspension, revocation, fine, or other sanction by personal delivery or mailing by certified mail, signature required, to the medical cannabis dispensary at the address on the registration certificate. If the licensee fails to appeal the initial notice within the prescribed time, the decision becomes final and cannot be further appealed.
- 102 (Reserved)
- 200 Appeal to Review Board
- 201 A licensee that disagrees with an action taken by the Department regarding a Medical Cannabis Dispensary License shall have the option of requesting a hearing before the Review Board by filing an appeal. This appeal must be submitted, in writing, to the Review Board within twenty (20) days of receipt of the initial notice. A Review Board Appeal Petition, which can be found on the Department’s Website, may be used to make the appeal.
- 202 Upon timely receipt of a written request from the licensee or authorized representative, the Review Board shall promptly schedule a hearing for consideration of the appeal.
- 203 A licensee or authorized representative will be notified of the hearing by mail at the last known address. The last known address will be the mailing address provided in the written request for appeal or any subsequent address change notification to the Review Board. The hearing notice will contain the time, place, and date of the hearing. Notice to the licensee’s authorized representative constitutes notice to the licensee.
- 204 Due to the confidentiality provisions of the Mississippi Medical Cannabis Act, these proceedings are not open to the public.

- 205 When an appeal or other document is required to be filed with the Review Board within any number of days, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, legal holiday, or any other day when the offices of the Agency are in fact closed, with or without legal authority, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, a legal holiday, or any other day when the office of the Agency is closed. Legal holidays for the Agency are found at Miss. Code Ann. § 3-3-7(1). Mailing does not constitute filing, and the time period within which the appeal, objection, or other document has to be filed is not extended because of mailing.
- 206 The Department retains the authority to change its decision.
- 207 An appeal under the Mississippi Medical Cannabis Act before the Review Board may be withdrawn at any time by the person filing the appeal. The withdrawal may be made voluntarily by the person or may occur involuntarily under the conditions listed below.
- 208 An involuntary withdrawal of an appeal may occur as result of the person's failure to appear at a scheduled hearing, failure to timely provide a written appeal in lieu of attendance at a hearing, or by any other act or failure that the body hearing the appeal determines is a failure on the part of the person to prosecute the appeal. An involuntary withdrawal will be documented in the minutes providing the basis of the withdrawal.
- 209 A voluntary withdrawal of an appeal must be delivered in writing by the licensee or authorized representative to the Chairman of the Review Board prior to the scheduled time of the hearing on the appeal.
- 210 Following the withdrawal of an appeal, the action shall become final and not subject to further review by the Review Board or a court. The Agency shall then proceed with any action in accordance with the law.
- 211 Appeals of License denials are not appealed to the Review Board, but rather directly to circuit court.
- 212 (Reserved)
- 300 Conduct of Hearing before the Review Board
- 301 The Review Board shall convene and hear appeals regarding actions taken by the Department under the Mississippi Medical Cannabis Act.
- 302 Since an official transcript is to be made of the hearing of an administrative appeal covered by this Chapter, the Review Board will only consider the testimony and documents

introduced into evidence at the hearing, the facts and documents stipulated to by the parties, and the facts of which it can take judicial notice.

- 303 If a party offers testimony at a hearing through the examination of a witness or where a party representing himself testifies at the hearing by making a statement, the person so testifying shall be sworn in by the presiding Review Board member or the court reporter. Any other party to the administrative appeal shall be entitled to cross-examine the person testifying and any Review Board member may ask questions of this person.
- 304 The Mississippi Rules of Evidence will apply at hearings held in the administrative appeals covered by this Chapter, but they will be relaxed. Relevant hearsay evidence may be presented and introduced into evidence unless the presiding Review Board member determines that such evidence lacks trustworthiness.
- 305 If the Department determines after the action that there are additional and/or different facts and/or charges on which to base the action being appealed, these additional and/or different facts and/or charges may be used by the Department in an administrative appeal under the Mississippi Medical Cannabis Act to support its action, if the Department provides the licensee with reasonable notice of such facts and charges before the hearing in the administrative appeal.
- 306 Any party offering a document into evidence at the hearing before the Review Board in an administrative appeal covered by this Chapter shall provide all other parties to the administrative appeal with a copy of the document before or at the time that the document is offered into evidence, as directed by the Review Board.
- 307 Unless otherwise directed by the presiding Review Board member, a hearing in an administrative appeal covered by the Mississippi Medical Cannabis Act shall be conducted in the following order:
1. The presiding Review Board member shall call the hearing to order.
 2. The presiding Review Board member shall state the style of the administrative appeal being heard, the nature of the administrative appeal, and a summary of the action from which the administrative appeal was filed.
 3. The presiding Review Board member or the court reporter shall swear in all witnesses, including any party, who expects to testify at the hearing.
 4. If requested by a party or upon the presiding Review Board member's own initiative, all witnesses shall be excluded from the hearing room to a location where they cannot hear the testimony of other witnesses in the hearing, except for those witnesses who are either a natural person who is a party to the administrative appeal or an officer or employee of a party which is not a natural person and who has been designated by the party's attorney to be the party's representative at the hearing.
 5. Any stipulation of facts and/or documents between the parties shall be admitted into evidence.

6. Each party shall be given the opportunity to make an opening statement.
7. The Department shall present its evidence.
8. The licensee, who filed the written appeal with the Review Board initiating the administrative appeal, shall present the evidence.
9. Upon request by a party, and only on approval and subject to any restrictions of the presiding Review Board member, the parties may be allowed to present additional evidence after the close of the licensee's case.
10. Each party shall be given the opportunity to make a closing argument; and
11. Upon conclusion of all arguments and evidence, the presiding Review Board member shall bring the hearing to a close.

308 (Reserved)

400 Order(s) issued by the Review Board

401 Following the hearing, the Review Board shall issue its Order in due course. If an Order of the Review Board regarding the Mississippi Medical Cannabis Act is not appealed within twenty (20) days after the issuance of said Order, that Order becomes final and is not subject to further appeal.

402 Any person aggrieved by a decision of the Review Board shall have a right of appeal to the Circuit Court of the county of the residence of the licensee as it appears on the record.

403 (Reserved)

500 Appeal of Review Board Order to Circuit Court

501 If an appeal to the Review Board is made by a licensee, the Order of the Review Board shall constitute the final decision of the Department.

502 Any licensee aggrieved by a final decision of the Department under the provisions of this Chapter may petition for judicial review of the final decision.

503 The petition shall be filed within twenty (20) days after the issuance of the Department's final decision. The petition shall be filed in the circuit court of the county in which the appellant resides. If the appellant is a nonresident of this state, the appeal shall be made to the Circuit Court of the First Judicial District of Hinds County, Mississippi. Appellants shall reimburse Department for reasonable expenses of preparing the record. The Department will transmit the record to the applicable court upon receipt of payment from the appellants.

504 Any person or entity aggrieved by the decision of the circuit court may appeal to the Mississippi Supreme Court.

505 (Reserved)

35.XI.29 Effective August 11, 2022