

LAWSUITS AIMED AT HALTING AWARD OF NEW MEDICAL MARIJUANA LICENSES GET NEW LIFE

As reported in *NJ.com*, Joshua S. Bauchner secures state appeals court review of the unfair denial of medical marijuana business license applications due to a DOH technical error.

By Amanda Hoover and Justin Zaremba | NJ Advance Media for NJ.com



Joshua S. Bauchner



Five applicants denied last month for medical marijuana business licenses because state officials couldn't open files in their applications could get a second shot if a state appeals court rules in their favor.

But such a ruling could delay an expansion of the state's strained medical marijuana program.

The court has granted those appealing the decision a chance to argue they were unfairly disqualified from the medical marijuana

selection process because the Department of Health couldn't open all the PDFs they submitted in their applications, according to their attorney Joshua Bauchner.

The applications were denied during the program's request for applications from this year, Bauchner, an attorney with Ansell, Grimm & Aaron, said on Friday.

Bauchner's clients have until Monday to tell the court why the Department of Health should halt the process and review their applications.

More than 190 groups applied in this year's round seeking 24 medicinal marijuana licenses

A total of 51 were disqualified for reasons ranging from corrupted files to lack of local approval, lack of site control and the non-payment of fees.

Bauchner said he felt "cautiously optimistic" the court would grant a stay that would force the health department to reconsider those applicants rejected due to a technical error, rather than the merit of their applications.



“Easiest remedy is for the (Department of Health) to say, okay, resubmit,” Bauchner said. “It doesn’t matter if it was our fault, or your fault. It’s in our interest and the patient population’s interest to have the best candidate for the license.”

He continued: “This has nothing to do with the merit of the application. This is solely because the (Department of Health) couldn’t read the file.”

Some, however, worry litigation will delay the expansion of the industry.

Only six dispensaries — one of which has a second location — are currently open to the more than 60,000 patients enrolled in the program, leading to limited supply, long waits for patients and higher prices than other states. Another six dispensaries licensed last year are expected to open, but only one, GTI in Paterson, has put plants in the ground.

Fruqan Mouzon, cannabis chair of McElroy, Deutsch, Mulvaney & Carpenter, said he hopes a court would place the needs of medical marijuana patients above operators seeking to get into the business. Last summer, officials talked of licensing 108 new medicinal businesses.

That number dropped to 24, but Mouzon said he believes another application process could open up, giving the disqualified applicants a new chance.

“Why grant a stay when you know it’s going to be expanded at least up to that 108?” he said. “I’m hoping that the judge would see that and not grant a stay, because patients need what they need.”

Jeff Brown, assistant commissioner in charge of the Health Department’s Medicinal Marijuana Program, has previously declined to discuss pending litigation against the department.

This is the second time Bauchner has challenged the application. In February, he appealed the licenses awarded in December 2018, claiming the review process was deeply flawed. That appeal is still pending with arguments expected in the spring of 2020.