

19 CSR 30-95.080 Dispensary Facility

PURPOSE: Under Article XIV, Section 1 of the Missouri Constitution, the Department of Health and Senior Services has the authority to regulate and control Medical Marijuana Facilities. This rule explains what regulations apply only to Dispensary Facilities.

(1) Access to Dispensary Facility Licenses.

(A) The number of dispensary facility licenses will be limited to one hundred ninety-two (192) unless the department determines the limit must be increased in order to meet the demand for medical marijuana by qualifying patients.

(B) Dispensary facility licenses will be limited to twenty-four (24) in each of the eight (8) United States congressional districts in the state of Missouri as drawn and in effect on December 6, 2018. A map of the state of Missouri showing the applicable boundary lines of Missouri's congressional districts will be available on the department's website.

(C) A facility license will be issued for a single facility in a single location. Combinations of licenses at the same location must be approved pursuant to 19 CSR 30-95.040(4)(C).

(2) Dispensary Facility Requirements. In addition to the requirements of 19 CSR 30-95.040, dispensary facilities shall also comply with the following:

(A) Dispensary facilities must ensure all facility employees are trained in at least the following:

1. The use of security measures and controls that have been adopted by the facility for the prevention of diversion, inversion, theft, or loss of marijuana;

2. Proper use of the statewide track and trace system;

3. Procedures for responding to an emergency, including severe weather, fire, natural disasters, and unauthorized intrusions;

4. Standards for maintaining the confidentiality of information related to the medical use of marijuana, including, but not limited to, compliance with the Health Insurance Portability and Accountability Act;

5. Procedures for verifying the identity and purchase limitations of qualifying patients and primary caregivers;

6. The differences in the purported effects and effectiveness of the strains of medical marijuana available for purchase at that dispensary and the methods of their use; and

7. Recognizing signs of medical marijuana abuse in patients;

(B) Dispensary facilities must make available to all customers patient education materials, whether digital or print, that include at least the following:

1. Local resources for concerns about addiction, as well as the phone number for the Substance Abuse and Mental Health Services Administration's National Helpline;

2. Information about the different strains of medical marijuana available at that dispensary and the purported effects of the different strains;

3. Information about the purported effectiveness of various methods, forms, and routes of administering medical marijuana;

4. Information about potential risks and possible side effects of medical marijuana use, including risk of poisoning and the phone number for the closest poison control center;

5. The prohibition on consuming marijuana for medical use in a public place, including the definition of what constitutes a public place pursuant to this chapter; and

6. The Department's contact information and website address;

(C) Dispensary facilities must, for every transaction—

1. Receive the transaction order directly from a qualifying patient or primary caregiver in person, by phone, or via the internet, as long as any third party entity providing services for online ordering:

(I) utilizes security measures sufficient to protect the confidentiality and security of patient information;

(II) does not collect or distribute patient data for use in any way other than for the online ordering process; and

(II) seeks and obtains appropriate authority from the department for integration with the statewide track and trace system, if integration is necessary, prior to providing services;

2. At the time of sale, verify through the statewide track and trace system that the qualifying patient or primary caregiver is currently authorized to purchase the amount of medical marijuana requested and, in the case of a seed or plant purchase, that the patient or primary caregiver is currently authorized to cultivate medical marijuana;

3. In the case of a delivery order, receive payment before the medical marijuana leaves the dispensary, subject to refund if the delivery cannot be completed or, if not receiving pre-payment, deliver to no more than two individuals at one address on the same day;

4. At the time of sale or delivery, require production of a qualifying patient or primary caregiver identification card, a government-issued photo ID, and in the case of medical marijuana seed or plant purchases, a patient cultivation identification card; and

5. At the time of sale, even in instances where prices are discounted or waived, record the disbursement of product, including plants and seeds, in the statewide track and trace system.

(D) Dispensary facilities must report any incident of theft or attempted theft of medical marijuana to the department within twenty-four (24) hours of becoming aware of the incident;

(E) Dispensary facilities must design their facility and staffing in such a way as to accomplish the following:

1. The general public, qualifying patients, and primary caregivers may only enter the facility through one (1) access point into an area where facility agents shall screen individuals for qualifying patient or primary caregiver status. No medical marijuana may be accessible in this area. Drive-through lanes shall not constitute an additional access point to the facility;

2. Only qualifying patients, primary caregivers, and, if requested by a qualifying patient, up to two (2) additional persons to accompany the qualifying patient, may enter any areas beyond the facility's access point area; and

3. In any limited access area where medical marijuana is accessible, the facility shall only allow access at any given time for a number of qualifying patients and/or primary caregivers equal to the number of staff available to serve those individuals at that time. A staff person serving a patient or caregiver at a drive-through window is not available to serve a patient or caregiver in the limited access area as long as the staff person is serving the drive-through patient or caregiver;

4. Drive-through lanes must:

(I) Utilize drive-through drawers for dispensing medical marijuana;

(II) Utilize drive-through windows that either do not open or remain closed and locked and that allow clear visibility for verification of patient identity; and

(III) Be covered at all times by video camera monitoring and recording that meets the standards described in 19 CSR 30-95.040(4)(H).

(F) Prior to sale, dispensary facilities shall confirm through the statewide track and trace system that any medical marijuana the facility sells has been tested in final form by a testing facility, according to the provisions of 19 CSR 30-95.070, and passed all required testing for the product type;

(G) Dispensary facilities may only transport medical marijuana—

1. To qualifying patients, primary caregivers, testing facilities, manufacturing facilities, and other dispensary facilities; and

2. If the facility complies with the requirements of 19 CSR 30-95.100(2);

(H) Dispensary facilities that sell ingestible medical marijuana-infused products shall comply with the applicable food safety standards set forth in 19 CSR 20-1.025;

(I) Dispensary facilities shall store all medical marijuana—

1. At the location where the facility is approved to operate; or

2. In offsite warehouses that comply with the security requirements of 19 CSR 30-95.040(4)(H), the location requirements of 19 CSR 30-95.040(4)(B), and that have been approved pursuant to 19 CSR 30-95.040(4)(C);

(J) Dispensary facilities shall only sell medical marijuana seeds or plants acquired from cultivation facilities. Only plants less than eight (8) inches tall may be sold by dispensary facilities, and dispensary facilities may not alter the plant or care for it in any way other than watering. If a dispensary facility chooses to sell plants, the transaction shall proceed as follows:

1. Dispensary facilities shall receive an order and payment from a qualifying patient or primary caregiver prior to arranging for delivery of the plant from the cultivation facility to the dispensary. The dispensary may not hold any particular plant for more than forty-eight (48) hours;

2. The dispensary will schedule a time for the qualifying patient or primary caregiver to pick up the order within the forty-eight (48) hour timeframe it is permitted to hold the plant;

3. When the dispensary accepts delivery of a plant from a cultivation facility, it must store the plant, with the qualifying patient's or primary caregiver's name and license number, in its vault;

4. If a qualifying patient or primary caregiver does not pick up the order, the dispensary must dispose of the plant upon expiration of the forty-eight (48) hours and record the disposal and method of disposal in the statewide track and trace system; and

5. In a twelve month period, no more than six (6) plants less than eight (8) inches tall may be sold to a particular patient;

(K) Dispensary facilities shall not sell medical marijuana to a qualifying patient or primary caregiver in amounts greater than what that individual is authorized to purchase per the statewide track and trace system at the time of sale;

(L) Dispensary facilities shall not sell medical marijuana seeds or plants to a qualifying patient or primary caregiver who is not currently authorized to cultivate medical marijuana;

(M) Dispensary facilities may accept returns and issue refunds or credits as needed except that medical marijuana that has been removed from the packaging in which it arrived at the dispensary, whether removed before sale by the dispensary or after sale by a patient or caregiver, may not be accepted as a return. If product is returned, refunded, or credited, the amount of product not consumed, if evident, shall be credited back to the patient's allotment;

(N) Dispensary facilities shall not advertise medical marijuana products, brands, or discounts on medical marijuana **unless** that advertisement includes the following statement: "Medical decisions should not be made based on advertising. Consult a physician on the benefits and risks of particular medical marijuana products.";

(O) Dispensary facilities shall not allow consumption of medical marijuana on their licensed premises;

(P) Dispensary facilities shall not allow physicians to meet with individuals on the dispensary's premises, including via telehealth, for the purpose of certifying them as qualifying patients;

(Q) Dispensary facility employees must be at least eighteen (18) years of age;

(R) Dispensary facilities may securely display samples of each product lot offered for sale;

1. Medical marijuana used as a display sample may not later be dispensed to qualifying patients;

2. A facility agent may remove the sample from the secure display to allow a qualifying patient or primary caregiver to inspect the display sample but shall immediately return the sample to secure display once such inspection is complete; and

3. Display samples shall be destroyed in accordance with 19 CSR 30-95.040(4)(E) within five (5) business days of the product lot being finished;

(S) Dispensary facilities must post at each point of sale, in type size of no less than a quarter inch in height, a sign that conveys the following warnings:

(I) Vaping and smoking have been associated with cases of severe lung injury, leading to difficulty breathing, hospitalization, and even death;

(II) Edible medical marijuana products were produced in facilities that may also process common food allergens; and

(III) It is against the law to operate a dangerous device, motor vehicle, aircraft, or motorboat while under the influence of medical marijuana

AUTHORITY: sections 1.3.(1)(b) and 1.3.(2) of Article XIV, Mo. Const. Emergency rule filed May 24, 2019, effective June 3, 2019, expired Feb. 27, 2020. Original rule filed May 24, 2019, effective Jan. 30, 2020.