

**Title 19 – DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 30 – Division of Regulation and Licensure  
Chapter 95 – Medical Marijuana**

**PROPOSED RULE**

**19 CSR 30-95.025 Generally Applicable Provisions**

*PURPOSE: The Department of Health and Senior Services has the authority to promulgate rules for the enforcement of Article XIV. This rule explains what general provisions are necessary for the enforcement of the Article.*

(1) Patient Registry Access. Qualifying patient and primary caregiver information collected by the department shall not be released to anyone outside the department except for purposes authorized by federal law or Article XIV of the Missouri Constitution, including:

(A) Upon request and for purposes of verifying whether a particular individual is lawfully in possession of a qualifying patient, primary caregiver, or patient cultivation identification card or lawfully in possession of a particular amount of marijuana, state and local law enforcement personnel shall have access to patient and caregiver information such as names, addresses, dates of birth, and purchase limitations.

(B) For the purposes of verifying whether a particular qualifying patient or primary caregiver may purchase an amount of medical marijuana or medical marijuana seeds or plants, dispensary facilities shall have access to patient and primary caregiver names and purchase limitations.

(2) Variances.

(A) The department may waive, for good cause, provisions of this chapter on its own initiative or by request.

(B) Requests for variance from the requirements of any provision of this chapter shall be made in writing and will be granted or denied by the director of the department's medical marijuana program. Requests shall include—

1. A list of each requirement for which a variance is requested, with citation to the specific rule in which the requirement can be found; and

2. An explanation for why the requirement cannot be met or why meeting the requirement would impose an undue burden on the applicant.

(C) Denial of variance requests shall be issued by the department in writing and shall include the specific reasons for the denial.

(3) Complaints. All complaints against licensed or certificated medical marijuana facilities must be submitted through the department's website at <http://medicalmarijuana.mo.gov>. Complaints shall include the name and address of the facility against which the complaint is made and a clear description of what violation the complainant believes the facility has committed.

(A) Upon complaint against a facility, the department will determine whether an inspection is warranted to investigate the allegations in the complaint.

(B) If the department conducts an inspection, the facility will receive a copy of the complaint.

(C) Employees of a facility who report potential violations by a facility to the department may not be subjected to retaliation of any kind, including termination, because of their report.

(4) Facility Evaluation Criteria. All applicants for cultivation, dispensary, manufacturing, testing, or transportation licenses or certifications will be evaluated for whether they meet minimum standards as described in subsection (A) of this section. During application time periods where more qualified applicants apply for cultivation, dispensary, manufacturing, or testing licenses or certifications than there are licenses or certificates available in that category, the department will use a system of numerically scoring ten additional evaluation criteria to rank the applications in each such license or certification category against each other.

(A) The minimum standards for licenses and certifications can be met by providing all material required by 19 CSR 30-95.040(2) in order to show, as applicable:

1. Authorization to operate as a business in Missouri;
2. That the entity is majority owned by natural persons who have been residents of Missouri for at least one (1) year;
3. That the entity is not under substantially common control as another entity or a combination of other entities in violation of 19 CSR 20-95.040(3)(C-D);
4. That the entity is not within one thousand (1000) feet of an existing elementary or secondary school, daycare, or church, or, if a local government allows for closer proximity to schools, daycares, and churches, that the entity complies with the local government's requirements;
5. Eligibility to operate in a local jurisdiction; and
6. That the entity will not be owned, in whole or in part, or have as an officer, director, board member, or manager, any individual with a disqualifying felony offense.

(B) The additional evaluation criteria, which will be numerically scored, are:

1. The character, veracity, background, qualifications, and relevant experience of principal officers or managers;
2. The business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of medical marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making medical marijuana available to low-income qualifying patients;
3. Site security;
4. Experience in a legal cannabis market;
5. In the case of testing facilities, the experience of the facility's personnel with the health care industry and with testing marijuana, food, or drugs for toxins and/or potency;
6. The potential for the facility to have a positive economic impact in the site community;
7. In the case of cultivation facilities, capacity or experience with agriculture, horticulture, and health care;
8. In the case of dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;
9. In the case of infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and
10. Maintaining competitiveness in the medical marijuana marketplace.

(C) When applicable, numerical scoring of evaluation criteria will be conducted as follows:

1. Applications will be separated from their identifying information, including facility business names, and names, addresses, and Social Security numbers of individuals, and assigned a numerical identifier for use during scoring.

2. Applications will be scored based on responses to evaluation criteria questions. Responses may take the form of written answers or written answers with attachments.

A. Each type of facility or certification application will be scored and ranked against the other applications of the same type. For dispensaries, applications will be scored and ranked against other dispensary applications in the same congressional district.

B. Applications will be scored without reference to the identities of the facilities or of individuals named in an application. Written responses to evaluation criteria questions must not refer to facility business names, either legal or fictitious, and must refer to individuals by title and initials only, e.g. "Owner A.E.M." or "Principal Officer R.W.M." Any attachments to evaluation criteria question responses shall be redacted so as to obscure the facility business names and the names, addresses, and Social Security numbers of any individuals mentioned in the application. Unredacted versions of those same documents will be submitted separately in a section of the application designated for this purpose.

C. Responses to evaluation criteria questions in which a business or individual is identified by name will not be scored.

3. Evaluation criteria questions and initial scoring shall be as delineated in the Evaluation Criteria Questions and Points table, the Evaluation Criteria Scoring table, and the Evaluation Criteria Topics and Values Table, which are incorporated by reference in this rule as published by the department and available on the department's website at <http://medicalmarijuana.mo.gov>. This rule does not incorporate any subsequent amendments or additions.

4. The same evaluation criteria question in each application will be scored by the same individual, if possible, and scores that vary significantly from other scores for the same questions may be rescored. If rescored, the first score will be discarded, and the second score will stand.

5. Once all applications have been assigned an initial rank and score, the department will reconnect the applications with their identifying information.

6. After evaluation criteria questions have been initially scored, and in order to award points to applicants that seek to locate in economically distressed areas, thereby supporting a potential for positive economic impact in the site community, the rankings of such facilities will be further adjusted by awarding additional points as follows:

A. Any facility seeking a license to locate within a zip code area that has an employment rate of eighty-five (85.0) percent to eighty-nine and nine tenths (89.9) percent will receive a scoring increase of thirty (30) percent of the average initial score of all applicants of the same facility type within the evaluation criteria topic regarding potential for positive economic impact in the site community; and

B. Any facility seeking a license to locate within a zip code area that has an employment rate of zero (0) to eighty-four and nine tenths (84.9) percent will receive a scoring increase of forty (40) percent of the average initial score of all applicants of the same facility type within the evaluation criteria topic regarding potential for positive economic impact in the site community.

C. For the purposes of this paragraph, zip code employment data was obtained from the "U.S. Census Bureau, American Community Survey 2013-2017, Employment Status, Population 16 years and over," published by the Missouri Census Data Center. The applicable zip codes are listed in the table included herein.

7. For cultivation, manufacturing, and testing facilities, the score following any adjustments under paragraph 6 of this subsection is the final score.

8. For dispensary facilities, after evaluation criteria questions have been initially scored and adjusted as applicable under paragraph 7 of this subsection, and in order to facilitate patient access to medical marijuana, the rankings of dispensary facilities will be further adjusted by awarding additional points due to geographic location as follows:

A. First, the highest scoring dispensary facility in each of the one hundred sixty-three (163) Missouri House of Representatives districts as drawn and in effect on December 6, 2018, will receive an increase to its score pursuant to subparagraph C. of this paragraph, and all dispensary facility applicants' rankings will then be reordered. A map of the state of Missouri showing the applicable boundary lines of Missouri's house districts is available on the department's website; and

B. Finally, any dispensary facility applicant with a location more than twenty-five (25) miles, measured in a straight line, from any other dispensary facility applicant or existing dispensary facility will receive an additional increase to its score pursuant to subparagraph C. of this paragraph, and all dispensary facility applicants' rankings will again be reordered. The resulting rank and score will be each dispensary facility's final rank and score.

C. Scoring increases due to geographic location will be equal to five (5) percent of the average initial score of the top twenty-four (24) ranked facilities in each congressional district that has at least twenty-four (24) dispensary facility applicants.

D. In cases where a house district is segmented by the boundary lines of two or more congressional districts, for purposes of the adjustments in this paragraph, only the segment of that house district with the highest population, as of the 2010 United States Population Census, will be utilized.

9. In the case of a tie for the last available license or certification in any category, the license or certification will go to:

A. The facility with the highest score in the topic specifically relating to that facility type;

B. If a tie remains, then the facility with the highest score in the business plan topic;

C. If a tie remains, then the facility with the highest score in the character topic;

D. If a tie remains, then the facility with the highest score in the site security topic;

E. If a tie remains, then the facility with the highest score in the economic impact topic;

F. If a tie remains, then the facility with the highest score in the legal cannabis market experience;

G. If a tie remains, then the facility will be chosen by lottery.

(D) Licenses and certifications will be issued as follows:

1. When the numerical scoring system is used, the highest ranked facilities for each type of facility and, for dispensaries, in each congressional district, will receive licenses or certifications, except in cases where an entity under substantially common control, ownership, or management has applied for more than three (3) cultivation, three (3) manufacturing, or five (5) dispensary licenses. In those cases, the department will only issue licenses to the highest ranked facilities associated with that entity, up to the maximum number allowable in each category of license.

2. When the numerical scoring system is not used, all facilities that meet the minimum standards for licenses or certifications will be issued licenses or certifications, except in cases where an entity under substantially common control, ownership, or management has applied for more than five (5) dispensary licenses and some of those dispensaries are located in congressional districts that were numerically scored. In those cases, the department will first

issue licenses to the dispensaries associated with that entity in congressional districts that were not numerically scored. Any remaining dispensaries associated with that entity will be issued licenses according to that dispensary's rank and score.

(5) The department will impose penalties as follows:

(A) For possessing marijuana in amounts between the possessor's legal limit and twice the legal limit, in addition to revocation of identification card(s) pursuant to 19 CSR 30-95.030(3)(B)1.D, the possessor will incur a penalty of two hundred (200) dollars.

(B) For failure to package medical marijuana consistent with 19 CSR 30-95.040(4)(K), a facility will incur a penalty of five thousand (5,000) dollars for each category of improperly packaged product, and the improperly packaged medical marijuana will be recalled for repackaging or disposal, at the department's discretion.

(C) Any person or facility that extracts resins from marijuana using combustible gases or other dangerous materials without a manufacturing facility license, shall incur a penalty.

1. In addition to revocation of identification cards pursuant to 19 CSR 30-95.030(3)(B)1.I, any patients or primary caregivers who extract resins in this manner will incur a penalty of two hundred (200) dollars.

2. In addition to suspension of license pursuant to 19 CSR 30-95.040(1)(E)7, facilities that extract resins in this manner will incur a penalty of ten thousand (10,000) dollars.

(6) Appeals.

(A) The following department decisions shall be appealable to the administrative hearing commission:

1. Denial, revocation, or suspension of licenses or certifications; and

2. Denial or revocation of patient, primary caregiver, patient cultivation, or facility agent identification cards.

(B) Any person or entity entitled to appeal to the administrative hearing commission under this rule must file a petition with the administrative hearing commission within thirty (30) days after the date the department decision is sent to the person or entity. An untimely appeal will not be considered.

(C) Notwithstanding the limits on licenses and certifications set forth in 19 CSR 30-95.050(1)(A), 19 CSR 30-95.060(1)(A), 19 CSR 30-95.070(1), and 19 CSR 30-95.080(1)(A)-(B), the department may grant additional facility licenses or certifications as a remedy to timely appeals when:

1. Ordered to do so by the administrative hearing commission or a court of competent jurisdiction; or

2. The department determines doing so in settlement of such an appeal best serves implementation of Article XIV of the Missouri Constitution.

(7) Statewide Track and Trace System.

(A) No entity holding a contract with the state of Missouri for a statewide track and trace system or any affiliates of that entity may sell seed-to-sale services or services related to compliance with seed-to-sale tracking regulations to a licensed or certified facility.

(B) Unless otherwise addressed or prohibited by contract or law, an entity holding a contract with the state of Missouri for a statewide track and trace system and any affiliates of that entity may charge a price to a licensed or certified facility for plant/product tracking labels, but no such

price shall exceed the cost of producing the label in an amount that would create more than thirty (30) percent net profit on each label.

(8) Unless otherwise stated, any reference to days in Chapter 95 will mean calendar days.

US Census Bureau 2013-2017 American Community Survey 5-Year Estimates  
Missouri Employment Data by Zip Code Tabulation

|       |      |
|-------|------|
| 63633 | 89.9 |
| 63937 | 89.9 |
| 63964 | 89.9 |
| 64132 | 89.9 |
| 64620 | 89.9 |
| 63463 | 89.8 |
| 63655 | 89.8 |
| 65622 | 89.8 |
| 65664 | 89.8 |
| 65752 | 89.8 |
| 64847 | 89.7 |
| 65326 | 89.7 |
| 63873 | 89.6 |
| 64650 | 89.6 |
| 65583 | 89.5 |
| 65733 | 89.5 |
| 64053 | 89.4 |
| 64733 | 89.4 |
| 64848 | 89.4 |
| 65462 | 89.4 |
| 63135 | 89.3 |
| 64744 | 89.3 |
| 65629 | 89.3 |
| 64857 | 89.2 |
| 65722 | 89.2 |
| 63770 | 89.1 |
| 65473 | 89.1 |
| 65605 | 89.1 |
| 63673 | 89   |
| 65232 | 89   |
| 65739 | 89   |
| 63071 | 88.9 |
| 63629 | 88.9 |
| 65037 | 88.9 |

|       |      |
|-------|------|
| 65017 | 88.8 |
| 63347 | 88.7 |
| 64109 | 88.7 |
| 64633 | 88.7 |
| 65237 | 88.7 |
| 63851 | 88.6 |
| 64126 | 88.6 |
| 65243 | 88.5 |
| 65571 | 88.5 |
| 65625 | 88.5 |
| 65626 | 88.5 |
| 64431 | 88.4 |
| 65555 | 88.4 |
| 63382 | 88.3 |
| 63561 | 88.3 |
| 63121 | 88.2 |
| 64639 | 88.2 |
| 64867 | 88.2 |
| 63540 | 88.1 |
| 63653 | 87.9 |
| 65656 | 87.9 |
| 64866 | 87.8 |
| 63041 | 87.7 |
| 65737 | 87.7 |
| 63782 | 87.5 |
| 63343 | 87.4 |
| 64127 | 87.4 |
| 64776 | 87.4 |
| 63665 | 87.3 |
| 65774 | 87.3 |
| 63118 | 87.1 |
| 64740 | 87.1 |
| 65067 | 87.1 |
| 65250 | 87   |

|       |      |
|-------|------|
| 65535 | 86.9 |
| 63023 | 86.8 |
| 63137 | 86.8 |
| 63868 | 86.8 |
| 64130 | 86.8 |
| 65464 | 86.8 |
| 63134 | 86.7 |
| 64128 | 86.7 |
| 65453 | 86.7 |
| 63112 | 86.6 |
| 63834 | 86.6 |
| 65785 | 86.6 |
| 63458 | 86.4 |
| 63846 | 86.4 |
| 63636 | 86.3 |
| 63869 | 86.3 |
| 63472 | 86.2 |
| 63961 | 86.1 |
| 63443 | 86   |
| 63547 | 86   |
| 63824 | 86   |
| 64090 | 86   |
| 63860 | 85.7 |
| 64499 | 85.7 |
| 65755 | 85.6 |
| 63830 | 85.5 |
| 63138 | 85.4 |
| 63431 | 85.4 |
| 63944 | 85.2 |
| 65667 | 85.2 |
| 65777 | 85.2 |
| 64163 | 85   |
| 63932 | 84.9 |
| 63862 | 84.8 |
| 64136 | 84.7 |
| 63853 | 84.5 |
| 65247 | 84.5 |
| 63147 | 84.4 |
| 65634 | 84.4 |
| 65338 | 84.3 |
| 65760 | 84.3 |

|       |      |
|-------|------|
| 63136 | 84.2 |
| 65463 | 84.2 |
| 63952 | 83.8 |
| 63829 | 83.5 |
| 63622 | 83.4 |
| 65674 | 83.4 |
| 65724 | 83.3 |
| 63787 | 83   |
| 65767 | 83   |
| 63087 | 82.8 |
| 63107 | 82.8 |
| 63966 | 82.3 |
| 64743 | 82.2 |
| 64861 | 81.9 |
| 63113 | 81.6 |
| 63866 | 81.4 |
| 64125 | 80.9 |
| 63626 | 80.4 |
| 65079 | 80.3 |
| 63133 | 80   |
| 63955 | 79.3 |
| 63115 | 79   |
| 64676 | 78.7 |
| 64433 | 77.9 |
| 65543 | 77.8 |
| 63120 | 76.2 |
| 63663 | 75.9 |
| 63106 | 75.8 |
| 63849 | 75.7 |
| 65618 | 75.6 |
| 64654 | 75   |
| 65623 | 75   |
| 65702 | 75   |
| 65534 | 73.7 |
| 63945 | 73   |
| 63784 | 70.6 |
| 64147 | 70.6 |
| 63878 | 69.2 |
| 65529 | 68.6 |
| 65768 | 67.7 |
| 65456 | 64.2 |

|       |      |
|-------|------|
| 63847 | 63.6 |
| 63047 | 53.3 |
| 63774 | 50   |
| 63674 | 44.3 |
| 63962 | 0    |

*AUTHORITY: Sections 1.3.(1)(b) and 1.3.(2) of Article XIV, Mo. Const. Original rule filed May 24, 2019. Emergency rule filed May 24, 2019, effective June 3, 2019, expires February 27, 2020.*

*PUBLIC COST: This proposed rule has an estimated cost to state agencies or political subdivisions of \$2,029,442 in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lyndall Fraker, PO Box 570, Jefferson City, MO 65102 or via email at [MMPublicComment@health.mo.gov](mailto:MMPublicComment@health.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*