

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

19 CSR 30-95.010 Definitions

PURPOSE: This rule defines terms used in Chapter 95.

- (1) “Administer” means the direct application of marijuana to a qualifying patient by way of any of the following methods:
 - (A) Ingestion of capsules, teas, oils, and other marijuana-infused products;
 - (B) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;
 - (C) Application of ointments or balms;
 - (D) Transdermal patches and suppositories;
 - (E) Consuming marijuana-infused food products; or
 - (F) Any other method recommended by a qualifying patient’s physician.
- (2) “Affiliate” means any entity effectively controlling or controlled by another entity or associated with other entities under common ownership or control, including a parent or subsidiary.
- (3) “Batch” means a specifically identified quantity of medical marijuana, from immature plant stage to harvest, that is uniform in strain and cultivated utilizing the same growing practices.
- (4) “Canopy space” means a space measured from the outermost point of a mature flowering plant in a designated growing area and continuing around the outside of all mature flowering plants in that designated growing area but not including space allocated for walkways or ancillary equipment. This space may be spread over a single level or multiple levels.
- (5) “Church” means a permanent building primarily and regularly used as a place of religious worship.
- (6) “Daycare” means a child-care facility, as defined by section 210.201, RSMo, that is licensed by the state of Missouri.
- (7) “Department” means the Department of Health and Senior Services, or its successor agency.
- (8) “Disqualifying felony offense” means a violation of, and conviction of or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that—
 - (A) The person’s conviction was for the medical use of marijuana or assisting in the medical use of marijuana;
 - (B) The person’s conviction was for a non-violent crime for which he or she was not incarcerated and that is more than five (5) years old; or
 - (C) More than five (5) years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

(9) “Dried, unprocessed marijuana or its equivalent” means the marijuana flower after it has been cured and trimmed or its equivalent amount of marijuana concentrate or tetrahydrocannabinol (THC). For purposes of purchase and possession limitations, one (1) ounce of dried, unprocessed marijuana is equivalent to eight (8) grams of medical marijuana concentrate or eight hundred (800) milligrams of THC in infused products.

(10) “Economic interest” means rights to either the capital or profit interests therein, or a combination thereof; or, in the case of a corporation, rights to some portion of all classes of outstanding stock of the corporation.

(A) Capital interests include rights to some portion of the value of a medical marijuana facility’s assets upon sale or liquidation.

(B) Profit interests include rights to some portion of the current or future value of a medical marijuana facility, such as rights to a percentage of the facility’s net income or gross profits.

(11) “Elementary or secondary school” means any public school as defined in section 160.011, RSMo, or any private school giving instruction in a grade or grades not higher than the twelfth grade, including any property owned by the public or private school that is regularly used for extracurricular activities, but does not include any private school in which education is primarily conducted in private homes.

(12) “Enclosed, locked facility” means—

(A) An indoor stationary closet, room, garage, greenhouse, or other comparable fully enclosed space equipped with locks or other functioning security devices that permit access to only the qualifying patient(s) or primary caregiver(s) who have informed the department that this is the space where they will cultivate marijuana; or

(B) An outdoor stationary structure—

1. That is enclosed on all sides, except at the base, by chain-link fencing, wooden slats, or a similar material that is anchored, attached, or affixed to the ground and that cannot be accessed from the top;

2. In which the plants are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure at any level; and

3. That is equipped with locks or other security devices that restrict access to only the qualifying patient(s) or primary caregiver(s) who have informed the department that this is the space where they will cultivate marijuana.

(13) “Employment rate” means the percent of the civilian labor force that is employed.

(14) “Entity” means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(15) “Flowering plant” means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(16) “Harvest lot” means a specifically identified quantity of marijuana that is uniform in strain, cultivated utilizing the same growing practices, harvested within a seventy-two- (72-) hour period at the same location, and cured under uniform conditions.

(17) “Identification card” means a document, whether in paper or electronic format, issued by the department that authorizes a qualifying patient, primary caregiver, or employee or contractor of a licensed facility to access medical marijuana as provided by law.

(##) “Immature plant” means a nonflowering marijuana plant.

(18) “Liquid Capital” means any asset in the form of cash or that can be converted into cash quickly with little or no loss in value, including stocks and marketable securities, government bonds, mutual funds, money-market funds, and certificates of deposit.

(19) “Majority owned” means more than fifty percent (50%) of the economic interests and more than fifty percent (50%) of the voting interests of an entity, including any parent and subsidiary entities.

(20) “Marijuana” or “Marihuana” means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. “Marijuana” or “Marihuana” does not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent (0.3%) on a dry weight basis, or commodities or products manufactured from industrial hemp.

(21) “Marijuana-Infused Products” means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures, and concentrates.

(22) “Medical Marijuana Cultivation Facility” means a facility licensed by the department, to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(23) “Medical Marijuana Dispensary Facility” means a facility licensed by the department, to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(24) “Medical Marijuana-Infused Products Manufacturing Facility” means a facility licensed by the department, to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(25) “Medical Marijuana Testing Facility” means a facility certified by the department to acquire, test, certify, and transport marijuana.

(26) “Medical Marijuana Transportation Facility” means a facility certified by the department to transport marijuana to a qualifying patient, a primary caregiver, a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another medical marijuana-transportation facility.

(27) “Medical use” means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient’s qualifying medical condition.

(##) “Owner,” for purposes of determining ownership of medical marijuana facilities, means an entity that holds some portion of both the economic and voting interests of a medical marijuana facility, including any parent or subsidiary entities of that facility.

(28) “Non-emancipated qualifying patient” means a qualifying patient under the age of eighteen (18) who has not been emancipated under Missouri law.

(29) “Physician” means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(A) **An individual is in good standing** [license is in good standing if it] **if that individual’s license** is registered with the Missouri Board of Healing Arts as current, active, and not [restricted in any way, such as by designation as temporary or limited] **restricted, temporary, or limited, as long as that person is not currently on the list of individuals from whom the department will not accept certifications.**

(B) Practice of medicine or osteopathy means practice by persons who hold a physician and surgeon license pursuant to Chapter 334, RSMo, including those who are admitted to practice in Missouri by reciprocity pursuant to 334.043, RSMo.

(30) “Physician certification” means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician’s professional opinion, the patient suffers from a qualifying medical condition.

(31) “Primary caregiver” means an individual twenty-one (21) years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver’s application for an identification card under this section or in other written notification to the department.

(32) “Principal officers or managers” means persons who, regardless of title, have responsibility for supervising the management, administration, or operation of an entity, including, but not limited to: presidents, vice presidents, or general counsels; chief executive, financial, or operating officers; general partners, managing partners, or controlling partners; managing-members; or trustees.

(33) “Process lot” means, once production is complete, any amount of medical marijuana concentrate or extract of the same type and processed using the same extraction methods, standard operating procedures, and harvest lots; or any amount of medical marijuana infused product of the same type and processed using the same ingredients, standard operating procedures, and harvest lots.

(34) “Public place” means any public or private property, or portion of public or private property, that is open to the general public, including but not limited to, sidewalks, streets, bridges, parks, schools, and businesses. However, for purposes of designating a non-public place within a public place, the owner or entity with control of any such property may, but is not required to, provide one (1) or more enclosed, private spaces where one (1) qualifying patient and, if required by the

owner or entity with control of any such property, a representative of such owner or entity, may congregate for the qualifying patient to consume medical marijuana. The qualifying patient may be accompanied by the family of the qualifying patient, the qualifying patient's primary caregiver, and/or the qualifying patient's physician. The owner or entity with control of any such property may provide such a space by individual request or designate such a space for ongoing use and may limit use of medical marijuana in that space to uses that do not produce smoke. Any such permission shall be given in writing and provided to the qualifying patient or publicly posted prior to a qualifying patient's use of medical marijuana in that space.

(35) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of—

- (A) Cancer;
- (B) Epilepsy;
- (C) Glaucoma;
- (D) Intractable migraines unresponsive to other treatment;
- (E) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including, but not limited to, those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;
- (F) Debilitating psychiatric disorders, including, but not limited to, post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;
- (G) Human immunodeficiency virus or acquired immune deficiency syndrome;
- (H) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;
- (I) Any terminal illness; or
- (J) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(36) "Qualifying Patient" means a Missouri resident diagnosed with at least one (1) qualifying medical condition.

(37) "Seed-to-sale tracking system" means a software system designed to perform functions necessary to fulfill a licensed or certified facility's responsibilities in tracking medical marijuana from either the seed or immature plant stage until the medical marijuana is sold to a qualifying patient or primary caregiver.

(38) "Signature" means a handwritten or electronic signature.

(39) “Statewide track and trace system” means the system the department uses to track medical marijuana from either the seed or immature plant stage, **beginning when an immature plant is no taller than eight (8) inches and no wider than eight (8) inches**, until the medical marijuana is sold to a qualifying patient or primary caregiver to ensure that all medical marijuana sold in Missouri was cultivated or manufactured in Missouri, that all medical marijuana cultivated or manufactured in Missouri is sold only by dispensaries and only to individuals in possession of a valid qualifying patient or primary caregiver identification card, and that any given qualifying patient or primary caregiver is only purchasing the amount of medical marijuana he or she is approved to purchase at any given time.

(40) “Substantially common control, ownership, or management” means—

(A) The possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, by any means, including ownership, contract, financing, or otherwise;

(B) The legal or beneficial ownership, directly or indirectly through ownership of an affiliate entity, of ten percent (10%) or more of an entity’s outstanding voting stock or other ownership interest;

(C) The ownership, directly or indirectly through the ownership of an affiliate entity, of a majority of the capital assets, real property assets, or leasehold interests; or

(D) The ability to make policy decisions, operating decisions, or decisions regarding the allocation of income and expenses for the entity, whether directly or by a management agreement.

(##) “Unfair business practices” means fraud, misrepresentation, or oppressive and unethical practices committed against other businesses or consumers, such as conspiracy to fix market prices, conspiracy to allocate markets or customers, price discrimination, false or misleading advertising including by concealment of material fact, or any practice that seeks to circumvent requirements of Article XIV, such as requirements regarding majority Missouri ownership and disqualifying felony offenses, including—

(A) Oral or written agreements, separately or in combination, granting to a non-owner any managerial authority or control over the facility or its operations;

(B) Oral or written agreements, separately or in combination, granting a minority owner a degree of managerial authority or control over the facility or its operations disproportional to or inconsistent with the minority owner’s percentage of ownership in the facility;

(C) Oral or written agreements, separately or in combination, granting non-owners or minority owners or their affiliates a percentage of the facility’s revenue or anticipated revenue greater than what is common in the industry or, considering all such agreements, granting any combination of non-owners and/or minority owners a total of 10% or more of a facility’s revenues or anticipated revenues;

(D) Payments to non-owners or minority owners for services, rights, or assets in amounts that exceed the typical price a facility should be able to negotiate on the open market or that otherwise suggest the price was not negotiated at arms-length, in the normal course of business;

(E) If the facility is organized as a corporation, non-owners serving on the board of directors; and

(F) If the facility is organized as a limited liability company, non-owners serving as the manager or on the facility’s board of managers.

AUTHORITY: sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) 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.