19 CSR 30-95.080 Dispensary Facility

Purpose: Under Article XIV 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.

EMERGENCY STATEMENT: This emergency rule informs the public of what regulations for the implementation of Article XIV apply only to dispensary facilities. This rule is necessary to comply with Article XIV, Section 1 of the Missouri Constitution, which became effective on December 6, 2018. Article XIV requires that the Department make available to the public application forms and instructions for qualifying patient, primary caregiver, and patient cultivation identification cards, as well as for medical marijuana cultivation, testing, dispensary, and infused products manufacturing facilities. In order to make available the forms and instructions for all of these types of applications, it is necessary to promulgate rules for the processes and regulatory functions related to these applications. Without such rules, the department will be unable to efficiently regulate and control the cultivation, manufacturing, and sale of marijuana for medical use or provide a mechanism and regulatory structure through which qualified patients and their caregivers may access medical marijuana. As a result, the department finds a compelling governmental interest in promoting the health and safety of Missouri residents who wish to use marijuana for medical purposes, requiring this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed DATE, becomes effective DATE, and expires DATE.

(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 not be limited to fewer than 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).
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 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; and
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 rule.

(C) Dispensary facilities must, for every transaction—

1. Receive the transaction order at the dispensary directly from the qualifying patient or primary caregiver in person, by phone, or via a website, and not through a third party;
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 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; and
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 purchases, a patient cultivation identification card.

(D) Dispensary facilities must report any incident of theft or attempted theft of medical marijuana by qualifying patients or primary caregivers to the department within twenty-four (24) hours 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 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;

2. Only qualifying patients, primary caregivers, and, if requested by a qualifying patient, up to two (2) additional persons to support 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.

(F) Dispensary facilities shall not sell medical marijuana until the medical marijuana has been tested by a testing facility, according to the provisions of 19 CSR 30-95.070, and been verified as passing all required testing.

(G) Dispensary facilities may only transport medical marijuana:
1. To qualifying patients, primary caregivers, testing, manufacturing, and other dispensary facilities;
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 approved location of the facility; 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(3)(C).

(J) Dispensary facilities may only sell medical marijuana seeds acquired from cultivation facilities.

(K) Dispensary facilities may not sell medical marijuana to a qualifying patient or primary caregiver in amounts greater than what that individual is currently authorized to purchase per the statewide track and trace system.

(L) Dispensary facilities may not sell medical marijuana seeds 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.

(N) Dispensary facilities may not disburse medical marijuana as part of a promotional event. If a facility disburse medical marijuana free of charge for any other reason, the facility shall record that disbursement of product in its seed-to-sale system with all relevant entries, including the qualifying patient or primary caregiver information and the amount of medical marijuana disbursed to that qualifying patient or primary caregiver.

(O) Dispensary facilities may not allow consumption of medical marijuana on their licensed premises.