

Draft Rule: Dispensary Facilities

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services has the authority to regulate and control Medical and Marijuana Facilities and Licensees. This rule explains what regulations apply to Dispensary Facilities and Licensees.

(1) Medical and Marijuana Dispensary Facilities Generally. A dispensary facility licensee's authority to engage in the process of dispensing marijuana product includes the ability to:

(A) Acquire and transport marijuana, marijuana seeds, clones, and prerolls from a cultivation facility;

(B) Acquire and transport marijuana-infused products and prerolls from a manufacturing facility;

(C) Process marijuana product for the purpose of producing and selling prerolls, which does not include the manufacture of marijuana-infused products;

(D) Package and store (on- or off-site) marijuana product and drug paraphernalia used to administer marijuana product; and

(E) Transport and sell marijuana product and drug paraphernalia to another dispensary facility, a manufacturing facility, or individuals authorized to purchase marijuana product for personal or medical use, as discussed herein.

1. A medical dispensary licensee may sell to qualifying patients or primary caregivers.

2. A comprehensive or microbusiness dispensary licensee may sell to consumers, qualifying patients, or primary caregivers.

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

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

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

2. No one under the age of 21 may enter any areas beyond the facility's access point area, unless the individual is a qualifying patient;

3. At least one staff member must accompany each consumer, qualifying patient, or primary caregiver to any limited access area where marijuana product is accessible within the facility. A staff person serving a consumer, qualifying patient, or primary caregiver at a drive-through window is not available to accompany a consumer, qualifying patient, or primary caregiver in the limited access area as long as the staff person is serving the drive-through consumer, qualifying patient, or primary caregiver; and

4. Drive-through lanes must:

A. Utilize drive-through drawers for dispensing marijuana product;

B. Provide for clear visibility of drivers for verification of patient identity. Drive-through windows must either be constructed so that they do not open or remain closed and locked at all times; and

C. Be covered at all times by video camera monitoring and recording that meets the standards described in this chapter.

5. Dispensary facilities must have posted at each point of egress, and on, beside, or immediately above all drive-through drawers, a department-approved sign that conveys the following warning:

“It is against the law to operate a dangerous device, motor vehicle, aircraft, or motorboat while under the influence of marijuana.”

6. Dispensary facility employees must be at least twenty-one (21) years of age;

(B) Prior to sale, dispensary licensees shall verify all of the following through the statewide track and trace system:

1. Any marijuana product the facility sells has been tested by a testing facility, according to the provisions of this chapter, and passed all required testing for the product type, including prerolls created at a dispensary facility;

2. The marijuana product has not been placed on administrative hold, recalled, or ordered or otherwise required to be destroyed;

(C) Dispensary licensees shall not sell, deliver, or distribute more marijuana product in a single transaction to a consumer, qualifying patient, or primary caregiver than the lawful amounts related to sale, where the licensee or employee knows, or reasonably should know, that such sale, transfer, or distribution would result in the qualifying patient, primary caregiver, or consumer possessing or being sold more than the amounts set forth by state law as set forth below.

1. Licensees may not sell to a consumer more than 3 ounces of dried, unprocessed marijuana, or its equivalent, in a single transaction.

2. Licensees may not sell to a qualifying patient or primary caregiver on behalf of a qualifying patient, any amount of dried, unprocessed marijuana, or its

equivalent, that would result in the purchase of more than that qualifying patient's physician- or nurse practitioner-authorized amount in a 30-day period.

(D) Transactions.

1. For every transaction, dispensary licensees must receive the transaction order directly from a consumer, qualifying patient, or primary caregiver in person, by phone, or via the internet;

A. If a dispensary licensee receives transactions via the internet, it must ensure that the third party entity providing services for online ordering:

(I) Utilizes security measures sufficient to protect the confidentiality and security of consumer, qualifying patient, and primary caregiver information;

(II) Does not collect or distribute consumer, qualifying patient, or primary caregiver data for use in any way other than for the online ordering process; and

(III) 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, licensees must—

A. Verify through the statewide track and trace system that—

(I) medical marijuana product transactions are made only by qualifying patients or primary caregivers who are currently authorized to purchase the amount of medical marijuana product requested;

(II) consumers purchasing marijuana product do not exceed the purchase limits set forth above; and

(III) a consumer, qualifying patient, or primary caregiver purchasing seeds or plants is currently authorized to cultivate marijuana;

B. Verify that the marijuana product is not past its expiration date;

C. Require production of a qualifying patient or primary caregiver identification card if applicable, a valid government-issued photo ID, and in the case of marijuana seed or plant purchases, a cultivation identification card. In the case of delivery orders, such documentation must be produced at the time of delivery. Licensees must verify that—

(I) patients purchasing medical marijuana product are at least eighteen (18) years of age;

(II) patients under the age of eighteen (18) have a primary caregiver who is making the purchase on their behalf;

(III) all consumers are at least 21 years of age or older;

D. For any transaction involving a qualifying patient, primary caregiver, or personal cultivation purchase, scan the department-issued identification card

barcode in order to adequately track purchases in the statewide track and trace system.

E. Receive payment before the marijuana product leaves the dispensary facility, or, in the case of a delivery order, receive payment at any point in time up until the time of delivery;

(I) In the case of a delivery order, payment is subject to refund if the delivery cannot be completed;

(II) If not receiving pre-payment for a delivery order, a dispensary licensee may deliver to no more than two individuals at the same address on the same day, in compliance with the transportation requirements of this chapter; and

F. Record the disbursement of marijuana product, including plants and seeds, in the statewide track and trace system, even in instances where prices are discounted or waived.

(E) Dispensary licensees that sell ingestible marijuana-infused products shall comply with the applicable food safety standards set forth in chapter 19 CSR 20 and any relevant statutes controlling food safety standards;

(F) Dispensary licensees shall only sell marijuana seeds or plants acquired from licensed cultivation facilities.

1. Dispensary licensees shall not sell marijuana seeds or plants to a consumer, qualifying patient, or primary caregiver who is not currently authorized to cultivate marijuana;

2. Only plants less than eight (8) inches tall and less than eight (8) inches wide may be sold by dispensary licensees, and dispensary licensees may not alter the plant or care for it in any way other than watering.

3. If a dispensary licensee chooses to sell plants, the transaction shall proceed as follows:

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

B. The licensee will schedule a time for the licensed consumer, qualifying patient, or primary caregiver to pick up the order within the forty-eight (48) hour timeframe;

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

D. If a consumer, qualifying patient, or primary caregiver does not pick up the order, the licensee 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

E. In a single transaction, no more than six (6) plants less than eight (8) inches tall may be sold to a consumer or to or on behalf of a particular patient;

(G) Refunds or credits may be issued as needed, but returns of marijuana product may not be accepted.

(H) Dispensary licensees must make available to all consumers, qualifying patients, and primary caregivers educational materials, whether digital or print, that include at least the following:

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

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

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

4. Information about potential risks and possible side effects of marijuana use, including the risk of poisoning and the phone number for the Missouri Poison Center;

5. Information about the different ways to administer marijuana product and the differences in the anticipated time frames for the marijuana product to take affect; and

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

(I) Dispensary facilities may securely display samples of each marijuana product offered for sale;

1. Marijuana product used as a display sample may not be dispensed to consumers, qualifying patients, or primary caregivers;

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

3. Display samples shall be destroyed in accordance with 19 CSR 30-95.XXX within five (5) business days of the associated product lot being finished;

(J) Dispensary licensees shall not allow consumption of marijuana product on the licensed dispensary premises, including any approved transport vehicle(s);

(K) Dispensary licensees shall store all marijuana product in a locked vault when the facility is closed for business.

(L) Dispensaries shall limit the amount of money available in any retail area of the facility and shall notify the public that there is a minimal amount of money available, including by posting of a sign;

(M) Dispensary licensees must offer marijuana product disposal services for consumers, qualifying patients, and primary caregivers.

1. Dispensary licensees may charge a reasonable disposal fee.

2. Any marijuana product received for disposal must be logged in the statewide track and trace system and disposed within forty-eight (48) hours of receipt at the dispensary facility.