

Draft Rule: Facilities Generally

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services is authorized to regulate and control the operations of Medical and Marijuana Facilities. This rule explains general operating requirements applicable to all licensed and certificated facilities

(1) Licensing and location

(A) An entity must obtain a separate license or certificate for each facility. Subject to department pre-approval, multiple licenses or certificates may be utilized at a single location. All licenses shall be displayed at all times within twenty feet (20') of the main entrance to a facility.

(B) Each facility license or certification shall be charged an annual fee once the license or certification is granted. The first annual fee will be due thirty (30) days after a license or certification is issued and shall be due annually on that same date as long as the facility's license or certification remains valid. The department shall publish the current fees, including any adjustments, on its website. The fees will be the amount that is effective as of that facility's annual fee due date.

(C) Unless expressly allowed by the local government, no medical or marijuana facility shall be sited, at the time of application for license, certification, or local zoning approval, whichever is earlier, within one thousand feet (1,000') of any then-existing elementary or secondary school, daycare, or church. The method of measuring distances is governed by Article XIV.

(D) A medical or marijuana facility may not allow cultivation, manufacturing, sale, or display of marijuana product or marijuana accessories to be visible from a public place outside of the marijuana facility without the use of binoculars, aircraft, or other optical aids.

(2) Business change applications. All cultivation, dispensary, manufacturing, testing, transportation, and microbusiness licensees must apply for and obtain the department's approval before they may—

(A) Transfer their license to a different entity with the same ownership. Such a request must include at least the following:

1. Current legal name of the licensee, including fictitious business names, and proposed new legal name of the licensee, including fictitious business names; and

2. All owners of the licensed entity and their individual ownership percentage, which must show the proposed new entity is owned by the same owners as is the licensee;

3. A visual representation of the licensee's ownership structure including all entities that hold any percentage of ownership; and

4. An administrative and processing fee of two thousand dollars (\$2000)

(B) Make any changes that would result in an individual owning ten percent (10%) or more of the ownership interests of the licensed entity who did not previously own ten percent (10%) or more of the licensed entity. Such requests must include at least the following:

1. Name of each new owner;

2. All proposed owners of the licensed entity and their individual ownership percentage;

3. A visual representation of the licensee's proposed ownership structure including all entities that hold any percentage of ownership;

4. A list of all facilities licensed or certified or applying for licensure or certification in Missouri to cultivate, manufacture, dispense, or test medical marijuana that will be under substantially common control, ownership, or management as the licensee after the proposed change;

5. An attestation that all facility owners will submit fingerprints within two (2) weeks after the application submission for a state and federal fingerprint-based criminal background check to be conducted by the Missouri State Highway Patrol; and

6. An administrative and processing fee of five thousand dollars (\$5000);

(C) Make any changes that would result in an overall change in ownership interests of fifty percent (50%) or more from the last approved ownership of the licensee. Such requests may be submitted after the licensee's facility has passed a commencement inspection and must include at least the following:

1. Name of each new owner, if any;

2. All proposed owners of the licensed entity and their individual ownership percentage;

3. A chart comparing the previously approved ownership percentages to the proposed ownership percentages;

4. A visual representation of the licensee's proposed ownership structure including all entities that will hold any percentage of ownership;

5. A list of all facilities licensed or certified or applying for licensure or certification in Missouri to cultivate, manufacture, dispense, or test medical marijuana that will be under substantially common control, ownership, or management as the licensee after the proposed change;

6. An attestation that all facility owners will submit fingerprints within two (2) weeks after the application submission for a state and federal fingerprint-based criminal background check to be conducted by the Missouri State Highway Patrol; and

7. An administrative and processing fee of eight thousand dollars (\$8,000);

(D) Change the licensee's facility location. Such requests shall include at least the following:

1. Proposed blueprints for the facility;

2. An attestation that the proposed facility location complies with the facility location requirements of this chapter and any facility location requirements of the local government;

3. If the local government in which the facility will be located has enacted applicable zoning restrictions, the text of the restrictions, including the citation to said restrictions, and a description of how the proposed facility will comply with those restrictions; and

4. An administrative and processing fee of five thousand dollars (\$5000).

(E) Any administrative and processing fee for a microbusiness shall be half the amount listed in (A)-(D).

(3) General operations

(A) All licensees must comply at all times with applicable state, local, and federal requirements.

(B) All licensees shall become fully accredited to the standards set forth by ISO 9001:2015 within one (1) year of the date the facility receives department approval to operate and shall maintain its accreditation as long as the facility is licensed and operating.

(C) All licensees must pass a commencement inspection within one (1) year of being issued a license or certification, except microbusiness licensees, which must pass a commencement inspection within two (2) years of issuance.

(D) No facility or licensee may use combustible gases or other dangerous materials to extract resins from marijuana without a manufacturing facility license. Any facility that extracts resins from marijuana using combustible gases or other dangerous materials, without a manufacturing facility license, shall incur a penalty of ten thousand dollars (\$10,000).

(E) All marijuana product sold in Missouri, including plants, flowers, and infused products, shall have originated from marijuana grown and cultivated in a licensed cultivation facility located in Missouri.

(F) All licensees must establish and follow procedures to ensure marijuana remains free from contaminants. The procedures must address, at a minimum:

1. The flow through a facility of any equipment or supplies that will come in contact with marijuana including receipt and storage;

2. Employee health and sanitation;

3. Environmental factors, such as:

A. Floors, walls, and ceilings made of smooth, hard surfaces that are easily cleaned;

B. Temperature and humidity controls;

C. A system for monitoring environmental conditions;

D. A system for cleaning and sanitizing rooms and equipment;

E. A system for maintaining any equipment used to control sanitary conditions; and

F. For cultivation and infused product manufacturing facilities, an air supply filtered through high-efficiency particulate air filters under positive pressure.

(G) The department may issue notice of marijuana recall to licensees or the public if, in its judgment, any particular marijuana product presents a threat or potential threat to the health and safety of qualifying patients or consumers. All facilities are responsible for complying with recall notices. Recalled items must be immediately pulled from production or inventory and held until such time as the department determines the item is safe, may be remediated, or must be destroyed.

(4) Signage and advertising must comply with the following:

(A) A marijuana product must not be advertised or marketed to members of the public unless the person advertising the product has reliable evidence that at least seventy percent (70%) of the audience or readership for the television program, radio program, internet website, or print publication, is reasonably expected to be at least twenty-one (21) years of age.

(B) A marijuana product may only be advertised or marketed in compliance with all applicable municipal ordinances, state law, and these rules that regulate signs and advertising.

(C) No advertisement of marijuana may contain--

1. any representation that is false or misleading in any way;

2. any statement representing that the use of marijuana has curative or therapeutic effects or tending to create an impression that it has curative or therapeutic effects;

3. any content that appeals to children, including but not limited to the shape or any part of the shape of a human, animal, or fruit, including realistic, artistic, caricature, or cartoon renderings;

4. any statement concerning a brand of marijuana that is inconsistent with any statement on the labeling.

(D) Outdoor signage and, if visible to the public, interior signage, must comply with any local ordinances for signs or advertising and may not—

1. display any text other than the facility's business name or trade name, address, phone number, and website; and

2. utilize images or visual representations of marijuana plants, products, or paraphernalia, including representations that indicate the presence of these items, such as smoke;

3. utilize any content that appeals to children, including but not limited to the shape or any part of the shape of a human, animal, or fruit, including realistic, artistic, caricature, or cartoon renderings.

(5) Facility Licensee Notification and Reporting. Licensees have a duty to keep the department apprised of certain information. Failure of a licensee to report required information to the department may result in administrative penalties, to include a fine of up to \$10,000, suspension, or revocation of the license.

(A) Licensees have a continuing duty to provide the department with up-to-date contact information, including the individual who shall be the contact for all department communications, and shall notify the department in writing of any changes to the mailing addresses, phone numbers, electronic mail addresses, and other contact information they provide the department.

(B) Licensees must report, at least annually, all entities that own any part of the applicant or licensed entity, with ownership percentage.

(C) The licensee shall notify the department within five (5) days of the initiation or conclusion of any judgments, lawsuits, legal proceedings, charges, or government investigations that involve the licensee, including petition for receivership.

(D) The licensee shall notify the department when an employee has been disciplined or removed from his or her position for misconduct related to marijuana sales or transfers.

(E) The licensee shall notify the department within twenty-four (24) hours following the occurrence of an event that affects the health and safety of facility or its employees, including injury to employees or other persons on the licensed property.

(F) The licensee shall notify the department within twenty-four (24) hours following the occurrence of any theft or attempted theft of marijuana product.

(G) The licensee shall notify the department within twenty-four (24) hours following the occurrence of any criminal misconduct of its agents, as it pertains to the operation of the facility.

(H) A cultivation licensee shall notify the department before changing its cultivation practice or modifying the ratios of cultivation practices it uses.