

Dear Missouri Medical Marijuana Facility,

As you know, the Department has informed all licensees that the first regulatory priority for us as we begin our compliance activities is to verify that each licensee is in compliance with the minimum standards for licensure outlined in Article XIV. You can expect to hear from a Licensing staff member this week who will work with you to begin the verification process. We have also communicated that, while the verification process is ongoing, we will not be considering 19 CSR 30-95.040(4)(C) applications for changes to facilities. However, we understand many licensees may be preparing for such applications, and whether those preparations are beginning now or may be necessary later, all licensees should familiarize themselves with the following guidance.

Applications for Change – Process

The Medical Marijuana Registry Portal now includes an option to file a Business License Update. This is the module of the registry you used to submit your Confirmation of Acceptance. This is also how you will pay your annual fee, if you have not already, and make any changes to your license information, such as changes to your primary contact information. All applications for change to a license must be submitted as a Business License Update. However, only one Business License Update application may be pending at any given time for a particular license. Once you submit a Business License Update, the Portal will not allow you to submit any further update applications until after the Department has acted on your pending update. The Department advises licensees to proceed carefully in submitting such updates and applications so that priority items such as payment of annual fees are accomplished first before submission of .040(4)(C) applications that will not be processed immediately. Depending on the nature of changes requested, it may also be advisable that as many requests for changes as are foreseeably necessary be included in one Business License Update application so that all of your needs may be addressed at once.

Applications for Change – 19 CSR 30-95.040(4)(C)

19 CSR 30-95.040(4)(C) provides that “All licensed or certified cultivation, dispensary, manufacturing, testing, and transportation facilities must seek and obtain the department’s approval before they may” make certain changes to a facility. Licensees should make note that the list of changes in this rule may only be made after an application for such change has been made and granted. Thus, no licensees should be making any of these changes at this time, as doing so before receiving approval would be a violation of rule and could potentially lead to license revocation.

The Department views requests for changes under this provision as requests to change elements of a facility’s operation that were considered in the process of evaluating and scoring that facility’s application. Therefore, licensees should consider carefully whether the change they are requesting would be one that may have resulted in a different outcome on the facility’s application, as this is a question the Department will be carefully considering in deciding whether to grant the request.

Transfer of Licenses – 19 CSR 30-95.040(4)(C)1

This rule is divided into two sections. The first section is meant to address the needs of facilities that applied for a license using a holding company or a name that they now wish to change. The second section addresses transfer of a license to a completely different entity. This second type of transfer requests cannot be made until on or after January 1, 2021.

Changes in Ownership – 19 CSR 30-95.040(4)(C)2

This rule covers situations where a licensee wishes to include additional owners in its business. Ownership should continue to be viewed in the terms it was viewed during the application period. For instance, investors are owners. Parent companies are owners. All the same types of entities that were evaluated as owners during the application period will still be considered owners. Furthermore, the same standards for owners that were required and evaluated during the application period will be required going forward. So, at all times, each facility must be majority owned by Missouri residents, cannot be under the common control as other facilities in combinations that would violate the related provisions in Article XIV, cannot be owned by individuals with disqualifying felony offenses, and, in evaluating majority ownership and the percentage change in ownership, economic and voting interests are still the measurement by which ownership interests will be calculated.

Changes in ownership of less than 10% may occur without seeking Department approval. However, if a change is contemplated that would result in pushing the overall change in ownership above 10% from the last time ownership was evaluated, approval must be obtained before making that change. Changes in ownership in amounts that are effectively a transfer of license will be scrutinized to the same extent as a request to transfer and, as such, may be denied if filed before January 1, 2021.

Changes to Physical Design/Location – 19 CSR 30-95.040(4)(C)3

Location of a facility was a prominent part of application review. Requests to change the location of a facility should be made only after careful consideration of the potential impact that change would have made on an application's score if the new location had been the proposed location. Explanations of why the originally proposed location has become unduly burdensome should be detailed, along with an explanation of why the current burden did not exist or could not have been known at the time the original location was proposed. The Department will scrutinize these requests very closely.

Combination of Licenses – 19 CSR 30-95.040(4)(C)4

All combinations of licenses at one location must be approved under this rule. This is true regardless of whether an applicant may have planned from the outset to combine licenses. The rule covers combinations of licenses owned by the same entity as well as combinations of licenses owned by different entities. Applications for combination must include documents showing the proposed physical design of combined facilities. Therefore, it is not necessary for a facility applying to combine licenses to also submit a separate application for change of physical design.

Construction of Offsite Warehouses – 19 CSR 30-95.040(4)(C)5

Offsite warehouses must meet all physical location requirements that a facility's primary business address must meet.

Administration and Processing Fees – 19 CSR 30-95.040(4)(C)6

Fees for these applications are due at the time of filing and should be submitted for each type of request. In other words, if three types of requests are included in one Business License Update, the licensee will owe three fees.

Variance Requests

As always, any requests for variance from any of the requirements of these rules must include sufficient good cause. Licensees should never presume that a variance request will be granted. Licenses were granted with an expectation that licensees are able to comply with all rules. See the [Facility License & Compliance Variance](#) webpage for more information.

Duty of Compliance

While we understand there is much to learn in embarking on this new venture, it is the duty of this Department to enforce its rules in order to best ensure a safe and successful medical marijuana industry. Therefore, it is important to note that all facilities are presumed to know and understand the rules that apply to them. Violations of rules are subject to potential license suspension or revocation. The procedures for addressing violations of rules are outlined in 19 CSR 30-95.040(5)(C). ***Making any of the above-mentioned changes before receiving Department approval for that change would be a very clear rule violation, and there should be no basis for a licensee to claim they were unaware of what these rules require.***

Finally, we are aware of concerns about how long it will take the Department to verify minimum standards and to process applications for change, once we are reviewing them. We are working hard right now to organize and prioritize everyone's needs. All licensees should have received a survey from us by now, and the information in your response will be critical in helping us with this task. We have every intent to quickly move through verification of minimum standards, however we are also aware that the time involved will be largely dependent on the particular circumstances of each facility. Licensees who have always complied with the minimum standards and fully intend to remain in compliance should proceed quickly through the verification process. As for processing applications for change, we will begin work on those for a particular facility as soon as that facility's current compliance with minimum standards is verified.

Thank you,

Andrea Balkenbush
Facility License and Compliance Director
MO Medical Marijuana Regulatory Program