
EMERGENCY RULE

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES Division 100 – Division of Cannabis Regulation Chapter 1 – Marijuana

EMERGENCY RULE

19 CSR 100-1.070 Facility Ownership and Employment

PURPOSE: The Department of Health and Senior Services has the authority to promulgate rules for the enforcement of Article XIV, Sections 1 and 2 of the Missouri Constitution. This rule explains what general provisions are necessary for ownership and employment related to regulated medical and marijuana facilities, with the exception of seed-to-sale tracking system entities.

EMERGENCY STATEMENT: This emergency rule serves to implement and enforce Article XIV by regulating ownership of and employment at medical and marijuana facilities. This emergency rule is necessary to protect a compelling governmental interest since Amendment 3 to the Missouri Constitution made significant changes to the regulation of marijuana, and new rules will be needed to effectuate those changes. As a result, the Department of Health and Senior Services finds a compelling governmental interest, which requires emergency action. 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 of Health and Senior Services believes this emergency rule is fair to all interested persons and parties under the circumstances. If an emergency is not enacted, there would be no rules explaining how the new provisions of Article XIV of the Missouri Constitution apply, and there would be much confusion as to the processes and procedures related to licensure and regulation of the marijuana industry. This emergency rule was filed January 20, 2023, becomes effective February 3, 2023, and expires August 1, 2023.

(1) Facility Ownership.

(A) No medical facility shall be owned, in whole or in part, by an individual with a disqualifying felony offense.

(B) A marijuana facility shall not have as an owner any individual with a disqualifying felony offense.

(C) Facility owners must notify the department of any charges for felony offenses, including the assigned case number, within thirty (30) days of being charged.

(D) No medical or marijuana licensee may be owned by or affiliated with an entity that holds a contract with the state of Missouri for any product or service related to the department's marijuana program.

(E) An entity or individual may not be an owner in more than ten percent (10%) of the total number of comprehensive and medical cultivation, dispensary, or infused products manufacturing facility licenses outstanding, rounded down to the nearest whole number.

(F) No marijuana testing facility shall be owned by an entity or entities under substantially common control, ownership, or management as a cultivation facility, marijuana-infused products manufacturing facility, or dispensary facility.

(G) An owner of a marijuana microbusiness facility may not also be an owner of another licensed marijuana facility or medical facility.

(H) If the ownership of a medical or marijuana facility license is disputed to an extent that negatively impacts the operations of the facility, the department may restrict or suspend the operations of the facility license until the dispute

is resolved. If a facility license is restricted or suspended for this reason for longer than one (1) year, the department may revoke the facility license or pursue other remedies consistent with this chapter or Article XIV.

(2) Facility Employment.

(A) Employees, contractors, owners having access to a medical or marijuana facility, and volunteers of a medical or marijuana facility must obtain an agent identification card from the department before beginning employment, work, or volunteer services at a licensed facility. For purposes of this section, a contractor is a person who is contracted to perform work at a licensed facility for more than fourteen (14) days in a year.

(B) All facility agents must be twenty-one (21) years of age or older. Individuals under twenty-one (21) who possess a facility agent identification card prior to the effective date of this rule may remain facility agents.

(C) Agent identification card holders must have their cards visible and on their person at all times while performing work in a facility or on behalf of a licensed or certified entity. Agents must have a government-issued photo ID on their person at all times while the agent identification card is visible.

(D) A licensee may require a criminal background check as a condition of employment.

(E) If authorized or directed by statute, the department may require fingerprint submission to screen agent identification card applications for disqualifying criminal offenses.

(F) Agent identification cards are valid for three (3) years from their date of issuance and shall be renewable by submitting, prior to expiration by at least thirty (30) days but no sooner than sixty (60) days, a new or renewal application.

(G) All facility agents must keep the department apprised of their current contact information and agree to receive department communications by email, including denials and revocations. If the name, address, or email address of an agent changes after an identification card is issued, the agent shall notify the department within fourteen (14) days of the change.

(H) All applications and renewals for agent identification cards shall include at least the following information in a department-approved format:

1. Name, address, and Social Security number of the applicant;

2. A government-issued photo identification that confirms the age of the applicant is over twenty-one (21) years of age;

3. A copy of a written offer or confirmation of employment from a licensed or certified facility; and

4. All applicable fees.

(I) Upon receiving a complete application or renewal application for an agent identification card, the department shall either approve the application or provide a written explanation for its denial.

1. An application for an agent identification card will be considered received when an application is submitted to the department that includes all information required by this rule.

2. The department shall charge an administration and processing fee of seventy-five dollars (\$75) for identification cards, which shall be due at the time of application or renewal.

(J) Denial and revocation. Agent identification cards may be denied or revoked for the following reasons:

1. Submission of an incomplete application;

2. Submission of information in the application or renewal application that is deceptive, misleading, incorrect, false, or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure;

3. Fraudulent use of the agent identification card,

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including, but not limited to, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate an agent identification card;

4. Selling, distributing, transferring in any manner, or giving marijuana product to any unauthorized individual or entity, or an amount of marijuana product not authorized by law;

5. Tampering with or falsifying video recordings or equipment, point of sale systems or records, the state-wide track and trace system or records, or any other facility records, whether at the direction of a licensee or otherwise;

6. Failing to comply with the statewide track and trace system requirements;

7. Violation of any requirement in this chapter;

8. If the individual is prohibited by law from holding an agent identification card;

9. If the agent has committed theft or other criminal offense, whether or not a criminal charge has been filed, in the performance of the functions or duties of the facility agent;

10. Refusal to cooperate with a department investigation;

or

11. If an agent card was revoked and the applicant applies for a new identification card, the application shall be denied unless the department finds good cause to issue an agent card.

*AUTHORITY: sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed Jan. 20, 2023, effective Feb. 3, 2023, expires Aug. 1, 2023. An emergency and a proposed rule covering this same material will be published in the March 1, 2023, issue of the **Missouri Register**.*

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities two hundred eight thousand, one hundred twenty-five dollars (\$208,125) in the time the emergency is effective.

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FISCAL NOTE PRIVATE COST

- I. Department Title: Department of Health and Senior Services
Division Title: Division of Cannabis Regulation
Chapter Title: Marijuana**

Rule Number and Title:	19 CSR 30-100-1.070 Facility Ownership and Employment
Type of Rulemaking:	Emergency

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
2775 – year 1	Agents	\$208,125 for the six month emergency rule period
Total =		\$208,125 for the six month emergency rule period

III. WORKSHEET

Agents

2775 Agents x \$75 for Agent ID card = \$208,125 for three year license, year one.

IV. ASSUMPTIONS

In 2022 there were approximately 5,405 agents working in all facility types. It is anticipated that this number may increase with the inclusion of adult use. Agent ID cards are valid for three years. However, agents come and go and based on such for the purposes of this fiscal note we have set forth that the first year will include all agents, and as such have divided this number by two to reflect the emergency rule period. There is no way of knowing when an agent will apply.