

Title 15: Mississippi State Department of Health

Part 22: Medical Marijuana

Subpart 2: General Requirements

Chapter 1 GENERAL REQUIREMENTS FOR THE MEDICAL MARIJUANA PROGRAM

Subchapter 1 General Provisions

Rule 2.1.1 Purpose of Regulations: These regulations, and any guidelines set forth by the Department, governs the medical marijuana program in Mississippi. The purpose of this Part is to ensure the availability of and safe access to medical marijuana for qualified persons with debilitating medical conditions.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.1.2 Legal Authority: This regulation has been promulgated under the authority of and pursuant to Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2).

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.1.3 Definitions: The following terms as used in the rules and regulations related to the medical marijuana program (insert admin code reference) shall have the meaning hereinafter respectively ascribed to them:

1. **Applicant** - The term “Applicant” shall mean a person or entity that has submitted an application to the Department for a license but who has not yet received a determination from the Department.
2. **Assessment** – The term “Assessment” shall mean the amount, up to the equivalent of the state’s sales tax rate, that may be assessed by the Department or its designee to the final sale of medical marijuana.
3. **Caregiver** - The term “Caregiver” shall mean a person who is at least twenty-one (21) years of age, who complies with the regulations prescribed by the Department, and who assists with a Qualified Patient’s use of Medical Marijuana. A qualified patient may have more than one caregiver. A caregiver is prohibited from consuming medical marijuana provided for use by a qualified patient.
4. **Church** - The term “Church” shall mean a permanent structure with a permanent foundation and constructed roof, floors, and walls,

the intended purpose and current use of which is for a group of persons to meet at least weekly for religious services.

5. **Criminal or Civil Sanctions** – The term “criminal or civil sanctions” shall mean hall mean arrest; incarceration; prosecution; penalty; fine; sanction; the denial of any right, privilege, license, certification; and/or to be subject to disciplinary action by a licensing board or commission; and/or to be subject to seizure and/or forfeiture of assets pursuant to any Mississippi law, local ordinance, or board, commission, or agency regulation or rule.
6. **Cultivator** – The term “Cultivator” shall mean an entity holding a license issued by the Department that allows the entity to acquire, cultivate, cure, dry, grow, harvest, package, possess, purchase, research and trim medical marijuana. A cultivator may distribute, sell, transfer, and transport Medical Marijuana and Medical Marijuana Products between its licensed premises and any other licensed premises but not to Qualified Patients or Caregivers.
7. **Current Photograph** – The term “Current Photograph” shall mean an image on an individual, take no more than 60 calendar days before the submission of the application in a Department approved electronic format.
8. **Debilitating Medical Condition** - The term “Debilitating Medical Condition” shall mean cancer, epilepsy or other seizures, Parkinson’s disease, Huntington’s disease, muscular dystrophy, multiple sclerosis, cachexia, post-traumatic stress disorder, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, chronic or debilitating pain, amyotrophic lateral sclerosis, glaucoma, agitation of dementias, Crohn’s disease, ulcerative colitis, sickle-cell anemia, autism with aggressive or self-injurious behaviors, pain refractory to appropriate opioid management, spinal cord disease or severe injury, intractable nausea, severe muscle spasticity, or another Medical condition of the same kind or class to those herein enumerated and for which a physician believes the benefits of using Medical Marijuana may reasonably outweigh potential health risks.
9. **Department** - The term “Department” shall mean the Mississippi State Department of Health or its successor agency.
10. **Dispensary** – The term “Dispensary” shall mean the same as Medical Marijuana Treatment Center.
11. **Dispense** – The term “dispense” shall mean the means the retail selling of medical marijuana medical marijuana products that are packaged and labeled in accordance with the rules set forth in this Part to a qualified patient or caregiver.

12. **Disposal** – The term “Disposal” shall mean the final disposition of medical marijuana waste by either a process which renders the waste unusable through physical destruction or a recycling process.
13. **Edible** – The term “edible” shall mean cannabis products that are orally consumed. These products can contain THC, CBD or a combination of the two.
14. **Employee** – The term “Employee” shall mean any individual employed by a licensee. The term “Employee” shall also mean any individual employed by a licensee who by contract with a licensee provides routine services to the licensee.
15. **Extraction** – The term “Extraction” shall mean the conversion of target molecules in cannabis raw materials to a usable form.
16. **Harvest Batch** – The term “Harvest Batch” shall mean a specifically identified quantity of medical marijuana plant material that is uniform in strain, cultivated utilizing the same growing practices, harvested at the same time and at the same location, and cured under uniform conditions.
17. **Harvest Lot** – The term “Harvest Lot” shall mean specifically identified quantity of medical marijuana plant material taken from a harvest batch.
18. **Identification Card** - The term “Identification Card” shall mean a document issued by the Department, which identifies a person as a qualified patient, caregiver or officer, owner, operator, employee, contractor, or agent of a Medical Marijuana Treatment Center. An identification card is not transferable or assignable.
19. **Independent Medical Marijuana Testing Facility** – The term “Independent Medical Marijuana Testing Facility” shall mean any facility, entity or site that offers or performs testing of medical marijuana or medical marijuana products, including the equipment provided by such laboratory, facility, or entity and that is licensed/certified by the Department. An independent medical marijuana testing facility may acquire, possess, test and transport medical marijuana and medical marijuana products between its licensed premises and other licensed premises.
20. **Inventory Control System** – The term “Inventory Control System” means a process, device or other means that may be used to monitor the chain of custody of cannabis from the point of cultivation to the end consumer. This may also be referred to as a seed to sale system.
21. **License** – The term “License” shall mean a document, whether electronic or paper, permitting an entity to provide the services for a specific period of time

under the rules and regulations set forth by the Department. A license is not transferable or assignable.

22. **Licensed Child Care Facility** – The term “Licensed Child Care Facility” shall mean a place, licensed by the Department, which provides shelter and personal care for six or more children who are not related within the third degree computed according to the civil law to the operator and who are under 13 years of age, for any part of the twenty-four-hour (24) day, whether such place be organized or operated for profit or not. The term “childcare facility” includes day nurseries, day care centers, childcare centers, preschool programs, and any other facility that fall within the scope of the definition set forth above.
23. **Licensed Entity** - The term “Licensed Entity” shall mean a person or entity holding a license issued by the Medical Marijuana Program.
24. **Manufacturer** – The term “Manufacturer” shall mean entities licensed by the Department to compound, blend, extract, infuse, or otherwise make or prepare a medical marijuana product. Additionally, a manufacturer may distribute, sell, transfer, and transport Medical Marijuana and Medical Marijuana Products between its licensed premises and any other licensed premises, but not to Qualified Patients or Caregivers.
25. **Marijuana Testing Facility** – The term “Marijuana Testing Facility” shall mean an Independent Medical Marijuana Testing Facility.
26. **Medical Marijuana** - The term “Medical Marijuana” shall have the meanings given as of July 1, 2018 in Section 41-29-105(r) and/or Section 41-29-105(o), of the Mississippi Code of 1972, and which is used to treat the symptoms and/or effects of a debilitating medical condition as provided in the Mississippi Constitution.
27. **Medical Marijuana Program** – The term “Medical Marijuana Program” shall include all components of the system responsible for the implementation of Initiative Measure No. 65 of the Constitution of the State of Mississippi. This includes, but is not limited to, the Department, Licensed Entities, Qualified Patients, and Caregivers.
28. **Medical Marijuana Products** - The term Medical Marijuana Products shall mean any and all products that are comprised of Medical Marijuana, marijuana concentrate, or marijuana extract and other ingredients and are intended for use or consumption, including but not limited to edible products, topical ointments, and tinctures.
29. **Medical Marijuana Treatment Center** – The term “Medical Marijuana Treatment Center” shall mean an entity that is registered with and licensed and regulated by the department and that processes medical marijuana, related

supplies, and/or educational materials. A treatment center may engage in one or more of the activities involved in the processing of medical marijuana.

30. **Minor** – The term “Minor” shall mean anyone who is under the age of eighteen (18).
31. **Mississippi Universal Symbol** - The term “Mississippi Universal Symbol” shall mean the symbol that must be placed upon Medical Marijuana and Medical Marijuana Products.
32. **Pesticide** – The term “Pesticide” shall mean chemical or organic substances that might be used on medical marijuana plants to protect against insects or fungus.
33. **Physician** – The term “Physician” shall mean a person with a valid Doctor of Medicine or Doctor of Osteopathic Medicine degree and who holds an unrestricted license to practice medicine in the state of Mississippi by the Mississippi Board of Medical Licensure, or its successor agency.
34. **Physician Certification** – The term “Physician Certification” shall mean an application/certification document (electronic and/or paper) approved by the Department, signed and dated by a physician, certifying that a person suffers from a debilitating medical condition for which the use of medical marijuana may mitigate the symptoms and/or effects. The certification shall remain current for twelve months, unless the physician specifies a shorter period of time, and shall be issued only after an in-person examination of the patient in Mississippi. A certification shall only be issued on behalf of a minor when the minor's parent or guardian is present and provides signed consent. Nothing herein shall require a physician to issue a certification.
35. **Political Subdivision** – The term “Political Subdivision” shall mean any county or municipal governments.
36. **Process** – The term “Process” shall mean to acquire, administer, compound, convert, cultivate, deliver, develop, disburse, dispense, distribute, grow, harvest, manufacture, package, possess, prepare, process, produce, propagate, research, sell, test, transport, or transfer medical marijuana or any related products such as foods, tinctures, aerosols, oils, or ointments.
37. **Process Lot** – The term “Process Lot” shall mean any amount of medical marijuana product of the same type and processed using the same ingredients and processed at the same time.
38. **Qualified Patient** – The term “Qualified Patient” shall mean a person who has been diagnosed with a debilitating medical condition and who has been issued a physician certification.

39. **Renewal Identification Card** – The term “Renewal Identification Card” shall mean a card issued annually to qualified patients.
40. **School** – The term “School” shall mean any public or private school providing education in kindergarten or any of the grades one through 12.
41. **“TCH”** – The acronym “THC” shall mean tetrahydrocannabinol, which is the primary psychotropic cannabinoid formed by decarboxylation of naturally tetrahydrocannabinolic acid, which generally occurs by exposure to heat.
42. **Transporter** – The term “Transporter” shall mean an entity licensed by the Department to acquire, deliver, disburse, distribute, possess, transfer and transport Medical Marijuana and Medical Marijuana Products between Licensees but not to Qualified Patients or Caregivers.
43. **Strain** – The term “Strain” shall mean variety of medical marijuana plants that have a particular characteristic(s) that might be used to express a specific desired effect.
44. **Trim** – The term “Trim” shall mean the trimming of the plant leaves to focus on the remaining buds. This is typically done when a plant is harvested.
45. **Use** – The term “Use” shall mean the acquisition, possession, preparation, use or use with an accessory, delivery, transfer, or administration of medical marijuana by a qualified patient or caregiver. For purposes of this chapter, "accessory" shall have the meaning given in Section 41-29-105(v) of the Mississippi Code of 1972, as of July 1, 2018.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Subchapter 2 Severability

Rule 2.2.1 The provisions of this part are severable. If a court of competent jurisdiction declares any section, subsection, paragraph, or provision unconstitutional or invalid, the validity of the remaining provisions shall not be affected.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Subchapter 3 Application Submission

Rule 2.3.1 Applicants must submit an electronic application, on a Department approved application, for the following:

1. Identification card – initial, renewal or replacement
2. Cultivator license
3. Manufacturer license

4. Dispensary license
5. Independent Medical Marijuana Testing Facility license

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.3.2 All applications shall be complete, accurate, and contain the information required by the Department.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.3.3 An applicant may apply for more than one license type at one time. The applicant will be responsible for the fee associated with each license type for which application is made.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Subchapter 4 Application Fees

Rule 2.4.1 All applications must be accompanied by the non-refundable application fee. An application will not be considered complete until the application fee is received by the Department. Incomplete applications will be void after 90 calendar days from the first date of submission.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.4.2 Non-refundable application fees are as follows:

- a. Cultivator license application fee of \$15,000.00.
- b. Dispensary application fee of \$15,000.00.
- c. Independent Medical Marijuana Testing Facility application fee of \$15,000.00.
- d. Manufacturer License application fee of 15,000.00.
- e. Identification Card application fee of \$50.00 for initial and renewal cards
- f. Identification Card application fee of \$25.00 for replacement cards

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.4.3 With the exception of the Qualified Patient Identification Card fee, the Department may change application fees subject to public notification of the change.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.4.4 As soon as possible, but no later than 60 calendar days after the application was submitted, the Department will act upon the application. The Department may:

- a. Approve the application

- b. Request additional information
- c. Notify the applicant that the application that the application will be denied and provide the applicant an opportunity to cure the disqualifying aspect of the application. The Department will notify the applicant of the disqualifying aspects of the application and allow the applicant 60 calendar days to cure the disqualifying aspects of the application.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.4.5 Failure of the applicant to supply the requested information or failure to address any defects identified by the Department within the amount of time designated by the Department will result in an application being denied.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.4.6 The Department will notify the applicant, in writing, of approval or denial of the application.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Subchapter 5 Medical Marijuana Program Licensure

Rule 2.5.1 The following license types will be issued by the Department:

- a. Cultivator license
- b. Dispensary License
- c. Independent Medical Marijuana Testing Facility
- d. Manufacturer License

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.5.2 Entities may hold more than one license type at one time. Entities must hold licensure based on the scope of their work as defined by this Part.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.5.3 All licenses issued by the Department for the Medical Marijuana Program will be valid for a one-year period from the date of issuance.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.5.4 Upon the awarding of a license and every year on or before that date in subsequent years as long as the license remains active, the Licensed Entity must submit to the Department the appropriate annual fees. The annual fees are non-refundable. Non-payment of an annual fees is grounds for suspension or revocation of a license.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.5.5 Non-refundable license fees are as follows:

- a. Cultivator license fee of \$10,000.00.
- b. Dispensary license fee of \$10,000.00.
- c. Independent Medical Marijuana Testing Facility license fee of \$10,000.00.
- d. Manufacturer License fee of \$10,000.00.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.5.6 No later than ninety (90) calendar days before a License expires, the Licensed Entity must apply for renewal.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.5.7 A license shall remain valid while under review by the Department, provided the Licensed Entity submitted the renewal application ninety (90) calendar days prior to its expiration date.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.5.8 The renewal application for licensure must be completed as required by the Department as included in Subchapters 3 and 4 of this Subpart.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.5.9 As soon as possible, but no later than thirty (30) calendar days after the application was submitted, the Department will act upon the application. The Department may:

- a. Approve the renewal
- b. Request additional information
- c. Notify the applicant that the renewal will be denied and provide the applicant an opportunity to cure the disqualifying aspect of the renewal. The Department will notify the Licensed Entity of the disqualifying aspects of the renewal and allow the Licensed Entity thirty (30) calendar days to cure the disqualifying aspects of the renewal.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.5.10 Failure of the Licensed Entity to supply the requested information or failure to address any defects identified by the Department within the amount of time designated by the Department will result in a license renewal being denied.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.5.11 The Department will notify the Licensed Entity, in writing, of approval or denial of the license renewal.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.5.12 A license shall be surrendered to the Department upon written notice and demand if the licensee fails to begin operations, to the satisfaction of the Department, within one (1) year of the date of issuance of the license.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Subchapter 6 Appeal Following Denial of Application and/or Licensure

Rule 2.6.1 The Department will provide an opportunity for a fair hearing to every applicant or licensee who is dissatisfied with administrative decisions made in the denial of an application or suspension, denial or revocation of license.

- a. The Department shall notify the applicant or licensee by in writing of the reasons for the denial of application or suspension, denial or revocation of license. Upon written request of applicant or licensee within ten (10) calendar days of the date of notification the Department shall fix a date not less than thirty (30) calendar days from the date of notification at which time the applicant or licensee shall be given an opportunity for a prompt and fair hearing.
- b. On the basis of such hearing or upon default of the applicant or licensee, the Department shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail to the last known address of the applicant or licensee.
- c. The decision revoking, suspending, or denying the application or license shall become final thirty (30) calendar days after notification, within such thirty (30) calendar day period, appeals the decision to the State court having jurisdiction and such court issues a conditional permit for the duration of the judicial proceedings. An additional period of time may be granted at the discretion of the Department including a conditional license.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Subchapter 7 Notifications to the Department

Rule 2.7.1 The information submitted to and maintained by the Department must remain accurate and current. Applicants and Licensees have a duty to notify the Department when information changes. All notifications of changes relating to a location change must be made prior to the change being made.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.7.2 Changes that require the applicant to notify the Department while the application is pending include:

- a. Name change;
- b. Location change;
- c. Contact information change; or
- d. Any change to controlling ownership.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.7.3 Changes that require a Licensed Entity to notify the Department include:

- a. Name change;
- b. Address change;
- c. Contact information change;
- d. Any change to controlling ownership;
- e. Changes in operating hours.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.7.4 Licensed Entities must report their start date of operations to the Department.

Rule 2.7.5 The Department may charge a reasonable fee for these notifications that shall not exceed \$100.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Subchapter 8 Confidential Information, Exceptions

Rule 2.8.1 All information received and records kept by the Department for purposes of administering the medical marijuana program are confidential and not subject to disclosure except to:

- a. Employees or contractors of the Department as necessary to perform their official duties;
- b. Federal, state or local law enforcement agencies for the purpose of verifying licensure/registration with the Department;
- c. A person or entity pursuant to an order or subpoena from a court or agency of competent jurisdiction;
- d. A person or entity with the written permission of the qualifying patient or, if the qualifying patient is a minor or adult lacking legal capacity, to the qualifying patient's parent, guardian or person having legal custody;
- e. Employees or contractors of the Medical Marijuana Program's dispensary system;
- f. Employees or contractors of the Department's contracted computer software tracking system used within the Medical Marijuana Program;

- g. Medical Marijuana Treatment Center/ Dispensaries licensed by the Department as deemed necessary by the Department for the purposes of:
 - i. Verifying the status of a person as a qualifying patient or caregiver, and;
 - ii. Tracking a qualified patient's allowable medical marijuana limits; and
- h. Other persons or entities deemed necessary by the Department to administer the Medical Marijuana Program.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Rule 2.8.2 Nothing in this Chapter precludes the Department from the following:

- 1. Notifying law enforcement or relevant authorities about falsified or fraudulent information submitted to the Department;
- 2. Notifying state or local law enforcement about suspected criminal violations; and,
- 3. Publishing non-identifying aggregated data or statistics of information related to the Medical Marijuana Program.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)

Subchapter 9 Health Insurance Portability and Accountability Act of 1996 (HIPAA)

Rule 2.9.1 All records maintained by entities licensed as Medical Marijuana Treatment Centers/Dispensaries which pertain to a qualified patient or caregiver shall be considered protected health care information for purposes of the Federal Health Insurance Portability and Accountability Act of 1996, (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH Act), and their implementing regulations.

SOURCE: Mississippi Constitution Initiative Measure #65 Sections 5(1) and (2)