

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA EMPLOYEES

Filed with the secretary of state on March 7, 2022

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.601 and R 420.602 of the Michigan Administrative Code are amended, and R 420.602a is added, as follows:

R 420.601 Definitions.

Rule 1. (1) As used in these rules:

(a) “Acts” refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) “Agency” means the marijuana regulatory agency.

(c) “Cultivator” means both a grower under the medical marihuana facilities licensing act and a marihuana grower under the Michigan Regulation and Taxation of Marihuana Act.

(d) “Designated consumption establishment” means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

(e) “Employee” means, except as otherwise provided in these rules, a person performing work or service for compensation. “Employee” does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana establishment.

(f) “Laboratory” means both a safety compliance facility under the medical marihuana facilities licensing act and a marihuana safety compliance facility under the Michigan Regulation and Taxation of Marihuana Act.

(g) “Limited access area” means a building, room, or other contiguous area of a marihuana business where marihuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale and that is under the control of the licensee.

(h) “Marihuana business” means a marihuana facility under the medical marihuana facilities licensing act or a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act, or both.

(i) “Marihuana customer” means a registered qualifying patient under the medical marihuana facilities licensing act, a registered primary caregiver under the medical marihuana facilities licensing act, or an individual 21 years of age or older under the Michigan Regulation and Taxation of Marihuana Act, or all 3.

(j) “Marihuana establishment” means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, marihuana designated consumption establishment, or any other type of marihuana related business licensed by the agency under the Michigan Regulation and Taxation of Marihuana Act.

(k) “Marihuana event organizer” means a person licensed to apply for a temporary marihuana event license under these rules.

(l) “Marihuana facility” means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(m) “Marihuana product” means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(n) “Marihuana sales location” means a provisioning center under the medical marihuana facilities licensing act or a marihuana retailer, marihuana microbusiness, or class A marihuana microbusiness under the Michigan Regulation and Taxation of Marihuana Act, or both.

(o) “Marihuana tracking act” means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(p) “Marihuana transporter” means a secure transporter under the medical marihuana facilities licensing act or a marihuana secure transporter under the Michigan Regulation and Taxation of Marihuana Act, or both.

(q) “Medical marihuana facilities licensing act” or “MMFLA” means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(r) “Michigan Regulation and Taxation of Marihuana Act” or “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(s) “Producer” means both a processor under the medical marihuana facilities licensing act and a marihuana processor under the Michigan Regulation and Taxation of Marihuana Act.

(t) “These rules” means the administrative rules promulgated by the marijuana regulatory agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(u) “Temporary marihuana event license” means a state license held by a marihuana event organizer under the Michigan Regulation and Taxation of Marihuana Act, for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

#### R 420.602 Employees; requirements.

Rule 2. (1) A licensee shall conduct a criminal history background check on any prospective employee before hiring that individual. A licensee shall keep records of the results of the criminal history background checks for the duration of the employee’s employment with the

licensee. A licensee shall record confirmation of criminal history background checks and make the confirmation available for inspection upon request by the agency.

(2) A licensee shall comply with all of the following:

(a) Have a policy in place that requires employees to report any new or pending criminal charges or convictions. If an employee is charged with or convicted of a controlled substance-related felony or any other felony, the licensee shall immediately report the charge or conviction to the agency. If an employee of a licensee under the MRTMA is convicted of an offense involving distribution of a controlled substance to a minor, the licensee shall immediately report the conviction to the agency.

(b) Enter in the statewide monitoring system an employee's information and level of statewide monitoring system access within 7 business days of hiring for the system to assign an employee identification number. The licensee shall update in the statewide monitoring system employee information and changes in status or access within 7 business days.

(c) Remove an employee's access and permissions to the marihuana business and the statewide monitoring system within 7 business days after the employee's employment with the licensee is terminated.

(d) Train employees in accordance with an employee training manual. Copies of this manual must be maintained and be made available to the agency upon request. The employee training manual must include, but is not limited to, all of the following:

- (i) Employee safety procedures.
- (ii) Employee guidelines.
- (iii) Security protocol.

(iv) Educational training, including, but not limited to, marihuana product information; dosage and purchasing limits, if applicable; and educational materials.

(e) A marihuana business under the MRTMA that sells or transfers marihuana to an individual 21 years of age or older shall include in the employee training manual a responsible operations plan. Copies of this plan must be maintained and be available to the agency upon request. A responsible operations plan must include a detailed explanation of how employees will monitor and prevent all of the following:

- (i) Over-intoxication.
- (ii) Underage access to the establishment.
- (iii) The illegal sale or distribution of marihuana or marihuana products within the establishment.

(iv) Any potential criminal activity on the premises, as applicable.

(f) Establish point of sale or transfer procedures for employees at marihuana sales locations performing any transfers or sales to marihuana customers. Copies of these procedures must be maintained and be made available to the agency upon request. The point of sale or transfer procedures must include, but are not limited to, all of the following:

- (i) Training in dosage.
- (ii) Marihuana product information.
- (iii) Health or educational materials.
- (iv) Point of sale training.
- (v) Purchasing limits.
- (vi) Cannabidiol (CBD) and tetrahydrocannabinol (THC) information.
- (vii) Serving size.
- (viii) Consumption information, including any warnings.

(g) Screen prospective employees against a list of excluded employees maintained by the agency in accordance with R 420.808a(6).

(h) Ensure that employees handle marihuana product in compliance with Current Good Manufacturing Practice, Hazard Analysis, and Risk Based Preventative Controls for Human Food, 21 CFR part 1107, as specified in these rules.

(i) When a registered primary caregiver is hired as an employee of a grower, processor, or secure transporter licensed under the MMFLA, ensure the individual withdraws the individual's registration as a registered primary caregiver in a manner established by the agency.

(j) A licensee under the MRMTA shall not allow a person under 21 years of age to volunteer or work for the marihuana establishment pursuant to section 11 of the MRTMA, MCL 333.27961.

(k) A licensee under the MRTMA shall not employ any individual who has been convicted of an offense involving distribution of a controlled substance to a minor.

(3) If an individual is present at a marihuana business or in a marihuana transporter vehicle who is not identified as a licensee or an employee of the licensee in the statewide monitoring system or is in violation of the acts or these rules, the agency may take any action permitted under the acts and these rules. This subrule does not apply to authorized escorted visitors at a marihuana business.

(4) Employee records are subject to inspection or examination by the agency to determine compliance with the acts and these rules.

(5) Consumption of food and beverages by employees or visitors is prohibited where marihuana product is stored, processed, or packaged or where hazardous materials are used, handled, or stored. The marihuana business may have a designated area for the consumption of food and beverages that includes, but is not limited to, a room with floor to ceiling walls and a door that separates the room from any marihuana product storage, processing, or packaging.

(6) Trade or professional services providers not normally engaged in the operation of a marihuana business, except for those individuals required to have employee credentials under this rule, must be reasonably monitored, logged in as a visitor, and escorted through any limited access areas.

(7) Nothing in this rule prohibits a licensee from allowing visitors into the marihuana business.; A licensee shall ensure that visitors are reasonably monitored, logged in as a visitor, and escorted through any limited access areas. Visitors that are not employees or individuals providing trade or professional services are prohibited where hazardous materials are used, handled, or stored in the marihuana business.

#### R 420.602a Prohibitions.

Rule 2a. (1) An employee of a cultivator may not also be employed by a marihuana transporter or a laboratory.

(2) An employee of a producer may not also be employed by a marihuana transporter or a laboratory.

(3) An employee of a marihuana sales location may not also be employed by a marihuana transporter or a laboratory.

(4) An employee of a marihuana transporter may not also be employed by a cultivator, producer, marihuana sales location, or laboratory.

(5) An employee of a laboratory may not also be employed by a cultivator, producer, marihuana sales location, or marihuana transporter.

(6) An employee of a marihuana microbusiness or a class A marihuana microbusiness may not also be employed by a laboratory or a marihuana transporter.