


Medical Marijuana



Presented July 14, 2019 by Padraic W. Corcoran
MMAA Summer Seminar

PROVIDING LEGAL SOLUTIONS FOR LOCAL GOVERNMENTS

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Today's Roadmap

- General Overview of Amendment 2
- Medical Marijuana Facilities and Identification Cards
- Regulatory Authority of Cities under Amendment 2

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Amendment 2 – General Overview

- Purpose of Amendment 2 is to allow for the cultivation, production, transportation, and administration of marijuana to qualifying patients and make changes to Missouri necessary to accomplish the stated purpose
- **Timeline**
 - June 28, 2019 – DHSS began accepting applications for identification cards
 - July 28, 2019 – Deadline for approval of applications for identification cards accepted on June 28, 2019.
 - Aug. 3, 2019 – Facility applications will begin to be accepted.
 - December 31, 2019 – Deadline for approval of facility applications accepted on August 3, 2019.

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Medical Marijuana Facilities

- **Licensed Facilities**
 - Medical Marijuana Cultivation Facility
 - Medical Marijuana-Infused Products Manufacturing Facility
 - Medical Marijuana Dispensary Facility
- **Certified Facilities**
 - Medical Marijuana Testing Facility
 - Transportation Facility

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Cultivation Facility

- Facility licensed to "acquire, cultivate, process, store, transport, and sell marijuana" to other medical marijuana facilities. Art. XIV, section 1.2(7).
- 3 Types – Art. XIV, section 1.3(8).
 - **Indoor facility** – maximum of thirty thousand square feet of flowering plant canopy space
 - **Outdoor facility** – maximum of two thousand eight hundred flowering plants
 - **Greenhouse facility** – may choose to be limited by either of the above maximums
- Maximum of 60 licenses issued unless demand requires DHSS to increase the number of licenses.
- Odor control plan required.



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Dispensary Facility

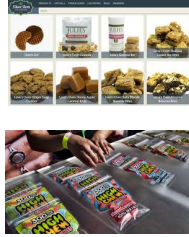
- Facility licensed to "acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana." Art. XIV, section 1.2(8).
- 24 Dispensaries per United States congressional districts
- The limit may be increased if DHSS determines necessary to meet demand. 19 CSR 30-95.080(1)(A)



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Infused Products Manufacturing Facility

- Facility licensed to "acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility." Art. XIV, section 1.2(7).
- Maximum of 86 licenses issued unless demand requires DHSS to increase the number of licenses. 19 CSR 30-95.060(1)(A)
- Odor control plan and air handling systems required.



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Certified Facilities

- **Medical Marijuana Testing Facilities**
 - Facility certified by DHSS to "acquire, test, certify, and transport marijuana." Art. XIV, section 1.2(10).
 - Maximum of 10 unless demands requires DHSS to increase the number of licenses.
- **Transportation Facility**
 - A facility certified by the department to transport marijuana to a qualifying patient, a primary caregiver, a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another medical marijuana transportation facility. 19 CSR 30-95.010(23).
 - Must transport medical marijuana from originating facility to destination facility within 24 hours. 19 CSR 30-95.100(2)(B)
 - No set limit on the number of licenses issued for transportation facilities.

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Medical Marijuana Identification Cards

- Qualifying Patient Identification Card
- Qualifying Patient Cultivation Identification Card
- Primary Caregiver Identification Card

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Qualifying Patient Identification Card

- Card issued to persons having a qualifying condition
- Qualifying conditions include:
 - cancer,
 - epilepsy,
 - glaucoma,
 - chronic medical conditions that cause severe, persistent pain,
 - and chronic medical conditions normally treated with prescription medication that could lead to dependence
 - Art. XIV, Section 1.2(15)
- Requires certification from physician "that, in the physician's professional opinion, the patient suffers from a qualifying medical condition." Art. XIV, section 1.2(13).
- May purchase 4 ounces of dried, unprocessed marijuana in a 30-day period
- May possess, if they do not cultivate, a 60-day supply of dried, unprocessed marijuana

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Qualifying Patient Cultivation Identification Card

- Card issued to qualifying patient, except for good cause, that allows for the home cultivation of six flowering marijuana plants for the exclusive use of that qualifying patient. Mo. Const. art. XIV, § 1.3(13)
- Additional cultivation limitations - 19 CSR 30-95.030(B)
 - 1 Patient = 6 flowering plants, 6 nonflowering plants over 14 inches tall, and 6 clones under 14 inches
 - 2 Patients sharing one enclosed, locked facility = 12 flowering plants, 12 nonflowering plants over 14 inches tall, and 12 clones under 14 inches tall.
 - Primary caregiver + 1 patient + primary caregiver is a patient all using one enclosed, locked facility = 18 flowering plants, 18 nonflowering plants over 14 inches, and 18 clones under 14 inches tall.

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Qualifying Patient Cultivation Identification Card cont...

- Enclosed, locked facility – 19 CSR 30-95.010(12)
 - Indoor Facility:
 - stationary closet, room, garage, greenhouse, or other comparable fully enclosed space
 - Equipped with locks or other functioning security devices
 - Outdoor Facility:
 - enclosed on all sides, except the base, by chain-link fencing, wooden slats or similar material
 - Anchored, attached, or affixed to the ground and cannot be accessed from the top
 - Plants may not be visible to the unaided eye from adjacent property when viewed at ground level or from a permanent structure at any level
 - Equipped with locks or other functioning security devices
- Must "immediately make available access to... cultivation facility upon request from [DHSS]" or the cultivation identification card will be revoked. 19 CSR 30-95.030(3)(B)(1)(G)

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Primary Caregiver Identification Card

- Card for “individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver’s application for an identification card under this section or in other written notification to the department.” Art. XIV, section 1.2(14).
- A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. Art. XIV, section 1.3(14)
- May not have more than 3 qualifying patients under their supervision. Art. XIV, section 1.7(6).

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Regulatory Authority of Cities

- Regulation of Medical Marijuana Facilities
- Policing and revisions to Offense provisions

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Municipal Regulation – Article XIV Section 1.7(11)

- “Unless allowed by the city, medical marijuana facilities may not be originally located within 1,000 feet of a then-existing elementary or secondary school, child day care facility, or church.”
- Cities may not expressly prohibit medical marijuana facilities or effectively prohibit medical marijuana facilities through ordinances or regulations that make their operation unduly burdensome.
- Cities may regulate the “time, place, and manner” of the operation of medical marijuana facilities as long as the regulations are not “unduly burdensome on the operation” of the facility.

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**Zoning – DHSS Spacing
19 CSR 30-95.040 (4)(B)**

- Free standing Facility to free standing School, Daycare or Church:
 - External wall of the facility structure closest to the school, daycare, or church to the closest point of the property line of the school, daycare or church.
- Free standing Facility to non free standing School, Daycare or Church
 - External wall of the facility structure closest to the school, daycare, or church to the entrance or exit of the school, daycare, or church closest in proximity to the facility.
- Non free standing Facility to free standing School, Daycare, or Church:
 - Property line of the school, daycare, or church to the facility's entrance or exit in closest proximity to the school, daycare or church.
- Non free standing Facility to non free standing School, Daycare, or Church
 - Entrance or exit of the facility closest in proximity to the school, daycare or church to the entrance or exit of the school, daycare, or church in closest proximity to the facility.
- Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.

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BUT...19 CSR 3-95.040(2)(F)(2)

- Documentation showing a **local government requirement different** than the requirement in Section (4)(B) of this rule or 19 CSR 30-95.100(2)(C) and a map of the surrounding area that shows compliance with **the facility location requirements of the local government.**

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**BUT, BUT...
State ex rel. Collins v. Keirnan**

- "To permit a city officer or agency to refuse a city license on the ground that the applicant has not complied with the state statute, when the state official, in the exercise of his duties under the state law, has declared the opposite and has issued a state license, would, in effect, allow the city to undo what the state has done."
 - *State ex rel. Collins v. Keirnan, 207 S.W.2d 49, 54 (1947).*
- The respondent was in error in refusing the relator a permit on the ground that the tavern was 'never properly located (because within 100 feet of a church) and is not now properly located regardless of a partition within the building.'
 - *State ex rel. Collins v. Keirnan, 207 S.W.2d 49, 54 (1947).*

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Zoning – Steps towards implementation

- **Step 1:** Draw spacing map
- **Step 2:** Zoning Classification
 - By Right in certain zoning districts?
 - Special/Conditional Use Permit?
- **Step 3:** Develop standards
 - Ventilation
 - Hours of operation
 - Site plan review
 - Security

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Zoning – DHSS Double Dip

- **19 CSR 30-95.040(2)(H):** If the city, town, or county in which the facility will be located has enacted zoning restrictions applicable to the facility, the text of the restrictions and a description of how the facility plans to comply with those restrictions;

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Amendment 2 – Changes to Policing and Offenses Chapters

- Possession of Marijuana
 - Required to show identification card or equivalent card from another state. Art. XIV, section 1.5(1).
 - DHSS may limit the amount of marijuana that may be possessed. Art. XIV, section 1.3(13) & (14).
- Smoking in public places prohibited. Art. XIV, section 1.1 and Art. XIV, section 1.7(7)
- Driving under the influence expressly prohibited. Art. XIV, section 1.1.
- No person, including a qualifying patient with a home cultivation card, "shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license." Art. XIV, section 1.7(8)

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Amendment 2 – Effects of Municipal Revenue

- Local sales and uses tax that apply to retail sales apply to the sale of medical marijuana. Art. XIV, section 1.4(4)
- “No additional taxes shall be imposed **on the sale** of marijuana for medical use.” Art. XIV, section 1.4(5)
- Cultivation and Infused Products Manufacturing Facilities could have a significant impact on municipal owned utilities.

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Additional Amendment 2 Topics

- Building Codes
- Personnel Policies
- Business Licenses

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**QUICK, EASY, AND (SOMEWHAT) PAINLESS
OUTLINE OF MEDICAL MARIJUANA IN MISSOURI**

MMAA 2019 Summer Seminar

Prepared by Padraic Corcoran, Williams & Campo, P.C.

1. Sources of Authority

- a. Mo. Const. art. XIV, § 1 (“Amendment 2”)
- b. Department of Health and Senior Services (“DHSS”) Rules
 - i. 19 CSR 30-95.010 Definitions
 - ii. 19 CSR 30-95.020 General Provisions
 - iii. 19 CSR 30-95.025 Generally Applicable Provisions
 - iv. 19 CSR 30-95.030 Qualifying Patient/Primary Caregiver
 - v. 19 CSR 30-95.040 Medical Marijuana Facilities Generally
 - vi. 19 CSR 30-95.050 Cultivation Facility
 - vii. 19 CSR 30-95.060 Infused Products Manufacturing Facility
 - viii. 19 CSR 30-95.070 Testing Facility
 - ix. 19 CSR 30-95.080 Dispensary Facility
 - x. 19 CSR 30-95.090 Seed to Sale Tracking
 - xi. 19 CSR 30-95.100 Transportation Facility
 - xii. 19 CSR 30-95.110 Physicians

2. Amendment 2 – Generally

- a. Amendment 2 is “intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the limited legal production, distribution, sale and purchase of marijuana for medical use.” Mo. Const. art. XIV, § 1
- b. Role of DHSS - Carry out the implementation of Amendment 2 and ensure patient access to medical marijuana.
 - i. Control of licensing and certifying facilities. Mo. Const. art. XIV, § 1.3(1)(a)
 - ii. Promulgate rules for the proper regulation and control of the medical marijuana process, and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. Mo. Const. art. XIV, § 1.3(1)(b) & § 1.3(2)

3. Medical Marijuana Facilities

a. Licensed Facilities

i. **Medical Marijuana Cultivation Facility**

- 1. “facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.” Mo. Const. art. XIV, § 1.2(7)
- 2. One license per 100,000 inhabitants (60). Limited to 60 unless DHSS determines that the limit must be increased to meet the demand for medical marijuana. Mo. Const. art. XIV, § 1.3(15) & 19 CSR 30-95.050(1)(A).

3. 3 different classifications of Cultivation Facilities
 - a. Indoor Facility – limited by DHSS to thirty thousand square feet of flowering plant canopy space
 - b. Outdoor Facility – limited by DHSS to two thousand eight hundred flowering plants
 - i. Specific security requirements – 19 CSR 30-95.040(4)(H)(3)
 - c. Greenhouse Facility – at the election of the licensee, limited by either the Indoor Facility limit or the Outdoor Facility limit.
 4. Required to “develop, implement, and maintain an odor control plan” unless in rural, unincorporated agricultural areas. 19 CSR 30-95.040(2)(C)
 5. Regulated primarily by 19 CSR 30-95.040 and 19 CSR 30-95.050
- ii. **Medical Marijuana Dispensary Facility**
1. “facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.” Mo. Const. art. XIV, § 1.2(8)
 2. 24 per the 8 United States congressional districts (192). Mo. Const. art. XIV, § 1.3(17). The limit may be increased in DHSS determines necessary to meet demand. 19 CSR 30-95.080(1)(A)
 3. Primary regulated by 19 CSR 30-95.040 & 19 CSR 30-95.080
- iii. **Medical Marijuana-Infused Product Manufacturing Facility**
1. “facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.” Mo. Const. art. XIV, § 1.2(9)
 2. One license per 70,000 inhabitants (86). Mo. Const. art. XIV, § 1.3(16). The limit may be increased if DHSS determines necessary to meet demand. 19 CSR 30-95.060(1)(A)
 3. Required to “develop, implement, and maintain an odor control plan.” 19 CSR 30-95.060(2)(B)
 4. If using volatile solvents medical marijuana-infused product manufacturing facilities are required to “install air-handling systems and other controls designed to minimize the risks of explosions and fires.” 19 CSR 30-95.060(2)(G)
 5. Primarily regulated by 19 CSR 30-95.040 & 19 CSR 30-95.060.
- b. Certified Facilities
- i. **Medical Marijuana Testing Facility**
1. “facility certified by the department to acquire, test, certify, and transport marijuana.” Mo. Const. art. XIV, § 1.2(10)
 2. Limited to 10 unless DHSS determines it necessary to increase due to demand. 19 CSR 30-95.070(1)

3. A testing facility may not “be owned by an entity under substantially common control, ownership, or management” as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility
4. Must be accredited “by an International Laboratory Accreditation Cooperation recognized accreditation body.” 19 CSR 30-95.070(2)(D)
5. Primarily regulated by 19 CSR 30-95.040 & 19 CSR 30-95.070.

ii. **Medical Marijuana Transportation Facility**

1. A facility certified by the department to transport marijuana to a qualifying patient, a primary caregiver, a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another medical marijuana-transportation facility. 19 CSR 30-95.010(25)
2. No express limit on the number of transportation facility certification. See 19 CSR 30-95.100(1)(A)
3. Unless extenuating circumstances exist, transportation facilities must transport medical marijuana from the originating facility to a destination facility within 24 hours. See 19 CSR 30-95.100(2)(B).
4. Primarily regulated by 19 CSR 30-95.040 & 19 CSR 30-95.100

c. DHSS Regulations of Facilities

- i. General regulatory provisions in 19 CSR 30-95.010, 95.020, 95.025, 95.040
- ii. Security requirements – 19 CSR 30-95.040(4)(H)
- iii. An applicant for facility license required to provide “the text of [zoning restrictions adopted by a city, town, or county] and a description of how the facility plans to comply with those restrictions.” See 19 CSR 30-95.040(2)(H)
- iv. Multiple licenses may be utilized in a single facility. 19 CSR 30-95.040(4)(A).
- v. Medical marijuana sold in Missouri must be cultivated in a licensed cultivation facility in Missouri. 19 CSR 30-95.040(4)(D)
- vi. Packaging and labeling requirements. 19 CSR 30-95.040(4)(K)
- vii. Annual inspections. 19 CSR 30-95.040(5)

4. **Medical Marijuana Identification Cards**

a. Patient Identification Card

- i. An identification card issued to a Missouri resident diagnosed with at least one qualifying medical condition.
- ii. “Qualifying medical condition” means the condition of, symptoms related to, or side-effects from the treatment of
 1. Cancer;
 2. Epilepsy;
 3. Glaucoma;
 4. Intractable migraines unresponsive to other treatment;

5. A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson’s disease, and Tourette’s syndrome;
 6. Debilitating psychiatric disorders, including, but not limited to, post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;
 7. Human immunodeficiency virus or acquired immune deficiency syndrome;
 8. A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;
 9. Any terminal illness; or
 10. In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, Crohn’s disease, Huntington’s disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer’s disease, cachexia, and wasting syndrome
- iii. DHSS has 30 days to approve or deny, in writing, qualifying patient identification card applications. Mo. Const. art. XIV, § 1.3(19)
1. If no action is taken, then the physician certification acts as the identification card for up to one year. Id.
 2. “‘Physician certification’ means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.” Mo. Const. art. XIV, § 1.2(13)
- iv. **Possession Limitation.**
1. May only purchase 4 ounces of dried, unprocessed marijuana in a 30-day period. 19 CSR 30-95.030(5)
 2. May only possess, if they do not cultivate, a 60-day supply of dried, unprocessed marijuana. 19 CSR 30-95.030(5)(B)(1)
 - a. If they do cultivate then up to a 90-day supply of dried, unprocessed marijuana. 19 CSR 30-95.030(5)(B)(2)
 3. May possess a greater amount if two independent physicians provide written certification that there are compelling reasons why a greater amount is needed. 19 CSR 30-95.030(5)(E)
- v. Application requirements. 19 CSR 30-95.040(2)(A)
- b. Patient Cultivation Identification Card
- i. Card issued to qualifying patient, except for good cause, that allows for the home cultivation of six flowering marijuana plants for the exclusive use of that qualifying patient. Mo. Const. art. XIV, § 1.3(13)
 - ii. Cultivation must take place in an enclosed, locked facility. Mo. Const. art. XIV, § 1.7(9)
 1. **Enclosed, locked facility** – 19 CSR 30-95.010(12)
 - (A) An indoor stationary closet, room, garage, greenhouse, or other comparable fully enclosed space equipped with locks or other functioning security devices

that permit access to only the qualifying patient(s) or primary caregiver(s) who have informed the department that this is the space where they will cultivate marijuana; or

(B) An outdoor stationary structure:

1. That is enclosed on all sides, except at the base, by chain-link fencing, wooden slats, or a similar material that is anchored, attached, or affixed to the ground and that cannot be accessed from the top;

2. In which the plants are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure at any level; and

3. That is equipped with locks or other security devices that restrict access to only the qualifying patient(s) or primary caregiver(s)

iii. **Inspection** – 19 CSR 30-95.030(3)(B)(1)(G): “If a patient cultivation identification card holder fails to immediately make available access to his or her patient cultivation facility upon request from the department, the patient cultivation identification card will be revoked.”

iv. **Cultivation Limitation** – 19 CSR 30-95.030(B)

1. One (1) qualifying patient may cultivate up to six (6) flowering marijuana plants, six (6) nonflowering marijuana plants (over fourteen (14) inches tall), and six (6) clones (plants under fourteen (14) inches tall) at any given time in a single, enclosed locked facility.

2. Two (2) qualifying patients, who both hold valid qualifying patient cultivation identification cards, may share one (1) enclosed, locked facility. No more than twelve (12) flowering marijuana plants, twelve (12) nonflowering plants, and twelve (12) clones may be cultivated in a single, enclosed, locked facility

3. except when one (1) of the qualifying patients, as a primary caregiver, also holds a patient cultivation identification card for a third qualifying patient, in which case that primary caregiver may cultivate six (6) additional flowering marijuana plants, six (6) additional nonflowering marijuana plants, and six (6) additional clones for a total of eighteen (18) flowering marijuana plants, eighteen (18) nonflowering marijuana plants, and eighteen (18) clones in a single, enclosed locked facility.

v. Application Requirements. 19 CSR 30-95.040(2)(A)(10)

c. Primary Caregiver Identification Card

i. “An individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department.” Mo. Const. art. XIV, § 1.2(14)

ii. Limit of three patients may be under their care. Mo. Const. art. XIV, § 1.7(6)

iii. May cultivate on behalf of qualifying patients.

- iv. May possess separate legal limit for each of their qualifying patients and for themselves if they are also a qualifying patient. Mo. Const. art. XIV, § 1.3(14).
 - v. May not be under the care of another primary caregiver. 19 CSR 30-95.030(7)(B)
 - vi. Application requirements. 19 CSR 30-95.040(2)(B)
5. **Municipal Regulation of Medical Marijuana**
- a. **Generally** - “No local government shall prohibit [medical marijuana facilities] either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction” Mo. Const. art. XIV, § 1.7(11)
 - b. **Separation Requirement**
 - i. “Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within **one thousand feet** of any **then-existing elementary or secondary school, child day-care center, or church**” Mo. Const. art. XIV, § 1.7(11)
 - ii. **Definitions:**
 - 1. “‘Elementary or secondary school’ means any public school as defined in section 160.011, RSMo., or any private school giving instruction in a grade or grades not higher than the twelfth (12th) grade, including any property owned by the public or private school that is regularly used for extracurricular activities, but does not include any private school in which education is primarily conducted in private homes.” 19 CSR 30-95.010(11)
 - 2. “‘Daycare’ means a child-care facility, as defined by Section 210.201, RSMo., that is **licensed** by the state of Missouri.” 19 CSR 30-95.010(6)
 - 3. “‘Church’ means a permanent building **primarily** and **regularly** used as a place of religious worship.” 19 CSR 30-95.010(5)
 - iii. **DHSS Separation Rules** - 19 CSR 30-95.040(4)(B)
 - 1. 19 CSR 30-95.040(4)(B)
 - a. “Unless expressly allowed by the local government, no new cultivation, infused products manufacturing, dispensary, or testing facility shall be sited, at the time of application for license or for local zoning approval, whichever is earlier, within one thousand (1,000) feet of any then existing elementary or secondary school, daycare, or church.
 - 1. In the case of a **freestanding facility**, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility.
 - 2. In the case of a **facility that is part of a larger structure**, such as an office building or strip mall, the distance between the facility and the school, daycare, or church shall be measured from the property line of the

school, daycare, or church to the facility’s entrance or exit closest in proximity to the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility.

3. **Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.**”

2. 19 CSR 30-95.040(2)(F)(2) – Application Content Requirements include:

- a. 2. Documentation showing a **local government requirement different than the requirement in Section (4)(B) of this rule** or 19 CSR 30-95.100(2)(C) and a map of the surrounding area that shows compliance with the facility location requirements of the local government

c. **Time, place, manner regulations**

- i. “local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing **the time, place, and manner** of operation of such facilities in the locality.” Mo. Const. art. XIV § 1.7(11)
- ii. Must also not be “unduly burdensome” on the operation of the facility. See 5(a) above.
- iii. May establish civil penalties for violations of time, place, manner regulations. Mo. Const. art. XIV § 1.7(11)

d. **Offenses Provisions**

i. **Possession of Marijuana**

1. Possession of medical marijuana, in the appropriate quantity, legal if “the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making an application for an identification card; or a valid primary caregiver identification card.” Mo. Const. art. XIV § 1.5(1)
2. May also produce “equivalent identification card or authorization issued by another state or political subdivision of another state.” Id.
3. Quantity Limitations – 19 CSR 30-95.030(5)

ii. **Use of Medical Marijuana in Public** – Amendment 2 “does not allow for the public use of marijuana.” Mo. Const. art. XIV § 1

1. Definition of “public place” – 19 CSR 30-95.010(33) – “any public or private property, or portion of public or private property, that is open to the general public, including but not limited to, sidewalks, streets, bridges, parks, schools, and businesses.”
2. Owner or entity with control of any such property may designate a “non-public place” within a public place. Id.

iii. **Driving under the Influence** – Amendment 2 “does not allow for driving under the influence of marijuana.” Mo. Const. art. XIV § 1

iv. **Extraction** – “No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department

sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.” Mo. Const. art. XIV § 1.7(8)

e. Municipal Revenue - Sales Tax

- i. Local sales and uses tax that apply to retail sales apply to the sale of medical marijuana. Mo. Const. art. XIV § 1.4(4)
- ii. “No additional taxes shall be imposed on the sale of marijuana for medical use.” Mo. Const. art. XIV § 1.4(5)

f. Personnel

- i. Amendment 2 bars persons from bringing: “a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.” Mo. Const. art. XIV § 1.7(1)(d)
- ii. Operation or physical control of “any dangerous device or motor vehicle, aircraft or motorboat” under the influence of medical marijuana is prohibited. Mo. Const. art. XIV § 1.7(1)(c)