OREGON ADMINISTRATIVE RULES
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION
CHAPTER 333

DIVISION 8

MEDICAL MARIJUANA

333-008-0025
Marijuana Grow Site Registration

(1) A patient may register a marijuana grow site with the Authority. The address of a medical marijuana facility may not be listed by a patient on the ~~grow site~~ application as the location of the marijuana grow site. The Authority will register only one grow site per patient, and will only register grow sites in Oregon.

(2) To register a marijuana grow site, an applicant or patient must submit to the Authority an application, prescribed by the Authority, that includes:

(a) The name of the grower;

(b) The date of birth of the grower;

(c) The physical address of the marijuana grow site where marijuana is to be produced;

(d) The mailing address of the grower;

(e) The registry identification card number of the patient, if known, for whom the marijuana is being produced; and

(f) A non-refundable grow site registration fee of $50 in the form of cash, bank check, money order, or personal check. If the grower is the applicant, he or she is not required to pay the grow site registration fee. The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

(3) For a new patient application submitted on or after July 1, 2015, in addition to the application a patient must submit a residency form, prescribed by the Authority, and completed by the grower, along with a copy of the grower's Oregon driver's license or Oregon identification card.

(a) If a grower was first registered with the Authority as a grower on or before January 1, 2015, the grower must have been a resident of Oregon for at least one year immediately prior to the application being submitted to the Authority.

(b) If a grower was not first registered with the Authority as a grower on or before January 1, 2015, the grower must have been a resident of Oregon for at least two years immediately prior to the application being submitted to the Authority.

(c) If a grower does not have an Oregon driver's license or Oregon identification card, or the grower's Oregon driver's license or Oregon identification card was not issued one or two years prior to the date of application, as applicable, the Authority will attempt to verify whether the grower has been a resident for the required length of time and may contact the grower and require the grower to submit additional information to the Authority to prove residency.

(4~~3~~) The Authority shall conduct a criminal background check on the grower as authorized under ORS 475.304.

(a) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offense occurred on or after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.

(b) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offenses occurred after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.

(c) The Authority shall notify a patient by certified mail that the grower is ineligible and the patient will be allowed the opportunity to identify another grower.

(5~~4~~) The Authority shall issue a marijuana grow site registration card to a patient who has met the requirements of section (2) of this rule, unless the grower is disqualified under section (4~~3~~) of this rule.

(6~~5~~) A grower must display a marijuana grow site registration card for each patient for whom marijuana is being produced, at the marijuana grow site at all times.

(7~~6~~) All usable marijuana, plants, seedlings and seeds, associated with the production of marijuana for a patient by a grower, are the property of the patient and must be provided to the patient, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a registered medical marijuana facility, upon request.

(8~~7~~) All marijuana produced for a patient must be provided to the patient or designated primary caregiver when the grower ceases producing marijuana for the patient.

(9~~8~~) A grower must return the grow site registration card to the patient to whom the card was issued when requested to do so by the patient or when the grower ceases producing marijuana for the patient.

(10~~9~~) A patient or the designated primary caregiver of the patient may reimburse the grower for the costs of supplies and utilities associated with production of marijuana for patient. No other costs associated with the production of marijuana for the patient, including the cost of labor, may be reimbursed.

(11~~0~~) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.

(12~~1~~) The Authority may not register a grow site if the location of the grow site is the same location as a medical marijuana facility.

Stat. Auth.: ORS 475.338
Stats. Implemented: ORS 475.300 - 475.346

Medical Marijuana Facilities

333-008-1010

Definitions

For the purposes of OAR 333-008-1000 through 333-008-~~1400~~1502 the following definitions apply:

(1) "Agricultural land" means land that is located within an exclusive farm use zone as that term is described in ORS 215.203.

(2) "Attended primarily by minors" means that a majority of the students are minors.

(3) "Authority" means the Oregon Health Authority.

(4) "Batch" means a quantity of usable marijuana of a single strain or a number of immature plants transferred at one time to a facility by a person authorized by a patient to transfer usable marijuana to a registered facility.

(5) "Business day" means Monday through Friday excluding legal holidays.

(6) "Career school" means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.

(7) "Conviction" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.

(8)(a) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the Authority.

(b) "Designated primary caregiver" does not include the person's attending physician.

(9) "Domicile" means the place of abode of an individual where the person intends to remain and to which, if absent, the individual intends to return.

(10) "Edible" means a product made with marijuana that is intended for ingestion.

(11) "Elementary school" means a learning institution containing any combination of grades Kindergarten through 8 or age level equivalent.

(12)(a) "Employee" means any person, including aliens, employed for remuneration or under any contract of hire, written or oral, express or implied, by an employer.

(b) "Employee" does not include a person who volunteers or donates services performed for no remuneration or without expectation or contemplation of remuneration as the adequate consideration for the services performed for a religious or charitable institution or a governmental entity.

(13) "Facility" means a medical marijuana facility.

(14) "Farm use" has the meaning given that term in ORS 215.203.

(15) "Finished product" means a usable marijuana product including but not limited to edible products, ointments, concentrates and tinctures. A finished product does not mean dried marijuana flowers.

(16) "Grower" has the same meaning as "person responsible for a marijuana grow site."

(17) "Grow site" means a specific location registered by the Authority and used by the grower to produce marijuana for medical use by a specific patient.

(18)(a) "Immature marijuana plant or immature plant" means a marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter.

(b) A seedling or start that does not meet all three criteria in subsection (18)(a) is a mature plant.

(19) "Macroscopic screening" means visual observation without the aid of magnifying lens(es).

(20) "Microscopic screening" means visual observation with a minimum magnification of 40x.

(21) "Minor" means an individual under the age of 18.

(22) "Oregon Medical Marijuana Program" or "OMMP" means the program operated and administered by the Authority that registers patients, designated primary caregivers, and growers.

(23) "Patient" has the same meaning as "registry identification cardholder."

(24) "Person" means an individual.

(25) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose and has the same meaning as "grower".

(26) "Person responsible for a medical marijuana facility" or "PRF" means an individual who owns, operates, or otherwise has legal responsibility for a facility and who meets the qualifications established in these rules and has been approved by the Authority.

(27) "Pesticide" means any substance or mixture of substances, intended to prevent, destroy, repel, or mitigate any pest.

(28) "Premises" means a location registered by the Authority under these rules and includes all areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where individuals are permitted to be present.

(29) "Random sample" means an amount of usable marijuana taken from a batch in which different fractions of the usable marijuana have an equal probability of being represented.

(30) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

(31) "Remuneration" means compensation resulting from the employer-employee relationship, including wages, salaries, incentive pay, sick pay, compensatory pay, bonuses, commissions, stand-by pay, and tips.

(32) "Resident" means an individual who has a domicile within this state.

(33) "Restricted area" means a secure area where usable marijuana and immature plants are present.

(34) "Safe" means:

(a) A metal receptacle with a locking mechanism capable of storing all usable marijuana at a registered facility that:

(A) Is rendered immobile by being securely anchored to a permanent structure of the building; or

(B) Weighs more than 750 pounds.

(b) A vault; or

(c) A refrigerator or freezer capable of being locked for storing edibles or other finished products that require cold storage that:

(A) Is rendered immobile by being securely anchored to a permanent structure of the building; or

(B) Weighs more than 750 pounds.

(35) "Secondary school" means a learning institution containing any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

(36) "Secure area" means a room:

(a) With doors that are kept locked and closed at all times except when the doors are in use; and

(b) Where access is only permitted as authorized in these rules.

(37) "Single strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(38) "These rules" means OAR 333-008-1000 through 333-008-~~1400~~1502.

(39) "Usable marijuana" has the meaning given that term is ORS 475.302 and includes "finished product".

(40) "Valid testing methodology" means a scientifically valid testing methodology described in a published national or international reference and validated by the testing laboratory.

(41) "Vault" means an enclosed area that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.

Stat. Auth.: ORS 475.314 & 475.338, OL 2015, ch. 784
Stats. Implemented: ORS 475.314, OL 2015, ch. 784

333-008-1060

Denial of Application

(1) The Authority must deny a~~n~~ new or renewal application if:

(a) An application, supporting documentation provided by the PRF, or other information obtained by the Authority shows that the qualifications for a facility in ORS 475.314 or these rules have not been met; or

(b) The PRF has been:

(A) Convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date the application was received by the Authority; or

(B) Convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II; or

(C) Prohibited by a court from participating in the OMMP.

(c) The city or county in which the facility is located has prohibited facilities in accordance with sections 133 or 134, chapter 614, Oregon Laws 2015, unless the facility meets the criteria in chapter 614, Oregon Laws 2015, sections 133(6) or 134(6).

(2) If the PRF that is identified in the application is not qualified to be a PRF, the Authority will permit a change of PRF form to be submitted in accordance with OAR 333-008-1120, along with the applicable criminal background check fee. If the proposed PRF is not qualified to be a PRF, the Authority must deny the application in accordance with section (1) of this rule.

(3) If the Authority intends to deny an application for registration it must issue a Notice of Proposed Denial in accordance with ORS 183.411 through 183.470.

Stat. Auth.: ORS 475.314 & 475.338
Stats. Implemented: ORS 475.314

333-008-1070

Expiration and Renewal of Registration

(1) A facility's registration expires one year following the date of application approval.

(2) If a PRF wishes to renew the facility's registration, the person must submit to the Authority within 60 calendar days of the registration's expiration:

(a) An application renewal form prescribed by the Authority;

(b) The required renewal fees;

(c) Forms required for the Authority to do a criminal background check on the PRF.
(3) A PRF that does not submit timely renewal documentation in accordance with section (2) of this rule may not operate the facility if the previous registration expires prior to the Authority issuing a renewed registration. The facility will remain registered until a renewal is either issued or denied, but the facility may not operate with an expired registration.

(4) If a PRF does not submit a renewal form and the required renewal fees prior to the registration's expiration, the registration is expired and is no longer valid, and the PRF may reapply for registration.

(5) Renewals will be processed in accordance with OAR 333-008-1040 to 333-008-1060.

Stat. Auth.: ORS 475.314 & 475.338, sections 133 and 134, chapter 614, OL 2015.
Stats. Implemented: ORS 475.314, sections 133 and 134, chapter 614, OL 2015.

333-008-1120

Person Responsible for a Medical Marijuana Facility (PRF)

(1) A PRF must:

(a) Be a resident of Oregon. For a new application or a change of PRF form submitted on or after July 1, 2015, a PRF must submit a residency form, prescribed by the Authority, along with a copy of the PRF's Oregon driver's license or Oregon identification card.

(A) If a PRF was first registered with the Authority as a PRF for a different facility on or before January 1, 2015, and has continuously remained a PRF, the PRF must have been a resident of Oregon for at least one year immediately prior to the application being submitted to the Authority.

(B) If a PRF was not first registered with the Authority as a PRF on or before January 1, 2015, or has not continuously remained a PRF for a dispensary since January 1, 2015, the PRF must have been a resident of Oregon for at least two years immediately prior to the application being submitted to the Authority.

(C) If a PRF does not have an Oregon driver's license or the PRF's Oregon driver's license or Oregon identification card was not issued one or two years prior to the date of application, as applicable, the Authority will attempt to verify whether the PRF has been a resident for the required length of time and may require the PRF to submit additional information to the Authority to prove residency. ~~Residency may be proved by submitting to the Authority:~~

~~(A) A valid Oregon driver's license, a valid Oregon identification card that includes a photograph of the person, a valid passport, or a valid military identification card that includes a photograph of the person; and~~

~~(B) Copies of utility bills, rental receipts, mortgage statements or similar documents that contain the name and address of the domicile of the PRF.~~

(b) Have legal authority to act on behalf of the facility; and

(c) Be responsible for ensuring the facility complies with applicable laws, if registered.

(2) A PRF may not:

(a) Have been convicted in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date of application; or

(b) Have been convicted more than once in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II.

(3) A PRF is accountable for any intentional or unintentional action of its owners, officers, managers, employees or agents, with or without the knowledge of the PRF, who violate ORS 475.314 or these rules.

(4) If a PRF no longer meets the criteria of a PRF the Authority shall inform the PRF and the owner of the facility if different that:

(a) The PRF may no longer serve in that capacity;

(b) In order to remain registered, a change of PRF form must be submitted along with a criminal background check fee of $35; and

(c) The facility may not operate until the Authority has approved a PRF.

(5) If the Authority is notified that a change of PRF is needed, the current PRF is no longer able to serve as the PRF, or the PRF has been or will be removed by the owner of a facility, the owner of the facility must submit a change of PRF form to the Authority within 10 business days of the notification or the Authority will begin proceedings to revoke the registration of the facility.

(6) If the PRF of record for the facility is no longer serving in that capacity the facility may not operate until a new PRF has been approved by the Authority.

Stat. Auth.: ORS 475.314 & 475.338, section 173, chapter 614, OL 2015
Stats. Implemented: ORS 475.314, section 173, chapter 614, OL 2015

~~333-008-1400~~

~~**Moratoriums**~~

~~(1) For purposes of this rule, "moratorium" means an ordinance, adopted by the governing body of a city or county by May 1, 2014, that specifically suspends the operation of registered medical marijuana facilities within the area subject to the jurisdiction of the city or county, for a period of time that does not extend past May 1, 2015.~~

~~(2) If a city or county adopts a moratorium it must notify the Authority and provide a copy of the ordinance.~~
~~(3) An applicant applying for registration of a facility proposing to operate in an area subject to a moratorium may submit a request, in writing, to withdraw the application and may request a refund of the fees.~~

~~(4) A PRF of a registered facility located in an area subject to a moratorium may submit a request, in writing, to surrender its registration and request a refund of the fees.~~

~~(5) Upon receipt of a request to withdraw an application or surrender a registration under sections (3) or (4) of this rule the Authority shall determine whether the ordinance falls within the definition of moratorium and inform the applicant or PRF in writing whether:~~

~~(a) The application is considered withdrawn and the fees refunded; or~~

~~(b) The registration has been surrendered and the fees refunded.~~

~~(6) The Authority may refund all fees, including the non-refundable registration fee.~~

~~(7) Notifications or requests described in sections (2) to (4) of this rule may be submitted to the Authority:~~

~~(a) By mail at P.O. Box 14116, Portland, OR 97293; or~~

~~(b) By electronic mail to medmj.dispensaries@state.or.us.~~

~~Stat. Auth.: 2014 OL, Ch. 79, Sec. 3~~
~~Stats. Implemented: 2014 OL, Ch. 79, Sec. 3~~

333-008-1500

Limited Marijuana Retail Sales

(1) For purposes of this rule, the following definitions apply:

(a) "Individual" means a person 21 years of age or older who is not a patient or designated primary caregiver.

(b) "Limited marijuana retail product" means:

(A) The seeds of marijuana;

(B) The dried leaves and flowers of marijuana; and

(C) A marijuana plant that is not flowering.

(c) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(d) "Medical marijuana dispensary" or "dispensary" means an entity registered with the Oregon Health Authority under ORS 475.314.

(e) "Photographic identification" means valid U.S. state or federal issued identification with a photograph of the individual that includes the individual's last name, first name, and date of birth.

(2) Unless the city or county in which the dispensary operates has adopted an ordinance prohibiting the sale of limited marijuana retail product, and notwithstanding any provision of ORS 475.314 or OAR 333-008-1000 to 333-008-1290 that is in conflict, on or after October 1, 2015, a medical marijuana dispensary may sell limited marijuana retail product to an individual if the dispensary:

(a) Five days prior to selling any limited marijuana retail product notifies the Authority, on a form prescribed by the Authority, that the dispensary intends to sell limited marijuana retail product.

(b) Examines the photo identification of all individuals before entering the dispensary to ensure the individual is 21 years of age or older;

(c) Verifies at the time of sale that the individual is 21 years of age or older by examining the individual's photographic identification;

(d) Sells no more than:

(A) One-quarter ounce of limited marijuana retail product in the form of dried leaves and flowers; and

(B) Four units of limited marijuana retail product in the form of marijuana plants that are not flowering.

(3) For each limited marijuana retail product sale, a dispensary must document:

(a) The limited marijuana retail product that was sold and the amount of dried leaves or flowers in metric units, amount of seeds or number of plants, as applicable;

(b) The birth date of the individual who bought the product;

(c) The sale price; and

(d) The date of sale.

(4) A dispensary is not required to maintain a record of the name of the individual to whom a limited marijuana retail product was sold but the dispensary must have a system in place that is outlined in their policies and procedures for ensuring that an individual is not sold more than one-quarter once of dried leaves and flowers in a day.

(5) Records of sale transactions and the documentation required in section (3) of this rule shall be maintained in accordance with OAR 333-008-1210(3) and (4).

(6) A dispensary that chooses to sell limited marijuana retail product to individuals must:

(a) Post at the point of sale, the following posters prescribed by the Authority, measuring 22 inches high by 17 inches wide that can be downloaded at *****:

(A) A Pregnancy Warning Poster; and

(B) A Poisoning Prevention Poster.

(b) Post at the point of sale a color copy of the "Educate Before You Recreate" flyer measuring 22 inches high by 17 inches wide that can be downloaded at WHATSLEGALOREGON.COM.

(c) Distribute to each individual at the time of sale, a Marijuana Information Card, prescribed by the Authority, measuring 3.5 inches high by 5 inches long, that can be downloaded at ****.

(d) Comply with all rules in OAR 333-008-1000 to 333-008-1502, including but not limited to all security, testing, labeling, packaging and documentation rules except rules that:

(A) Prohibit individuals from entering or being present in a dispensary; and

(B) Prohibit a dispensary from transferring marijuana to an individual.

(e) On and after January 4, 2016:

(A) Collect a tax of 25 percent of the retail sales price of a limited marijuana retail product in the same manner that a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, collects the tax imposed under section 2, chapter 699, Oregon Laws 2015; and

(B) Comply with all requirements in sections 1 through 13, chapter 699, Oregon Laws 2015, and any applicable administrative rules adopted by the Department of Revenue.

(7) The Authority may, if it determines that a dispensary has violated OAR 333-008-1500 to 333-008-1502:

(a) Prohibit a dispensary from selling limited marijuana retail product; and

(b) Take any action authorized under OAR 333-008-1270 or 333-008-1275.

(8) A dispensary may not sell limited marijuana retail product to individuals if the dispensary is located in a city or county that has adopted an ordinance prohibiting such sales in accordance with section 3, chapter 784, Oregon Laws 2015.

(9) A dispensary that has had its registration suspended may not sell limited marijuana retail product while the registration is suspended.

Stat. Auth.: ORS 475.314 & 475.338, OL 2015, ch. 784
Stats. Implemented: ORS 475.314, OL 2015, ch. 784

333-008-1501

Dispensary Signs

(1) Between October 1, 2015 and December 31, 2016, a registered dispensary must post signs at any point of public entry that read:

(a) "Medical Marijuana Only Available Here"; or

(b) If a dispensary has properly notified the Authority that it intends to sell limited marijuana retail product, "Medical Marijuana and Retail Marijuana Sold Here"; and

(c) "NO PERSON UNDER 21 PERMITTED ON THE PREMISES WITHOUT AN OMMP CARD".

(2) The signs described in section (1) of this rule must be:

(a) In bold, 80 point Times New Roman font; and

(b) Affixed to the exterior of the dispensary in a conspicuous location that can be easily seen by the public from outside the dispensary.

Stat. Auth.: ORS 475.314 & 475.338, OL 2015, ch. 784
Stats. Implemented: ORS 475.314, OL 2015, ch. 784

333-008-1502
Effective Dates of Limited Marijuana Retail Sales Rules

OAR 333-008-1500 to 333-008-1501 are only in effect from [Insert date of filing] through December 31, 2016.

Stat. Auth.: ORS 475.314 & 475.338, OL 2015, ch. 784
Stats. Implemented: ORS 475.314, OL 2015, ch. 784