

**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**

**MARIJUANA REGULATORY AGENCY**

**MARIHUANA LICENSEES**

(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 420.101 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) "Another party" or "other party" means an individual or company with which a licensee contracts to use the individual's or company's intellectual property or to utilize management or other services provided by the individual or company.

(d) "Applicant" means a person who applies for a marihuana license, subject to paragraphs (i) and (ii) of this subdivision:

(i) For purposes of this definition, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

(A) For an individual or sole proprietorship: the proprietor and spouse.

(B) For a partnership and limited liability partnership: all partners and their spouses.

(C) For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the partnership, and their spouses.

(D) For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the company, and their spouses.

(E) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(F) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(G) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(H) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(I) For a trust: trustees, any individual or body able to control and direct the affairs of the trust, and any beneficiary who receives or has the right to receive more than 10% of the gross or net profit of the trust during any full or partial calendar or fiscal year and their spouses.

(ii) For purposes of this definition, an applicant does not include:

(A) A person who provides financing to an applicant or licensee under a bona fide financing agreement at a reasonable interest rate unless the person exercises control over or participates in the management of the marihuana business.

(B) A franchisor who grants a franchise to an applicant, if the franchisor does not have the right to receive royalties based upon the sale of marihuana or marihuana-infused products by the applicant who is a franchisee. Nothing in this subrule shall be construed to preclude a franchisor from charging an applicant who is a franchisee a fixed fee. As used in this definition, the terms “franchise,” “franchisor,” and “franchisee” have the meanings set forth in section 2 of the franchise investment law, 1974 PA 269, MCL 445.1502.

(C) A person receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation unless the person exercises control over or participates in the management of the marihuana business.

(D) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property including, but not limited to, brands and recipes.

(E) A person who receives a percentage of profits as an employee if the employee does not meet the definition of “managerial employee” and the employee does not receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.

(F) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee’s pre-bonus annual compensation or if the bonus is based upon a written incentive/bonus program that is not out of the ordinary for the services rendered.

(e) “Clone” means a replication of a single parent plant through vegetative propagation.

(f) “Common ownership” means 2 or more state licenses or 2 or more equivalent licenses held by 1 person under the Michigan Regulation and Taxation of Marihuana Act.

(g) “Employee” means 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 business.

(h) “Immature plant” means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches, produced from a cutting, clipping, tissue culture, or seedling, and that is in a growing or cultivating medium or in a growing or cultivating container.

(i) “Industrial hemp” means that term as defined in section 3 of the Michigan regulation and taxation of marihuana act, 2018 IL 1, MCL 333.27953.

(j) “Industrial hemp research and development act” means the industrial hemp research and development act, 2014 PA 547, MCL 286.841 to 286.859.

(k) “Intellectual property” means all original data, findings, or other products of the mind or intellect commonly associated with claims, interests, and rights that are protected under trade secret, patent, trademark, copyright, or unfair competition law and includes brands or recipes.

(l) “Licensing agreement” means any understanding or contract concerning the licensing of intellectual property related to marihuana products between a licensee and another party.

(m) “Management agreement” means any understanding or contract between a licensee and another party for the provision of management or other services that would allow the other party to exercise control over or participate in the management of the licensee or to receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year. A management agreement does not include an agreement for the reasonable payment of rent on a fixed basis under a bona fide lease or rental obligation unless the person exercises control over or participates in the management of the marihuana business.

(n) “Managerial employee” means those employees who have the ability to control and direct the affairs of the marihuana business or have the ability to make policy concerning the marihuana business, or both.

(o) “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.

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

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

(r) “Marihuana license” means a state operating license issued under the medical marihuana facilities licensing act, or a state license issued under the Michigan Regulation and Taxation of Marihuana Act, or both.

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

(t) “Mature plant” means a flowering or nonflowering marihuana plant that has taken root and is taller than 8 inches from the growing or cultivating medium or wider than 8 inches, produced from a cutting, clipping, tissue culture, or seedling, and that is in a growing or cultivating medium or in a growing or cultivating container.

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

(v) “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.

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

(x) “Parties” means a licensee and another party pursuant to a licensing or management agreement.

(y) “These rules” means the administrative rules promulgated by the 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.

(z) “Same location” means separate marihuana licenses that are issued to multiple marihuana businesses that are authorized to operate at a single property but with separate business suites, partitions, or addresses.

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

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

## **PART 1. LICENSEES UNDER THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT**

### **R 420.102 Marihuana grower license.**

Rule 2. (1) A marihuana grower license authorizes the marihuana grower to cultivate not more than the following number of marihuana plants under the indicated license class for each marihuana grower license the marihuana grower holds in that class:

- (a) Class A – 100 marihuana plants.
- (b) Class B – 500 marihuana plants.
- (c) Class C – 2,000 marihuana plants.

(2) For the purposes of this rule, only mature marihuana plants are included in the plant count in subrule (1) of this rule.

(3) Except as otherwise provided in the MRTMA and these rules, a marihuana grower license authorizes sale of marihuana and marihuana plants to a marihuana grower only by means of a marihuana secure transporter. A marihuana grower license authorizes the sale or transfer of seeds, seedlings, tissue cultures, or immature plants to a marihuana grower from another marihuana grower without using a marihuana secure transporter.

(4) A marihuana grower license authorizes a marihuana grower to transfer marihuana without using a marihuana secure transporter to a marihuana processor or marihuana retailer if both of the following are met:

(a) The marihuana processor or marihuana retailer occupies the same location as the marihuana grower and the marihuana is transferred using only private real property without accessing public roadways.

(b) The marihuana grower enters each transfer into the statewide monitoring system.

(5) A marihuana grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, immature plants, and cuttings, to a marihuana processor or marihuana retailer.

(6) Except as otherwise provided in the MRTMA, subrules (3) and (4) of this rule, and R 420.304, a marihuana grower license authorizes the marihuana grower to transfer marihuana only by means of a marihuana secure transporter.

(7) A marihuana grower must accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(8) A marihuana grower license does not authorize the marihuana grower to operate in an area unless the area is zoned for industrial or agricultural uses or otherwise meets the requirements established in section 9(3)(c) of the MRTMA, MCL 333.27959~~(e)~~.

(9) A marihuana grower may purchase or accept the transfer of marihuana seeds, tissue cultures, and clones that do not meet the definition of marihuana plant in these rules at any time from another grower licensed under the acts.

(10) A class A marihuana grower may accept the transfer of marihuana plants only once upon licensure from a registered primary caregiver if the registered primary caregiver was an applicant for that class A marihuana grower license.

(11) A marihuana grower licensee is required to comply with the requirements of the MRTMA and these rules.

(12) A marihuana grower may not purchase or accept the transfer of a mature plant from an individual, registered qualifying patient, or registered primary caregiver.

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

#### **R 420.103 Marihuana processor license.**

Rule 3. (1) A marihuana processor license authorizes the marihuana processor to purchase or transfer ~~of~~ marihuana or marihuana-infused products from only a licensed marihuana establishment and sell or transfer ~~of~~ marihuana-infused products or marihuana to only a licensed marihuana establishment.

(2) Except as otherwise provided in these rules and the MRTMA, a marihuana processor license authorizes a marihuana processor to transfer marihuana only by means of a marihuana secure transporter. A marihuana processor license authorizes a marihuana processor to transfer marihuana without using a marihuana secure transporter to a marihuana grower, marihuana processor, or marihuana retailer if both of the following are met:

(a) The marihuana grower, marihuana processor, or marihuana retailer occupies the same location as the marihuana processor and the marihuana is transferred using only private real property without accessing public roadways.

(b) The marihuana processor enters each transfer into the statewide monitoring system.

(3) A marihuana processor must accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

#### **R 420.104. Marihuana retailer license.**

Rule 4. (1) A marihuana retailer license authorizes the marihuana retailer to purchase or transfer ~~of~~ marihuana or marihuana-infused products from only a licensed marihuana establishment and sell or transfer to only a licensed marihuana establishment or an individual 21 years of age or older. Except as otherwise provided in these rules, and the MRTMA, all transfers of marihuana to a marihuana retailer from a separate marihuana establishment must be by means of a marihuana secure transporter. A transfer of marihuana to a marihuana retailer from a marihuana establishment that occupies the same location as the marihuana retailer does not require a marihuana secure transporter if the marihuana is transferred to the marihuana retailer using only private real property without accessing public roadways.

(2) A marihuana retailer license authorizes the marihuana retailer to transfer marihuana to or from a marihuana safety compliance facility for testing by means of a marihuana secure transporter or as provided in these rules.

(3) A marihuana retailer shall comply with all of the following:

(a) Sell or transfer marihuana to an individual 21 years of age or older only after it has been tested in accordance with these rules and bears the label required for retail sale.

(b) Accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(c) Before selling or transferring marihuana to an individual 21 years of age or older, verify the individual appears to be 21 years of age or older by means of government-issued photographic

identification containing a date of birth and that the sale or transfer will not exceed the single transaction limit in these rules.

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

#### **R 420.105 Marihuana microbusiness license.**

Rule 5. (1) A marihuana microbusiness license authorizes the marihuana microbusiness to do all of the following:

(a) Cultivate not more than 150 plants. Only mature marihuana plants are included in the plant count in this subdivision.

(b) Process and package marihuana.

(c) Sell or transfer marihuana to an individual 21 years of age or older only.

(d) Transfer marihuana to a marihuana safety compliance facility for testing.

(2) Except as otherwise provided in R 420.304, this rule, and the MRTMA, a marihuana microbusiness license authorizes a marihuana microbusiness to transfer marihuana from the marihuana grower area to the marihuana processor and marihuana retailer areas of the marihuana microbusiness and from the marihuana processor area to marihuana grower and marihuana retailer areas of the marihuana microbusiness without using a marihuana secure transporter if all areas of the marihuana microbusiness enter each transfer between different areas of the marihuana microbusiness into the statewide monitoring system.

(3) A marihuana microbusiness shall not operate at multiple locations.

(4) A marihuana microbusiness must accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(5) A marihuana microbusiness may purchase or accept the transfer of marihuana seeds, tissue cultures, and clones that do not meet the definition of marihuana plant in these rules ~~at any time~~ from another grower licensed under the acts, these rules, or both. A marihuana microbusiness shall not sell or transfer marihuana seeds, tissue cultures, or clones received under this subrule.

(6) A marihuana microbusiness may accept the transfer of marihuana plants only once upon licensure from a registered primary caregiver if the registered primary caregiver was an applicant for that marihuana microbusiness license.

(7) A marihuana microbusiness license is subject to all applicable provisions in the MRTMA and these rules related to a marihuana grower, marihuana retailer, and marihuana processor license except for R 420.102(8).

(8) A marihuana microbusiness may not purchase or accept a mature plant from an individual, registered qualifying patient, or registered primary caregiver.

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

#### **R 420.105a Class A marihuana microbusiness license.**

Rule 5a. (1) A class A marihuana microbusiness license authorizes the class A marihuana microbusiness to do all of the following:

(a) Cultivate not more than 300 plants. Only mature marihuana plants are included in the plant count in this subdivision.

(b) Package marihuana.

(c) Purchase marihuana concentrate and marihuana-infused products from a licensed marihuana processor.

(d) Sell or transfer marihuana and marihuana products to an individual 21 years of age or older only.

(e) Transfer marihuana to a marihuana safety compliance facility for testing.

(2) Except as otherwise provided in R 420.304, this rule, and the MRTMA, a class A marihuana microbusiness license authorizes a class A marihuana microbusiness to transfer marihuana only from the marihuana grower area to the marihuana retailer area of the class A marihuana microbusiness without using a marihuana secure transporter if all areas of the class A marihuana microbusiness enter each transfer between different areas of the class A marihuana microbusiness into the statewide monitoring system.

(3) A class A marihuana microbusiness shall not operate at multiple locations.

(4) A class A marihuana microbusiness shall accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(5) A class A marihuana microbusiness may purchase or accept the transfer of marihuana seeds, tissue cultures, clones, or marihuana plants at any time from another grower licensed under the acts, these rules, or both. A class A marihuana microbusiness shall not sell or transfer marihuana seeds, tissue cultures, or clones received under this subrule.

(6) A class A marihuana microbusiness shall not purchase or receive marihuana from a licensed marihuana processor.

(7) A class A marihuana microbusiness license is subject to all applicable provisions in the MRTMA and these rules related to a marihuana grower and marihuana retailer license except for R 420.102(8).

(8) A class A marihuana microbusiness may accept the transfer of marihuana plants only once upon licensure from a registered primary caregiver if the registered primary caregiver was an applicant for that class A marihuana microbusiness license.

(9) A class A marihuana microbusiness may not purchase or accept a mature plant from an individual, registered qualifying patient, or registered primary caregiver, except as authorized under subdivision (5) and subdivision (8) of this rule.

History: 2022 MR 5, Eff. Mar. 7, 2022.

#### **R 420.106 Marihuana secure transporter license.**

Rule 6. (1) A marihuana secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana establishments for a fee upon request of a person with legal custody of that marihuana or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver. If a marihuana secure transporter has its primary place of business in a municipality that has not adopted an ordinance under section 6 of the MRTMA, MCL 333.27956, prohibiting marihuana establishments, the marihuana secure transporter may travel through any municipality.

(2) A marihuana secure transporter shall accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(3) A marihuana secure transporter shall comply with all of the following:

(a) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(b) Each vehicle must be operated with a 2-person crew, with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(c) A route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(d) The marihuana must be transported in 1 or more sealed containers and not be accessible while in transit.

(e) A secure transporting vehicle may not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(f) A secure transport vehicle may be stored at a location that is not the primary place of business of the secure transporter if the vehicle does not contain marihuana products and the address of storage is reported to the agency.

(4) A marihuana secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the MRTMA and these rules.

(5) A marihuana secure transporter may transfer marihuana and marihuana product to another marihuana secure transporter for the purpose of completing a transfer between marihuana establishments as long as all of the following are complied with:

(a) The transfer of marihuana or marihuana product takes place at a location that is licensed as a marihuana secure transporter.

(b) The transfer of product between marihuana secure transporters is on the manifest in the statewide monitoring system.

(c) The transfer of product between marihuana secure transporters occurs as a result of a request by the marihuana establishment that has sent the product to another marihuana establishment.

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

#### **R 420.107 Marihuana safety compliance facility license.**

Rule 7. (1) A marihuana safety compliance facility license authorizes the marihuana safety compliance facility to do all of the following without using a marihuana secure transporter:

(a) Take marihuana from, test marihuana for, and return marihuana to only a licensed marihuana establishment.

(b) Collect a random sample of marihuana at the marihuana establishment of a marihuana grower, marihuana processor, marihuana retailer, marihuana microbusiness, or class A marihuana microbusiness for testing.

(c) Receive marihuana from and test marihuana for an individual 21 years of age or older. The marihuana safety compliance facility shall keep documentation for proof of age.

(2) A marihuana safety compliance facility must be accredited by an entity approved by the agency within 1 year after the date the marihuana safety compliance facility license is issued or have previously provided drug testing services to this state, or this state's court system, and be a vendor in good standing in regard to those services. The agency may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(3) A marihuana safety compliance facility that has not achieved accreditation as required under subrule (2) of this rule may not perform safety compliance testing or research and development testing for a licensed marihuana establishment and may not charge or collect any fee for testing performed until compliance with subrule (2) of this rule is demonstrated to the agency.

(4) A marihuana safety compliance facility shall comply with all of the following:



(a) Perform safety tests to certify that marihuana is reasonably free of known contaminants in compliance with the standards established by the agency.

(b) Use validated test methods to perform all safety tests and to determine tetrahydrocannabinol (THC), tetrahydrocannabinol acid (THC-A), cannabidiol (CBD), and cannabidiol acid (CBD-A) concentrations.

(c) Perform other tests necessary to determine compliance with good manufacturing practices as prescribed in these rules.

(d) Accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(e) Have a secured laboratory space that cannot be accessed by the general public.

(f) Retain and employ at least 1 laboratory manager with a relevant advanced degree in a medical or laboratory science. -A laboratory manager is responsible for the following duties, including, but not limited to:

(i) Ensure tests are conducted in accordance with R 420.305.

(ii) Ensure test results are accurate and valid.

(iii) Oversee day-to-day operations.

(iv) Validate reporting requirements in the statewide monitoring system.

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

## **PART 2. LICENSEES UNDER THE MEDICAL MARIHUANA FACILITIES LICENSING ACT**

### **R 420.108 Grower license.**

Rule 8. (1) A grower license authorizes the grower to grow not more than the following number of marihuana plants under the indicated license class for each license the grower holds in that class:

(a) Class A – 500 marihuana plants.

(b) Class B – 1,000 marihuana plants.

(c) Class C – 1,500 marihuana plants.

(2) For the purposes of this rule, a marihuana plant that meets the definition of a plant in the MMFLA is included in the plant count in subrule (1) of this rule.

(3) Except as otherwise provided in this subrule, a grower license authorizes sale of marihuana and marihuana plants to a grower only by means of a secure transporter. A grower license authorizes the sale or transfer of seeds, seedlings, or tissue cultures to a grower from a registered primary caregiver or another grower without using a secure transporter.

(4) A grower license authorizes a grower to transfer marihuana without using a secure transporter to a processor or provisioning center if both of the following are met:

(a) The processor or provisioning center occupies the same location as the grower and the marihuana is transferred using only private real property without accessing public roadways.

(b) The grower enters each transfer into the statewide monitoring system.

(5) A grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, and cuttings, to a processor or a provisioning center.

(6) Except as otherwise provided in subrules (2) and (3) of this rule and section 505 of the MMFLA, MCL 333.27505, a grower license authorizes the grower to transfer marihuana only by means of a secure transporter.

(7) To be eligible for a grower license, the applicant and each investor in the grower must not have an interest in a secure transporter or safety compliance facility.

(8) A grower shall accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

(89) A grower license does not authorize the grower to operate in an area unless the area is zoned for industrial or agricultural uses or is unzoned and otherwise meets the requirements established in section 205(1) of the medical marihuana facilities licensing act, MCL 333.27205.

(10) A grower may not purchase or accept a mature plant from an individual, registered qualifying patient, or registered primary caregiver.

(11) A grower may not accept marihuana or marihuana product back from a processor or provisioning center once it has been received into the processor or provisioning center's inventory in the statewide monitoring system, without obtaining written approval from the agency.

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

#### **R 420.109 Processor license.**

Rule 9. (1) A processor license authorizes the processor to purchase marihuana only from a grower and sell marihuana-infused products or marihuana only to a provisioning center or another processor.

(2) Except as otherwise provided in section 505 of the medical marihuana facilities licensing act, MCL 333.27505, and this subrule, a processor license authorizes the processor to transfer marihuana only by means of a secure transporter. A processor license authorizes a processor to transfer marihuana without using a secure transporter to a grower or provisioning center if both of the following are met:

(a) The grower or provisioning center occupies the same location as the processor and the marihuana is transferred using only private real property without accessing public roadways.

(b) The processor accurately enters each transfer into the statewide monitoring system.

(3) To be eligible for a processor license, the applicant and each investor in the processor may not have an interest in a secure transporter or safety compliance facility.

(4) A processor shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

(5) A processor may not accept marihuana or marihuana product back from a provisioning center once it has been received into the provisioning center's inventory in the statewide monitoring system, without obtaining written approval from the agency.

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

#### **R 420.110 Secure transporter license.**

Rule 10. (1) A secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money. -It does not authorize transport of marihuana products to a registered qualifying patient or registered primary caregiver. If a secure transporter has its primary place of business in a municipality that has adopted an

ordinance under section 205 of the MMFLA, MCL 333.27205, authorizing the marihuana facility, the secure transporter may travel through any municipality.

(2) To be eligible for a secure transporter license, the applicant and each investor with an interest in the secure transporter may not have an interest in a grower, processor, provisioning center, or safety compliance facility and may not be a registered qualifying patient or registered primary caregiver.

(3) A secure transporter shall accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

(4) A secure transporter shall comply with all of the following:

(a) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(b) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(c) Each vehicle must be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(d) A route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(e) The marihuana must be transported in 1 or more sealed containers and not be accessible while in transit.

(f) A secure transporting vehicle may not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(g) A secure transport vehicle may be stored at a location that is not the primary place of business of the secure transporter if the vehicle does not contain marihuana products and the address of storage is reported to the agency.

(5) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the MMFLA.

(6) A secure transporter may transfer marihuana and marihuana product to another secure transporter for the purpose of completing a transfer between medical marihuana facilities as long as all of the following are complied with:

(a) The transfer of marihuana or marihuana product takes place at a location that is licensed as a secure transporter.

(b) The transfer of product between secure transporters is on the manifest in the statewide monitoring system.

(c) The transfer of product between secure transporters occurs as a result of a request by the medical marihuana facility that has sent the product to another medical marihuana facility.

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

#### **R 420.111 Provisioning center license.**

Rule 11. (1) A provisioning center license authorizes the purchase or transfer of marihuana only from a grower or processor and sale or transfer to only a registered qualifying patient or registered primary caregiver. Except as otherwise provided in section 505 of the MMFLA, MCL 333.27505, and this subrule, all transfers of marihuana to a provisioning center from a separate marihuana facility must be by means of a secure transporter. A transfer of marihuana to a provisioning center

from a marihuana facility that occupies the same location as the provisioning center does not require a secure transporter if the marihuana is transferred to the provisioning center using only private real property without accessing public roadways.

(2) A provisioning center license authorizes the provisioning center to transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter or as provided in section 505 of the MMFLA, MCL 333.27505.

(3) To be eligible for a provisioning center license, the applicant and each investor in the provisioning center may not have an interest in a secure transporter or safety compliance facility.

(4) A provisioning center shall comply with all of the following:

(a) Sell or transfer marihuana to a registered qualifying patient or registered primary caregiver only after it has been tested and bears the label required for retail sale.

(b) Accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

(c) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver, hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily and monthly purchasing limit established by the agency under the MMFLA.

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

#### **R 420.112 Safety compliance facility license; exception for industrial hemp.**

Rule 12. (1) In addition to transfer and testing as authorized in section 203 of the MMFLA, MCL 333.27203, a safety compliance facility license authorizes the safety compliance facility to do all of the following without using a secure transporter:

(a) Take marihuana from, test marihuana for, and return marihuana to only a marihuana facility.

(b) Collect a random sample of marihuana at the marihuana facility of a grower, processor, or provisioning center for testing.

(2) A safety compliance facility must be accredited by an entity approved by the agency by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The agency may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(3) A safety compliance facility that has not achieved accreditation as required by subrule (2) of this rule may not perform safety compliance testing or research and development testing for a licensed marihuana facility and may not charge or collect any fee for testing performed until compliance with subrule (2) of this rule is demonstrated to the agency.

(4) To be eligible for a safety compliance facility license, the applicant, and each investor with any interest in the safety compliance facility must not have an interest in a grower, secure transporter, processor, or provisioning center.

(5) A safety compliance facility shall comply with all of the following:

(a) Perform tests to certify that marihuana is reasonably free from chemical residues such as fungicides and insecticides.

(b) Use validated methods for all testing required by the agency.

(c) Perform tests that determine whether marihuana complies with the standards the agency establishes.

(d) Perform additional tests necessary to determine compliance with any other good manufacturing practices as prescribed in these rules.

(e) Accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

(f) Have a secured laboratory space that cannot be accessed by the general public.

(g) Retain and employ at least 1 laboratory manager with a relevant advanced degree in a medical or laboratory science. A laboratory manager ~~shall be~~ is responsible for the following duties, including, but not limited to:

(i) Ensure tests are conducted in accordance with R 420.305.

(ii) Ensure test results are accurate and valid.

(iii) Oversee day-to-day operations.

(iv) Validate reporting requirements in the statewide monitoring system.

(6) A safety compliance facility is not prohibited from taking or receiving industrial hemp for testing purposes and testing the industrial hemp pursuant to the industrial hemp research and development act.

History: 2020 AACCS; 2022 MR 5, Eff. Mar. 7, 2022.

### **PART 3. AGREEMENTS**

#### **R 420.112a Licensing, management, or other agreements.**

Rule 12a. (1) A licensee may contract with another party to use the other party's intellectual property or for the other party to provide management or other services necessary for the operation of the licensee pursuant to a licensing or management agreement approved by the agency.

(2) A licensee shall submit a complete, unredacted, signed copy of the licensing, management, or other agreement to the agency for review and approval prior to performance under the agreement. Approval by the agency indicates an agency determination that it does not appear based upon the information provided that the other party meets the definition of applicant.

(3) The agreement must include, but is not limited to, all of the following:

(a) All payment terms between the parties. Licensing agreements must also include a requirement that all payments made to the other party pursuant to the licensing agreement must be made by the licensee and not by any other licensee purchasing the marihuana product.

(b) Terms specifically naming and clearly defining any service to be performed pursuant to the agreement.

(c) Terms specifically requiring all business operations related to the production, sales, invoicing, and payment for marihuana products sold pursuant to a licensing agreement must be performed by the licensee.

(d) A statement indicating that the agreement contains the entire agreement of the parties.

(4) Terms that may indicate the other party meets the definition of applicant and is thereby subject to application requirements, include, but are not limited to, the following:

(a) Any term or condition that would allow the other party to exercise control over or participate in the management of the licensee. This does not include control or terms specific to a licensing agreement such as production method or packaging requirements.

(b) Any term or condition that would allow the other party to receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.

(c) Any term or condition that would result in the other party obtaining an ownership interest in the marihuana business or taking possession or ownership of marihuana product owned by the marihuana business.

(d) Any term or condition that would require the licensee to name the other party as a named insured on any insurance policy required to be maintained as a condition of a marihuana license.

(5) Any term or condition that would allow the licensee to use an assumed name or doing business as in the operation of the licensee is not operative unless the licensee has complied with the requirements of 1907 PA 101, MCL 445.1 to 445.5.

(6) The licensee shall provide any other information requested by the agency that is not inconsistent with the acts and these rules.

History: 2022 MR 5, Eff. Mar. 7, 2022.

### **R 420.113 Severability.**

Rule 13. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2020 AACCS.