

Notice of Emergency Rule

DEPARTMENT OF HEALTH

RULE NO.: RULE TITLE:

64ER22-8 Dosing and Supply Limits for Medical Marijuana

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Pursuant to Chapter 2022-157, § 15, Laws of Florida, the Department is not required to make findings of an immediate danger to the public, health, safety, or welfare.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Department of Health is directed by Chapter 2022-157, § 18, Laws of Florida, to adopt emergency rules to implement section 381.986, Florida Statutes.

SUMMARY: This emergency rule implements section 381.986(4)(f), Florida Statutes, by quantifying a daily dose amount with equivalent dose amounts for each allowable form of marijuana dispensed by a medical marijuana treatment center. This rule also establishes submission procedures of a request for an exception to the daily dose amount limit, the 35-day supply limit of marijuana in a form for smoking, and the 4-ounce possession limit of marijuana in a form for smoking.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Breanne Ereckson at OMMURules@flhealth.gov.

THE FULL TEXT OF THE EMERGENCY RULE IS:

64ER22-8 Dosing and Supply Limits for Medical Marijuana.

(1) Pursuant to s. 381.986(4)(f), F.S., a qualified physician may not issue a physician certification for more than three 70-day supply limits of marijuana or more than six 35-day supply limits of marijuana in a form for smoking. The 70-day supply limit and 35-day supply limit are set forth in this rule.

(2) A 35-day supply limit for marijuana in a form for smoking shall not exceed 2.5 ounces. Marijuana in a form for smoking shall only be dispensed by an MMTC as usable whole flower, ground usable whole flower, or prerolled marijuana cigarettes. An MMTC may not dispense usable whole flower, ground usable whole flower, or prerolled marijuana cigarettes under any other route of administration (e.g., vaporization).

(3) The equivalent daily dose amount limit and 70-day supply limit for approved routes of administration of marijuana are as follows:

<u>Route of Administration</u>	<u>Daily Dose Amount</u>	<u>70-Day Supply Limit</u>
<u>Edibles</u>	<u>60 mg THC</u>	<u>4,200 mg THC</u>
<u>Inhalation (e.g., vaporization)</u>	<u>350 mg THC</u>	<u>24,500 mg THC</u>
<u>Oral (e.g., capsules, tinctures)</u>	<u>200 mg THC</u>	<u>14,000 mg THC</u>
<u>Sublingual (e.g., sublingual tinctures)</u>	<u>190 mg THC</u>	<u>13,300 mg THC</u>
<u>Suppository</u>	<u>195 mg THC</u>	<u>13,650 mg THC</u>
<u>Topical (e.g., creams)</u>	<u>150 mg THC</u>	<u>10,500 mg THC</u>
<u>Marijuana in a form for smoking</u>	<u>2.025 grams</u>	<u>N/A</u>

(4) An aggregate 70-day supply limit of marijuana, other than marijuana in a form for smoking, shall not exceed 24,500 mg of THC.

(5) A qualified physician may request an exception to the daily dose amount limit, the 35-day supply limit of marijuana in a form for smoking, and the 4-ounce possession limit of marijuana in a form for smoking by electronically submitting the information required by Form DH8031-OMMU-08/2022, "Request for Exception," incorporated by reference herein and available at <https://knowthefactsmmj.com/rules-and-regulations/>, to the department via the Medical Marijuana Use Registry.

(a) An exception to the 4-ounce possession limit for marijuana in a form for smoking will only be approved in conjunction with an approved exception to the 35-day supply limit for marijuana in a form for smoking.

(b) Upon receipt of the completed “Request for Exception” form through the Medical Marijuana Use Registry and any required documentation, the department will approve or disapprove the exception request within 14 calendar days.

(c) When submitting a “Request for Exception” to the department, a qualified physician is responsible for complying with the relevant practice act, Chapter 458 or 459, F.S., and any applicable standards of practice or practice requirements adopted thereunder. Violations are subject to disciplinary action by the governing regulatory board.

(6) Each approved exception is valid for up to the duration of the qualified patient’s physician certification(s), which shall not exceed 210 days. However, an approved exception is no longer valid and must be closed in the Medical Marijuana Use Registry by a qualified physician if:

(a) The qualified physician submits a new “Request for Exception” for the qualified patient and obtains department approval; or

(b) Upon accepting a qualified patient in the Medical Marijuana Use Registry who has an existing certification with a department-approved exception request, the new qualified physician shall have seven (7) calendar days to close the existing certification, including the approved exception request. If the new qualified physician does not close the existing certification within the prescribed timeframe, the existing certification will be automatically closed in the Medical Marijuana Use Registry.

(7) Any subsequent exception requests to the daily dose amount limit, the 35-day supply limit of marijuana in a form for smoking, and the 4-ounce possession limit of marijuana in a form for smoking must be submitted in accordance with subsection (5).

(8) An active physician certification(s) issued before the effective date of this rule that exceeds the daily dose amount limit defined herein shall be valid for the remaining duration of the physician certification(s). However, if a qualified physician makes any modifications to an existing certification after the effective date of this rule that renders the certification in excess of the daily dose amount limit prescribed herein, the qualified physician must submit an exception request pursuant to subsection (5).

(9) Any physician certifications submitted on or after the effective date of this rule shall be subject to the requirements herein.

(10) An MMTC shall not dispense, and a qualified patient may not obtain, more than a 70-day supply of marijuana within any 70-day period or more than a 35-day supply of marijuana in a form for smoking within any 35-day period, unless there is an approved exception in place.

(a) The 70-day period is measured by looking back 70 days from the date of each dispensation.

(b) The 35-day period is measured by looking back 35 days from the date of each dispensation.

(c) The amount of marijuana an MMTC may dispense to a qualified patient on any given day is calculated as follows:

1. The difference between the 35-day supply limit of marijuana in a form for smoking and the patient’s total dispensation history over the past 35-day period.

2. The difference between the 70-day supply limit of marijuana not in a form for smoking and the patient’s total dispensation history over the past 70-day period.

3. Notwithstanding the calculations in subparagraphs 10(c)1. and 10(c)2., an MMTC shall not dispense to a patient an amount exceeding the amount remaining on the patient’s current order. The amount remaining on a patient’s current order is calculated by subtracting all dispensations to the patient under the current order from the total amount allowed by such order.

(11) Notwithstanding subsection (10), an MMTC is permitted to dispense marijuana pursuant to an active physician certification issued before the effective date of this rule that exceeds the daily dose provided in subsection (3), as long as the certification start date begins within 210 days of the effective date of this rule.

Rulemaking Authority Art. X, § 29, Fla. Const., 381.986(4)(f), 381.986(4)(k), 381.986(8)(k), F.S. Law Implemented Art. X, § 29, Fla. Const., 381.986(4)(f), 381.986(8)(e), F.S. History-New 8-26-22.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 08/26/2022