

OREGON HEALTH AUTHORITY
DIVISION X

XXX-XXX-aaaa

Applicability

A person may not establish, conduct, maintain, manage or operate a facility on or after March 1, 2014, unless:

- ~~(1) The person has submitted an application to the Authority for registration of the facility in accordance these rules; or~~
- ~~(2) T~~the facility has been registered by the Authority under these rules.

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Definitions

- "Agricultural land" means land that is located within an exclusive farm use zone as that term is described in ORS 215.203.
- "Attended primarily by minors" means that a majority of the students are minors.
- "Authority" means the Oregon Health Authority.
- "Career school" means any private proprietary professional, technical, home study, correspondence, 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.
- "Conviction" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction
- Delivery of product means (is there a statute that can be pointed to?)
- Manufacturer of produt means (is there a statute that can be pointed to?)
- "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. "Designated primary caregiver" does not include the person's attending physician.
- "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.
- "Facility" means a medical marijuana facility.
- "Farm use" has the meaning given that term in ORS 215.203.
- "Finished product" means a product infused with marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures. "Finished product" is a form of usable marijuana.

Comment [sko1]: From ORS 345.010. Probably should take out references to home study and correspondence?

Comment [sko2]: From ORS 10.030

Comment [sko3]: From probate laws, ORS 111.005. Similar to Department of Revenue.

Comment [sko4]: This is was taken from Colorado's rule definition of "medical-marijuana infused product".

- "Grower" has the same meaning as "person responsible for a marijuana grow site."
 - "Immature marijuana plant" means a marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter. A seedling or start that does not meet all three criteria is a mature plant.
 - "Minor" means an individual under the age of 18.
 - "Oregon Medical Marijuana Program or OMMP" means the program operated and administered by OHA that registers patients, designated primary caregivers, and growers.
 - "Patient" has the same meaning as "registry identification cardholder."
 - "Person" means an individual.
 - "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".
 - "Person responsible for a medical marijuana facility or PRF" means an individual who owns, operates, or otherwise has legal responsibility for a facility.
 - "Primary school" means a learning institution containing any combination of grades Kindergarten - 8 or age level equivalent.
 - "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.
 - "Resident" means an individual who has a domicile within this state. ~~has resided in this state at least ___ consecutive months immediately prior to the date of making an application for registration of a facility.~~
 - "Secondary school" means a learning institution containing any combination of grades 9 - 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.
 - "Usable marijuana" has the meaning given that term is ORS 475.302 and includes "finished product".
- Stat. Auth.:
 - Stats. Implemented:

Comment [sko5]: From BOLI rules.

Comment [sko6]: The more I think about it, the less it makes sense to me to require a person to be in this state for a certain period of time before being able to open up a business. I think they just have to prove that they live here and intend to remain.

Comment [sko7]: From BOLI rules

Comment [sko8]: Form needs to be created. The form should include the following language:

I certify the information on this application is true and correct to the best of my knowledge. I understand my application may be returned as incomplete, denied, or the facility's registration revoked for making false statements in connection with this application for registration..

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Application for Medical Marijuana Facility Registration

- (1) A PRF wishing to apply to register a facility must provide to the Authority:
- (a) An application on a form prescribed by the Authority;

(b) Documentation that shows the facility is in compliance with OAR XXX-XXX-XXXX to XXX-XXX-XXXX;

(c) The applicable fee as specified in OAR XXX-XXX; and

(d) Any forms required for a criminal background check along with the applicable fee.

(2) An application for the registration of a facility may only be submitted [electronically via the Authority's website, \[insert web address\]](#).

(3) An application must be signed by the PRF.

(4) The Authority must review each application received to ensure the application is complete, that the required documentation has been submitted, and the fee paid. The Authority shall return incomplete applications and the fee minus a \$ [redacted] service charge to the person that submitted the application. A person may re-submit an application that was returned as incomplete at any time.

(5) Applications will be reviewed in the order they are received by the Authority. [An application that is returned as incomplete must be treated by the Authority as if it was never received.](#)

[\(6\) A PRF who wishes to register more than one location must submit a separate application and application fee for each location.](#)

[\(7\) At the time of application the Authority must request that a PRF sign an authorization permitting the Authority to publish the location of the facility if the facility is registered.](#)

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Fees

(1) The initial application fee for the registration of a facility is \$ [redacted].

(2) The annual renewal fee for the registration of a facility is \$ [redacted].

(3) An application fee, minus a \$ [redacted] service charge, is refundable if an applicant submits a request to the Authority in writing to withdraw an application and the Authority has not yet begun any significant work in reviewing the application.

(4) If the Authority denies the application [in accordance with OAR XXX-XXX-eeee](#), the registration fee is not refundable.

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Application Review

(1) Once the Authority has determined that an application is complete it must review the application to determine compliance with Oregon Laws 2013, Chapter 726 and these rules.

(2) The Authority may, in its discretion, prior to acting on an application:

(a) Contact the applicant and request additional documentation or information; and

(b) Inspect the premises of the proposed facility.

(3) Prior to making a decision whether to approve or deny an application the Authority must:

Comment [sko9]: It was suggested by one of the RAC members to move this to below all the sections dealing with applications.

(a) Ensure that the criminal background check process has been completed and review the results;

(b) Contact the [OMMP](#) and obtain documentation of whether the location of the facility is the same location as a registered grow site under OAR 333-008-0025; and

(c) Review the list of registered facilities to determine whether any registered facilities are within 1,000 feet of the proposed facility.

(4) If during the review process the Authority determines that the application or supporting documentation contains false or misleading information the Authority may return the application to the applicant as incomplete. If an application is returned as incomplete under this section the application fee may not be refunded.

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Approval of Application

(1) If the proposed facility appears to be in compliance with Oregon Laws 2013, Chapter 726 and these rules, and the [PRF](#) has passed the criminal background check, the Authority [must](#) notify the applicant in writing that the application has been approved, that the facility is registered, and provide the applicant with proof of registration [that includes a unique registration number](#).

(2) A facility that has been registered must display proof of registration in [a prominent place inside the facility so that proof of registration is easily visible inside or outside the facility to individuals authorized to transfer usable marijuana and immature plants and individuals who are authorized to receive a transfer of usable marijuana and immature plants on the premises of the facility](#) at all times when usable marijuana or immature plants are being transferred. A registered facility may not post any signs at the facility that use the Authority or the [OMMP](#) name or logo except to the extent that information is contained on the proof of registration.

(3) A facility's registration is only valid for the location indicated on the proof of registration and is only issued to the [PRF](#) that is listed on the application.

(4) A facility's registration may not be transferred to another location or to a person other than the [PRF](#) that is listed on the application.

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Denial of Application

(1) The Authority may deny an application if:

(a) An applicant fails to provide sufficient documentation that the proposed facility meets the qualifications for a facility in these rules; [or](#)

(b) The [PRF](#) has been:

Comment [sko10]: Agencies are encouraged not to use "will". We have to notify the applicant in writing so we should use must.

(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](#).

(2) 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.

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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 days of the registration's expiration:

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

(b) The required renewal fee;

(c) Forms required for the Authority to do a criminal background check.

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Notification of Changes

(1) A [PRF](#) must notify the Authority within [10](#) days of any of the following:

(a) The person's conviction of a manufacture or delivery of a controlled substance in Schedule I or Schedule II;

(b) The issuance of a court order that prohibits the person from participating in the [OMMP](#);

(c) A [decision to](#) change [the PRF](#);

(d) A decision to close the facility;

(e) A decision to move to a new location;

[\(f\) A change in the person's residency;](#)

[\(g\) The location of an elementary, secondary or career school attended primarily by minors within 1,000 feet of the facility; and](#)

[\(h\) A change in the zoning where the facility is located that would affect the facility's ability to meet the criteria in XX-XXX-KKKK\(1\).](#)

(2) [Notification must include a description of what has changed and any documentation necessary for the Authority to determine whether the facility is still in compliance with Oregon Laws, Chapter 726 and these rules including but not limited to:](#)

[\(a\) A copy of the criminal judgment or order;](#)

- (b) A copy of the court order prohibiting the PRF from participating in the OMMP;
 - (c) The location of the school that has been identified as being within 1,000 feet of the facility.
- (3) Failure to notify the Authority in accordance with this rule may result in revocation of a facility's registration.

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Required Closures

A facility may not receive transfers of usable marijuana or immature plants or transfer usable marijuana or immature plants if:

- (1) The PRF is convicted as described in OAR XXX-XXX-XXXX-iiii(1)(a) or (b);
- (2) The PRF changes and the Authority has not:
 - (a) Performed a criminal background check on the proposed PRF in accordance with XXX-XXX-mmmm;
 - (b) Determined whether the individual is a resident of Oregon; and
 - (c) Provided written approval that the new PRF meets the requirements of Oregon Laws 2013, Chapter 726.
- (3) The PRF has been ordered by the court not to participate in the OMMP.
- (4) An elementary, secondary or career school attended primarily by minors is found to be within 1,000 of the registered facility; or
- (5) The location of the facility has been re-zoned such that the facility no longer meets the requirements of OAR XXX-XXX-kkkk(1).

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Business Qualifications for Medical Marijuana Facility Registration

- (1) A facility must be registered as a business or at the time of applying to register a facility have filed a pending application to register as a business with the Office of the Secretary of State.
- (2) The Authority may not approve an application until the applicant provides proof of registration as a business with the Office of the Secretary of State.
- (3) Proof of a business license issued by the local governing agency.

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Locations of Medical Marijuana Facilities

- (1) A facility may only be located in an area that is zoned by the appropriate governmental body local governing agency for commercial, industrial or mixed use or as agricultural land.
- (2) A facility may not be located:
 - (a) At the same address as a registered marijuana grow site;

Comment [D11]: If local government does not grant a business license may we grant a registration permit?

Comment [sko12]: I don't think we can require this. Only Sec. of State registration.

Comment [D13]: City or county zoning will govern

Comment [sko14]: Need to figure out if this is the right language.

Comment [D15]: Do we need to specifically link this back to the OMMP program?

Comment [sko16]: If you look at the application review rule I say that we have to check the OMMP database to determine this.

(b) Within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors; or

(c) Within 1,000 feet of another medical marijuana facility;

(3) In order for the Authority to ensure compliance with this rule a [PRF](#) must submit with an initial application:

(a) A document from a governmental entity that shows the current zoning for the location of the proposed facility [and that if the facility is proposed to be located in agricultural land that the facility's use is an approved use within an exclusive farm use zone](#);

(b) A map of the area in which the proposed facility is located that identifies by name, all public or private elementary, secondary or career schools.

(c) A document that shows the addresses and contact information of all the schools referenced in subsection (b) of this section, the distances between each of the schools and the proposed facility, and a description of how the distances were determined.

(4) For purposes of determining the distance between a facility and a school referenced in section (3)(b) of this rule, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from any point on the boundary line of the real property comprising an existing public or private elementary, secondary or career school primarily attended by minors.

[\(5\) For purposes of determining the distance between a facility and another registered facility "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from any point on the boundary line of the real property comprising a registered facility.](#)

[\(6\) In order to be registered a facility must operate at a particular location as specified in the application and may not be mobile.](#)

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Person Responsible for a Medical Marijuana Facility ([PRF](#))

(1) A [PRF](#) must:

[\(a\) Be](#) a resident of Oregon. Residency may be proved by submitting to the Authority:

[\(A\)](#) An Oregon Driver's license or Oregon 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 ~~home~~ address of the [domicile of the PRF person responsible for the facility for at least months prior to the month in which the application was submitted to the Authority.](#)

[\(b\) \(2\) A person responsible for a facility must:](#)

[\(a\)](#) 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:](#)

Comment [D17]: Is there a list some place we should refer people to? Does Dept of Education maintain such a list? Especially important for private schools? What is a day care setting?

Comment [sko18]: From HB 3434.

Comment [D19]: Good but at least in Portland there are schools associated with Parks. Check out Chapman elementary.

(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 the person is convicted and the date of application; or
(b) Have been convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II.
(3) At the time of application a PRF must submit to the Authority a copy of the information described in section (1)(a) of this rule and must disclose whether he or she has any disqualifying convictions as described in section (2) of this rule.
(4) 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 Oregon Laws 2013, Chapter 726, or these rules. ~~(c) proof of legal ownership of business~~
~~(d) location of resources to open business~~
and

Comment [sko20]: Did I say this right?

Comment [sko21]: Should have a check box for this on the application.

Comment [D22]: Both of these are aimed at transparency on actual ownership of business. I don't want to discover that some criminal put up the money for the business using a front person.

Comment [sko23]: I'm not sure what proof this would be or whether we have the authority to request it.

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Criminal Background Checks

(1) A person responsible for a facility PRF must, at the time of application, provide to the Authority:

(a) A criminal background check request form, prescribed by the Authority that includes but is not limited to the person's:

- (A) First, middle and last name;
- (B) Any aliases;
- (C) Date of birth;
- (D) Driver's license information; and
- (E) Address and recent residency information;

(b) A fingerprint card ~~if the person has been outside of Oregon for 60 or more consecutive days during the previous five years~~; and

(c) ~~If a fingerprint-based criminal background check is required, a~~ fee of \$.

(2) The Authority may request that the PRF disclose his or her Social Security Number if ~~the person is provided with a~~ notice is provided that:

- (a) Indicates the disclosure of the Social Security Number is voluntary; and
- (b) That the Authority requests the Social Security Number solely for the purpose of positively identifying the PRF during the criminal records check process.

(3) The Authority shall conduct a criminal records check in order to determine whether the PRF has been convicted of the manufacture or delivery of a controlled substance in Schedule I or Schedule II in any state.

(4) The Authority must conduct a criminal background check in accordance with this rule on a PRF every year at the time of application renewal.

Comment [sko24]: Form needs to be created.

Comment [D25]: Can we do a background check without a SS number?

Comment [sko26]: We can try. We can't require SSNs so this is the best we can do.

(5) If a [PRF](#) wishes to challenge the accuracy or completeness of information provided by the Department of State Police, the Federal Bureau of Investigation and agencies reporting information to the Department of State Police or Federal Bureau of Investigation, those challenges must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process specified in XXX-[gggg](#).

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Security

- (1) A [PRF](#) must ensure that _____.
- (2) At the time of application a [PRF](#) must submit to the Authority [plans that meet the requirements in section of this rule, but security system is not required to have been installed at the time of application as long as the PRF is able to demonstrate that the security system that is proposed for installation if the facility is registered, meets the requirements in this rule.](#)

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Testing

- (1) A [PRF](#) must ensure that [usable marijuana and immature plants are tested for pesticides, mold and mildew in accordance with these rules prior to the useable marijuana or immature plants being transferred to a patient or the designated primary caregiver of a patient.](#)
- (2) [Notwithstanding section \(1\) of this rule a PRF may accept the results of testing from an individual authorized to transfer useable marijuana to the facility, if:](#)
- [\(a\) The testing complies with this rule; and](#)
 - [\(a\) The useable marijuana being transferred is a finished product.](#)
- (3) [At the time of application a PRF must submit to the Authority policies and procedures that ensure compliance with this rule.](#)
- (4) [A PRF must ensure that when usable marijuana or an immature plant is sent for testing the following information is documented:](#)
- [\(a\) The amount of usable marijuana or number of immature plants that are being sent for testing;](#)
 - [\(b\) A tracking number associated with that usable marijuana or immature plant;](#)
 - [\(c\) The date usable marijuana or an immature plant was sent for testing; and](#)
 - [\(d\) Where the usable marijuana or immature plant was sent for testing.](#)

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Operation of Registered Facilities

A PRF may not permit:

(1) Entry into a registered facility by any individual unless that individual shows proof that he or she:

- (a) Is a patient, caregiver or grower currently registered with OMMP;
- (b) The custodial parent or legal guardian accompanying a minor patient currently registered with OMMP; or
- (c) Has submitted an application to the OMMP.

(2) Consumption of usable marijuana on the premises of the registered facility.

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Record Keeping

(1) A PRF must ensure that the following information is documented and maintained electronically in a manner that can easily be shared with the Authority:

- (a) All Authorization to Transfer forms, including the date on which a form was received;
- (b) All transfer agreement forms;
- (c) Any written notifications from a patient with regard to any change in status as required by ORS 475.309(7)(a)(B) or (10)(a);
- (d) Any revocation of an Authorization to Transfer form;
- (e) The amount weight or volume, in grams, milliliters or liters of all usable marijuana and number of immature plants, including finished products received by the registered facility, who the marijuana, plants, or finished products was received from, and the date the marijuana or plants were received;
- (f) A description of the form the usable marijuana was in when it was received (for example plant material, oil, food, etc.);
- (g) The name and OMMP card number or proof of application of each individual to whom the registered facility transfers usable marijuana or an immature plant, the amount of usable marijuana and number of plants transferred to each individual, and the date of the transfer;
- (h) The amount of money paid any reimbursement provided by a patient or a designated primary caregiver for a patient an individual to the registered facito a registered facility for a transfer of usable marijuana or an immature plant;
- (i) The costs of doing normal and customary being business used to establish the reimbursement amounts for transfers of usable marijuana or immature plants, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.
- (j) The amount of money paid by a registered facility to a grower for each transfer of usable marijuana or immature plants;
- (k) The results of all testing;
- (l) [something related to security?]

Comment [D27]: Is this defined? How long does a form stay in effect?

Comment [D28]: Defined? Different from authorization to transfer

Comment [sko29]: A form stays in effect until it is revoked or until the patient is no longer a cardholder. Whether or not it is still valid, the facility needs to keep the forms for some period of time. These are 2 different forms. See the rules below.

Comment [sko30]: Need help with describing this properly.

Comment [PME31]: I think this would qualify as Protected Health Information, in which case this'd have to be HIPAA compliant, right?

Comment [sko32]: No because this program isn't considered a covered entity.

Comment [D33]: In a standard unit of weight

Comment [D34]: Should this be defined? There is a long list in 9(a) of the bill. Do the terms in there need to be defined?

Formatted: Indent: First line: 0.5"

Comment [sko35]: The bill contemplates that these facilities can process. Therefore, I'm not sure we can say they can't process.

(m) All policies and procedures.

(2) The PRF must ensure that information required to be documented and maintained pursuant to section (1) of this rule must be is maintained in a safe and secure manner that protects the information from theft, fire, or other destructive forces, and is must be easily retrievable for inspection by the Authority upon request. If the information required to be documented is kept at a location other than the registered facility the PRF must inform the Authority where the information is kept and that location is subject to inspection.

(3) A PRF must use an inventory tracking system that has features similar to those in the software marketed by BiotrackTHC or MJ Freeway®.

(4) Documents must be maintained by the PRF for at least [redacted] years.

Comment [D36]: Immediately? What does this word mean. I will hand you a stack of papers? A thumb drive? I have to go to another location to get it?

Comment [sko37]: This is language taken from health facility licensing rules. It should not mean that it is kept elsewhere.

Comment [sko38]: Would be better to describe those features. Need info from Geoff.

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Labeling

(1) Prior to transferring usable marijuana a PRF must ensure that a label is affixed to the usable marijuana that includes but is not limited to:

(a) The amount of tetrahydrocannabinol (THC) in the usable marijuana;

(b) The weight or volume of the usable marijuana;

(c) The amount and description of any pesticides in the usable marijuana; and

(d) A warning, if applicable, that the usable marijuana tested positive for mold or mildew.

(2) If the registered facility transfers usable marijuana in a form that is edible, the PRF must ensure that the usable marijuana has a warning label that includes the following: "WARNING: MEDICINAL PRODUCT – KEEP OUT OF REACH OF CHILDREN" in bold capital letters, and prominently displayed on the product.

Comment [sko39]: If no amount is permitted we can take this out.

Comment [sko40]: This language is in Colorado's rule.

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Transfers of Medical Marijuana

(1) A patient may authorize usable marijuana or immature marijuana plants to be transferred to a registered facility by signing an Authorization to Transfer form prescribed by the Authority. A patient may authorize transfers to more than one registered facility. A separate form must be used for each registered facility. The Authorization must include, but is not limited to, the following information:

(a) The patient's name, OMMP card number and contact information;

(b) The name and contact information of the individual who is authorized to transfer the usable marijuana or immature marijuana plants to the registered facility and that individuals' OMMP card number;

(c) The name and address of the registered facility that is authorized to receive the usable marijuana or immature marijuana plants; and

Comment [sko41]: Form needs to be created.

(d) The maximum amount of usable marijuana, maximum number of immature plants or type and amount of finished product that is authorized to be transferred to the registered facility.

(2) Only a patient, the patient's designated primary caregiver, or the patient's grower may be authorized to transfer usable marijuana or immature plants to a registered facility.

(3) An Authorization to Transfer form must be submitted by the patient to the registered facility to which a transfer may be made.

(4) Once a PRF receives an Authorization to Transfer form the PRF must provide the patient with a transfer agreement that the patient, the PRF, and any individual authorized to transfer must sign, date, and return to the PRF. A registered facility may not receive a transfer until a transfer agreement has been signed in accordance with this rule.

(5) A transfer agreement must include but is not limited to:

(a) A description of what the PRF will accept, including amounts and numbers, and how often;

(b) The amount of money, if any, the person responsible for the registered facility will provide to the grower and how and when this reimbursement will occur;

(c) Under what conditions usable marijuana, immature plants, or finished product will be returned to the patient or individual who made the transfer, registered identification cardholder, designated primary caregiver, or person responsible for a growsite, as applicable, if the usable marijuana, immature plants, or finished product are found to be contaminated with pesticides, mold, or mildew;

(d) The notice required to be given by a PRF or a patient if either party no longer wishes to transfer or receive transfers. Nothing in this section relieves the patient of his or her responsibility to provide notice in accordance with ORS 475.309(7)(a)(B) and (10)(a).;

(d) Under what conditions usable marijuana or immature plants may be destroyed and whether the registered identification cardholder will receive notice prior to the destruction in order to request that the usable marijuana or immature plants be returned; and

(e) The process for a registered identification cardholder to request that usable marijuana or immature plants be returned and to what extent any money received by the person responsible for a growsite for the transfer must be refunded to the person responsible for a registered facility.

(5) Prior to a registered facility transferring usable marijuana or an immature plant to a patient or a designated primary caregiver the facility must:

(a) Verify that the product is free from mold, mildew and pesticides in accordance with OAR XXX-XXX-0000.

(b) Verify the identity of the person requesting usable marijuana or an immature plant by looking at the individual's picture identification;

(c) Verify that the person requesting usable marijuana or an immature plant is a patient or designated primary caregiver by looking at the individual's OMMP card or by reviewing the proof that an application has been submitted to the OMMP;

(d) Ensure that the names on the person's picture identification and OMMP card match;

Comment [sko42]: Not sure if this will actually be the requirement.

(e) Verify that an adult accompanying a minor who is a patient is the minor's custodial parent or legal guardian; and

(f) Document the information required in OAR XXX-XXX-pppp in a format required by the Authority.

(6) Prior to a registered facility accepting a transfer of usable marijuana or immature plants the PRF must:

(a) Verify that it has a valid Authorization to Transfer form on file that authorizes the individual that is transferring the usable marijuana or immature plants to make the transfer;

(b) Verify the identity of the individual and his or her cardholder status by taking the steps identified in Section (5)(a) to (c) of this rule; and

(c) Ensure that there is a signed transfer agreement that meets the criteria in XXX-XXX-qqqq.

(7) A PRF may not transfer usable marijuana or an immature plant to a minor unless the minor is accompanied by his or her custodial parent or legal guardian.

~~(7) A registered facility must return any usable marijuana or immature plants that are the property of the registry identification cardholder upon a written request by the registry identification cardholder.~~

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Inspections

(1) The Authority must conduct an initial inspection of every registered facility within [redacted] days/months of approving an application to ensure compliance with these rules, and must conduct a routine inspection of every registered facility at least every [redacted] years.

(2) The Authority may conduct a complaint inspection at any time following the receipt of a complaint that alleges a registered facility is in violation of Oregon Laws 2013, Chapter 726, or these rules.

(3) The Authority may conduct an inspection at any time if it believes, for any reason, that a registered facility or a PRF is in violation of Oregon Laws 2013, Chapter 726, or these rules.

(4) A PRF and any employees, contractors, or other individuals working at a registered facility must cooperate with the Authority during an inspection.

(5) If an individual at a registered facility fails to permit the Authority to conduct an inspection the Authority may seek an administrative warrant authorizing the inspection pursuant to ORS 431.262.

Stat. Auth.:

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Violations

(1) A PRF is in violation of Oregon Laws 2013, Chapter 726 or these rules for:

(a) Failing to cooperate with an inspection;

Comment [PME43]: I'm assuming this means they'd have to make a copy of the ID and OMMP card?

Comment [sko44]: Not necessarily. They could just write down the number.

Comment [sko45]: ORS 475.309(d) provides "The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age."

Comment [sko46]: Unannounced though they could refuse entry and if so we would have to get a warrant.

Comment [D47]: Does this allow for a no advance notice ie unannounced inspections?

Comment [D48]: What powers should OHA have for enforcement, if any?

Comment [sko49]: I'm not sure what you mean

(b) Submitting false or misleading information to the Authority in support of an application [or in seeking to retain registration](#);

(c) Transferring [usable marijuana](#) or immature plants to an individual who is not a [patient](#) or a designated primary caregiver;

(d) Accepting a transfer of usable marijuana or immature plants [without](#) a valid authorization from the [patient](#);

(e) [Possessing a mature marijuana plant](#);

(f) Failing to document and maintain information in the manner required by these rules;

(g) [Failing to submit a plan of correction in accordance with OAR XXX-XXX-tttt](#);

(h) [Failing to comply with a final order of the Authority](#); or

(i) Failing to comply with Oregon Laws 2013, Chapter 726 or any of these rules.

(2) [It is a violation of Oregon Laws 2013, Chapter 726 and these rules to operate a facility without being registered by the Authority.](#)

Comment [D50]: Is there "non-usable" marijuana? Thinking of leaves or "duff" that can't be transferred but does exist. We were told up to 10% by weight of what comes in "disappears" in dust and evaporation

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Enforcement

(1) Informal Enforcement

(a) If, during an inspection the Authority documents violations of Oregon Laws 2013, Chapter 726 or any of these rules, the Authority may issue a written Notice of Violation to the [PRF](#) that cites the laws alleged to have been violated and the facts supporting the allegations.

(b) The [PRF](#) must submit to the Authority a signed plan of correction within 10 business days from the date the Notice of Violation was mailed to the person. A signed plan of correction will not be used by the Authority as an admission of the violations alleged in the Notice.

(c) A [PRF](#) must correct all deficiencies within 10 days from the date of the Notice, unless an extension of time is requested from the Authority. A request for such an extension shall be submitted in writing and must accompany the plan of correction.

(d) The Authority must determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Authority it must notify the [PRF](#) in writing and request that the plan of correction be modified and resubmitted no later than 10 working days from the date the letter of non-acceptance was mailed.

(e) If the registered facility does not come into compliance by the date of correction reflected on the plan of correction, the Authority may propose to revoke the registration of the facility or impose civil penalties.

(f) The Authority may conduct an inspection at any time to determine whether a registered facility has corrected the deficiencies in a Notice of Violation.

(2) **Formal Enforcement:** If, during an inspection or based on other information the Authority determines that a registered facility or [PRF](#) is in violation of Oregon Laws 2013, Chapter 726 or these rules the Authority may issue:

(a) A Notice of Proposed Revocation in accordance with ORS 183.411 through 183.470; and

(b) A Notice of Imposition of Civil Penalties in accordance with ORS 183.745. Civil penalties may be issued for any violation of Oregon Laws 2013, Chapter 726 and these rules, not to exceed \$500 per violation per day.

(3) The Authority must determine whether to use the informal or formal enforcement process based on the nature of the alleged violations, whether there are mitigating or aggravating factors, and whether the [PRF](#) or the registered facility has a history of violations.

(4) The Authority must issue a Notice of Proposed Revocation if a court has issued an order that prohibits the [PRF](#) from participating in the [OMMP](#) under ORS 475.300 – 475.346.

(5) The Authority may maintain a civil action against a facility that is operating but not registered in accordance with Oregon Laws 2013, Chapter 726 and these rules.

(6) The Authority must post a final order revoking the registration of a facility on the Authority's website and provide a copy of the final order to the OMMP.

Stat. Auth.: ORS 431.262

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Confidentiality

(1) Any criminal background information received by the Authority about a [PRF](#) during the criminal background check process is confidential and is not subject to disclosure without a court order.

(2) The name of a [PRF](#) and the address of a registered facility is confidential and is not subject to disclosure without a court order, except as provided in section (5) of this rule, or unless a [PRF](#) has authorized disclosure.

(3) If an application has been denied, the information submitted to the Authority in an application for registration of a facility is not confidential and may be subject to disclosure under ORS 192.410 -192.505.

(4) A final order revoking the registration of a facility is not confidential and may be posted on the Authority's website or otherwise made public by the Authority.

(5) Authorized employees of state and local law enforcement agencies may verify with the Authority at all times that:

(a) A location is a registered medical marijuana facility; or

(b) A person is the person listed as the [PRF](#).

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Change of Location

(1) A registered facility that changes location must submit a new application that complies with OAR XXX-XXX-[cccc](#).

Comment [sko51]: Need to decide whether we need to change OMMP rules to add this but need to work out how this will work.

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October 2, 2013

| [\(2\) A facility may not operate at a new location unless it is registered by the Authority.](#)

Stat. Auth.:

Stats. Implemented: