

Alert | Florida Administrative & Regulatory Law



April 2020

Florida Department of Health/Office of Medical Marijuana Use Publishes Rule Changes for MMTC Inspection Procedures

On April 13, 2020, the Office of Medical Marijuana Use (OMMU) within the Florida Department of Health (Department) published changes to proposed rules in the Florida Administrative Register. OMMU published Notices of Change for rule 64-4.202 related to Medical Marijuana Treatment Center (MMTC) Inspection Procedures, rule 64-4.208 related to MMTC Background Screening, and rule 64-4.210 related to MMTC Fines, Suspension, and Revocation. Below are some of the key provisions included in the rule changes.

Rule 64-4.202, relating to MMTC Inspection Procedures, is being changed to clarify that inspections of MMTCs by OMMU are to determine compliance with section 381.986, F.S., the Department's rules, and the specific representations in the MMTC's application on file with the Department, including any Department-approved amendments or variances. The change also allows for MMTCs to electronically supplement records provided to the Department within 24 hours of the conclusion of an inspection. The rule further clarifies that corrective action plans created by MMTCs in response to a notice of a violation must be emailed to the Department at a specified email address.

Rule 64-4.208, relating to MMTC Background Screening, is being changed to clarify that MMTCs must request and obtain written notice from the Department that an individual has successfully passed a required background screening before allowing any such individual to serve as an employee, owner, or

manager of the MMTC. Any employee, owner, or manager of an MMTC whose fingerprints were submitted prior to Aug. 22, 2018, must now be rescreened and must pass the required background screening in order to continue serving as an employee, owner, or manager of the MMTC. Further, the rule change clarifies that within 24 hours of receiving written notice from the Department that an individual has been arrested for an offense that makes the person ineligible for employment, an MMTC must ensure that the employee, manager, or owner is no longer an employee, manager, or owner.

Rule 64-4.210, relating to MMTC Fines, Suspension, and Revocation, is being revised to clarify guidelines linked to fines, license suspension, and license revocation imposed upon MMTCs for violations of rule and statute. The stated intent is to establish broad and consistent disciplinary penalties related to MMTCs. The rule change clarifies that for violations of an ongoing and continuous nature, each day a violation continues constitutes a distinct violation. The change removes a prohibition on MMTCs' continuing cultivation of medical marijuana while the MMTC's license is suspended, but also clarifies that an MMTC may not resume normal operations after a license is suspended until the MMTC receives written notice from the Department.

The Department's revisions follow its December 2019 issuance of proposed rules and rule development for MMTCs, as summarized in a **prior GT Alert**.

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