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FLORIDA REGULATORS ISSUE EMERGENCY ORDER DEFINING DOSAGE AND SUPPLY AMOUNTS FOR MEDICAL MARIJUANA PATIENTS



By: [Richard M. Blau](#), Regulated Products Section Chair

Florida health officials have [enacted a new emergency rule](#) imposing limits on the amount of medical marijuana patients may legally obtain and consume based on the product type. Because the Florida Department of Health (DOH) promulgated the new dosing and supply limits as an emergency rule, they became law without public input.

Emergency Rule [64ER22-8](#), which took effect on August 29, 2022, and is available on the DOH Office of Medical Marijuana Use (OMMU) website, mandates a new 70-day supply limit and a 35-day supply limit, both of which are defined by route category:

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

An aggregate 70-day supply limit of marijuana, other than marijuana in a form for smoking, cannot exceed **24,500 mg of THC**.

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ADDITIONAL RESTRICTIONS ON SMOKEABLE MARIJUANA

The new emergency regulation also requires that marijuana in a form for smoking can only be dispensed by a Medical Marijuana Treatment Center (MMTC) license holder as usable whole flower, ground usable whole flower, or pre-rolled marijuana cigarettes. An MMTC licensee may not dispense usable whole flower, ground usable whole flower, or pre-rolled marijuana cigarettes under any other route of administration (e.g., vaporization).

Additionally, 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. Under the new emergency regulation, a 35-day supply limit for marijuana in a form for smoking shall not exceed 2.5 ounces.

THE NEW PROCEDURE FOR SEEKING EXCEPTIONS TO THE NEW LIMITS

64ER22-8 also establishes a specific procedure for qualified physicians to request an exception to (i) the daily dose amount limit, (ii) the 35-day supply limit of marijuana in a form for smoking, and (iii) the 4-ounce possession limit of marijuana in a form for smoking. A qualified physician must submit any request electronically to the DOH via the OMMU website using **Form DH8031-OMMU-08/2022, "Request for Exception."** That form is accessible online at <https://knowthefactsmmj.com/rules-and-regulations/>. According to the new regulation, the DOH has 14 calendar days to approve or disapprove a properly submitted exception request.

VALIDITY OF PRE-RULE CERTIFICATIONS

In terms of timing and the efficacy of pre-existing certifications from qualified physicians, any active physician certification issued before the effective date of the emergency rule that exceeds the new daily dose amount limit remains valid for the duration of that physician certification. However, if a qualified physician makes any modifications to an existing certification after August 29, 2022, rendering the certification in excess of the emergency rule's daily dose limit, the qualified physician must submit an exception request in accordance with the procedure set out in the new regulation.

INDUSTRY REACTION

Stakeholders and physicians from the Medical Marijuana Treatment Clinics of Florida, the Compassionate Cannabis Clinic, Wholistic Pediatrics & Family Care, the Florida Cannabis Action Network, and other industry members have voiced concerns about the Emergency Rule. Objections include that the limitations should have been subject to public review and input prior to codification and whether or not there was a need for an "emergency rule," given it has been six years since

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Floridians approved the constitutional amendment expanding patient access to medical marijuana products.

Representatives from the National Organization for the Reform of Marijuana Laws (NORML), a nonprofit organization based in Washington, D.C., advocating for the reform of marijuana laws in the U.S., criticized the new medical marijuana dosage and supply limits imposed by 64ER22-8 as “arbitrary and unnecessary,” contending the new regulation likely will result in creating unnecessary confusion and will place an undue burden on patients and their doctors.

According to the August 26, 2022, statistics released by the DOH’s OMMU, 745,259 Floridians have registered as qualified patients to access medical cannabis products from licensed dispensaries.

If you have questions regarding 64ER22-8 and the new emergency regulation’s application, please contact GrayRobinson’s [Cannabis Law Group](#) by calling **866.382.5132** or via email at cannabislaw@gray-robinson.com.



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Richard leads GrayRobinson’s [Cannabis Law Group](#), focusing on the laws that govern the production, processing, marketing, distribution, dispensing, and sale of medical marijuana and cannabis-derived products pursuant to federal and Florida law. Richard works with all levels of the Cannabis industry. He has represented a number of Florida’s vertically integrated Medical Marijuana Treatment Center licensees and related investor entities, as well as domestic growers of hemp and producers of hemp-derived products containing cannabidiol (CBD). Richard has achieved numerous peer-related accolades for his legal work, including ranking in **Chambers and Partners** - Nationally ranked Cannabis Law and Food and Beverage Law; **Best Lawyers in America** - Nationally listed for Food and Beverage Law; and **Super Lawyers** - Elected member.