

Practice Update

Florida Releases Its Long-Awaited Marijuana Edibles Rules - Finally

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By Jonathan S. Robbins

Florida's Office of Medical Marijuana Use (OMMU), this week, released the long-awaited rules surrounding the production and sale of marijuana edibles in Florida. The OMMU has implemented these rules through the emergency rulemaking procedures, which means that the edibles rules are not subject to the usual 21-day public comment period, but rather will go into effect immediately.

Only licensed Medical Marijuana Treatment Centers (MMTCs) are permitted to produce edibles in accordance with these new requirements, and may only do so at a department-approved processing facility. Additionally, MMTCs will need to obtain a valid permit from the Florida Department of Agriculture and Consumer Services for their production facility, and the production facility must be GMP certified.

The new edibles rules are broad and allow for a wide variety of products while imposing certain restrictions on THC potency, design, color, and the use of certain ingredients. For example, an edible can't: resemble or potentially be mistaken for commercially available candy, contain any color additives, bear any graphics or images (except for the OMMU "universal symbol" for THC products), be decorated with icing or any toppings, or be a bright color or have some characteristic that would be

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considered attractive to children. Additionally, edibles cannot contain any additives that could increase potency or toxicity, or any psychoactive substance such as nicotine, alcohol or caffeine. This means THC infused alcoholic beverages will not be permitted.

Edibles can be in a variety of shapes, flavors and can come in a variety of forms, including: lozenges, gelatins (gummies), baked goods, chocolates, and drink powders. MMTCs will be able to sell edibles in single-serve doses or in multi-serving packages; with each dose permitted up to 10 milligrams of THC. Multi-serving edibles (e.g. a package of gummies) cannot contain more than 200 milligrams total THC. Also, edibles must be able to be shelf-stored at room temperature and cannot require refrigeration after opening, and must have an expiration date. MMTCs will not be permitted to sell edibles past their listed expiration date.

Interestingly, except for approved edibles and complimentary water, MMTCs will now be expressly prohibited from selling or offering to customers any other food or beverages. This may present an issue for some MTMCs who host events at their dispensaries and offer free food and drinks to visitors.

For qualified patients, it will be important to speak to their physician because a new recommendation will need to be entered into the medical marijuana registry for the “edibles” route of administration. Patients will not be able to rely on existing recommendations for another form of marijuana.

Qualified patients and MMTCs have been eagerly waiting for these rules and based on our conversations with OMMU, state regulators are equally as excited to see these products hit the shelf.

If you have any questions regarding these new rules or anything related to Florida’s medical marijuana

program, please contact a member of Akerman's Cannabis Practice.

Disclaimer:

Possessing, using, distributing, and/or selling marijuana or marijuana-based products is illegal under federal law, regardless of any state law that may decriminalize such activity under certain circumstances. Although federal enforcement policy may at times defer to states' laws and not enforce conflicting federal laws, interested businesses and individuals should be aware that compliance with state law in no way assures compliance with federal law, and there is a risk that conflicting federal laws may be enforced in the future. No legal advice we give is intended to provide any guidance or assistance in violating federal law.

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