

This is an amendment to 7.34.4 NMAC, Section 28 effective 3/23/2021.

7.34.4.28 RECIPROCITY: Beginning July 1, 2020, an individual who holds proof of authorization to participate in the medical cannabis program of another state of the United States, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo may lawfully purchase and possess cannabis, provided that the quantity of cannabis does not exceed the reciprocal limit identified in this section. A qualified patient may not be registered or participate as a reciprocal participant in the New Mexico medical cannabis program.

A. Reciprocal participation:

(1) General requirements: A reciprocal participant:

(a) may participate in the medical cannabis program in accordance with department rules;

(b) shall not be required to comply with the registry identification card application and renewal requirements established pursuant to this section and department rules;

(c) shall at all times possess proof of authorization to participate in the medical cannabis program of another state, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo and shall present proof of that authorization when purchasing cannabis from a licensee; and

(d) shall register with a licensed non-profit producer for the purpose of tracking sales to the reciprocal participant in an electronic system specified by the department.

(2) Minors: In the event that a reciprocal participant is a minor, a licensed non-profit producer shall not sell or transfer cannabis to the minor, but may sell or transfer cannabis to a parent or legal guardian of the minor who holds proof of authorization to purchase cannabis on the minor's behalf that was issued by another state of the United States, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo.

(3) Residency requirements:

(a) Non-residents: A person who is not a resident of New Mexico may participate in the medical cannabis program as a reciprocal participant, provided that the reciprocal participant's place of residence is consistent with their place of enrollment. (For example: a Colorado resident shall not be registered or otherwise participate as a reciprocal participant on the basis that he or she is enrolled in the medical cannabis program of a state or other jurisdiction other than Colorado.)

(b) New Mexico residents: A New Mexico resident who is not a member of a New Mexico Indian nation, tribe, or pueblo shall not participate in the medical cannabis program as a reciprocal participant, but may pursue enrollment as a qualified patient in accordance with rule 7.34.3 NMAC. A member of a New Mexico Indian nation, tribe or pueblo medical cannabis program may participate as a reciprocal participant, provided that the individual has proof of authorization to participate in the New Mexico Indian nation, tribe or pueblo's medical cannabis program.

B. Reciprocal limit: A reciprocal participant may collectively possess within any three-month period a quantity of usable cannabis no greater than 230 total units. For purposes of department rules, this quantity is deemed the reciprocal limit. (For ease of reference: 230 units is equivalent to 230 grams, or approximately eight ounces, of dried usable cannabis plant material.)

C. Registration; verification; tracking: A licensed non-profit producer shall require the submittal of a reciprocal participant's contact information for registration purposes, to include the individual's full name, date of birth, mailing address, and the enrollment number specified in the individual's medical cannabis program enrollment card (if applicable); and shall record that information in an electronic tracking system specified by the department.

(1) The licensed non-profit producer shall confirm the accuracy of a reciprocal participant's contact information prior to each transaction.

(2) A licensed non-profit producer that registers a reciprocal participant or that sells or transfers cannabis or a cannabis product to a reciprocal participant shall first verify the reciprocal participant's identity by [viewing] comparing the individual's proof of authorization from the other state, territory or tribe, [and also viewing] to the reciprocal participant's government-issued photo identification card, and verifying that the information, including but not limited to place of residence, is consistent.

(3) A licensed non-profit producer that sells or otherwise transfers cannabis or a cannabis product to a reciprocal participant shall track the sale or transfer using an electronic system specified for that purpose by the department.

(4) A licensed non-profit producer shall not register an employee or board member of the producer as a reciprocal participant.

(5) At the time of registration, a licensed non-profit producer shall electronically upload a copy of the reciprocal participant's proof of authorization, and a copy of the reciprocal participant's government issued photo identification which indicates the person's place of residence, into the electronic tracking system specified by the department.

(6) A licensed non-profit producer shall ensure that the individual registering as a reciprocal participant is not already registered as a reciprocal participant or a qualified patient in the New Mexico medical cannabis program, before entering registration information for the individual. Registration of a reciprocal participant who was previously registered may result in disciplinary action in accordance with this rule.

(7) At the time of registration, a licensed non-profit producer shall ensure that the reciprocal participant signs the participant's registration in the electronic tracking system specified by the department and acknowledges that they understand the requirements of participation in the program, including but not limited to acknowledging the time and quantity limits for reciprocal participation under this rule, as well as the notice concerning state and federal prohibitions against the transport of cannabis across state and international boundaries. A licensed non-profit producer shall ensure that the acknowledgement is signed by the reciprocal participant, and is not substituted by the signature of another person. A licensed non-profit producer that fails to comply with these requirements may be subject to disciplinary action in accordance with this rule.

D. Proof of authorization: Proof of authorization to participate in the medical cannabis program of another jurisdiction (an "originating jurisdiction") shall consist of a card or other physical document issued by a governmental entity authorized by law to enroll the applicant in the medical cannabis program in the originating jurisdiction. For purposes of reciprocal participation in the New Mexico medical cannabis program, permission from a medical practitioner shall not in itself be deemed proof of authorization to participate in the medical cannabis program of another jurisdiction, but shall be accompanied by a card or other proof of enrollment issued by an authorized governmental entity of the originating jurisdiction. (For example, a written letter from a physician authorizing the individual to participate in the California medical cannabis program shall not be deemed proof of authorization for the purpose of participating in the New Mexico medical cannabis program.)

[D]-E. Refusal of service: A non-profit producer that reasonably suspects that either a person's proof of authorization or identification card is falsified may refuse to dispense cannabis to cannabis to that individual.

[E] F. Informational materials: At the time of a sale or transfer of cannabis to a reciprocal participant, a non-profit producer shall provide informational materials to the reciprocal participant that include, at a minimum, a notice of the time and quantity limits for reciprocity under this section, and a notice concerning state and federal prohibitions against the transport of cannabis across state and international boundaries.

[7.34.4.28 NMAC - Rp. 7.34.4.28 NMAC, 6/23/2020; A/E, 10/8/2020; A, 3/23/2021]