

STATE OF COLORADO

DEPARTMENT OF REVENUE
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Colorado Department of Revenue Marijuana Enforcement Division

John W. Hickenlooper
Governor

Michael S. Hartman
Executive Director

Emergency Rules:

Revised Rules, Medical Marijuana, 1 CCR 212-1

Rule M 207 – Schedule of Application Fees: Medical Marijuana Businesses

Rule M 208 – Schedule of Business License Fees: Medical Marijuana Businesses

Rule M 209 – Schedule of Business Renewal License Fees: Medical Marijuana Businesses

Rule M 210 – Schedule of Licensing Administrative Service Fees: All Licensees

Rule M 1701 – Medical Marijuana Establishment Operator: License Privileges

Rule M 1702 – Medical Marijuana Establishment Operator: General Limitations or Prohibited Acts

Rule M 1703 – Medical Marijuana Establishment Operator: Occupational Licenses for Personnel

Revised Rules, Retail Marijuana, 1 CCR 212-2

Rule R 1702 – Retail Marijuana Establishment Operator: General Limitations or Prohibited Acts

Rule R 1703 – Retail Marijuana Establishment Operator: Occupational Licenses for Personnel

Statement of Emergency Justification and Adoption Order

Pursuant to sections 24-4-103, 12-43.3-202, and 12-43.4-202, C.R.S, I, Michael S. Hartman, Executive Director of the Department of Revenue and State Licensing Authority, hereby adopt the aforementioned revised Medical Marijuana and Retail Marijuana Rules, which are attached hereto.

Statement of Emergency Justification and Adoption Order

Section 24-4-103(6), C.R.S., authorizes the State Licensing Authority to issue an emergency rule if the State Licensing Authority finds that the immediate adoption of the rule is imperatively necessary to comply with a state law or for the preservation of public health, safety, or welfare and compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

I find: (1) the immediate adoption of these revised rules is necessary to comply with the statutory mandates of the Medical Marijuana Code, sections 12-43.3-101 to -1102, C.R.S., and the Retail Marijuana Code, sections 12-43.4-101 to -1101, C.R.S.; (2) the immediate adoption of these revised rules is necessary to preserve the public health, safety, and welfare; and (3) compliance with the notice and public hearing requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

Statutory Authority

The statutory authority for the attached revised Medical Marijuana Rules is identified in the statement of basis and purpose preceding each rule, and includes subsections 12-43.3-202(1)(a), 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XX), 12-43.3-302(5)(c), 12-43.3-401(1)(a)-(e), and sections 12-43.3-104, 12-43.3-310, 12-43.3-311, 12-43.3-313, 12-43.3-401, 12-43.3-501, and 12-43.3-502, C.R.S.

The statutory authority for the attached revised Retail Marijuana Rules is identified in the statement of basis and purpose preceding each rule, and includes subsections 12-43.4-103 (17.5), 12-43.4-104(1)(a)(I), 12-43.4-202(2)(a), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(II), 12-43.4-202(3)(b)(VIII), 12-43.4-202(3)(b)(IX); 12-43.4-309(7)(a), 12-43.4-310(2)(a), and 12-43.4-401(1)(a)-(g), 12-43.4-601(1), C.R.S., and sections 12-43.4-103, 12-43.4-104, 12-43.4-305, 12-43.4-401, 12-43.4-407, 12-43.4-501, C.R.S.; and Colorado Constitution Article XVIII, Subsection 16(5)(a)(II).

Purpose

The purpose of the revisions to these rules on an emergency basis is twofold: First, to set the fee amounts of two new license types established under House Bill 17-1367, effective August 9, 2017. Second, to amend provisions contained in the Medical and Retail Rules 1700 Series related to Medical and Retail Marijuana Operator Licenses, including amendments to implement House Bill 17-1034.

M 200 Series Emergency Rules

Pursuant to House Bill 17-1367, the General Assembly created two new classes of marijuana licenses in the Medical Marijuana Code, a Marijuana Research and Development license and a Marijuana Research and Development Cultivation license (collectively referred to as "Licensed Research Businesses"). Section 12-43.3-501, C.R.S., governs the marijuana cash fund, and requires the State Licensing Authority to establish and adjust all fees collected pursuant to both the Medical and Retail Marijuana Codes. Under this statute, the State Licensing Authority is required to establish and adjust the fees that will be collected by the State Licensing Authority to reflect

Statement of Emergency Justification and Adoption Order

direct and indirect costs of the State Licensing Authority and to avoid exceeding the statutory limit on uncommitted reserves in administrative agency cash funds.

The statutory effective date of House Bill 17-1367 occurred before the Department of Revenue's Office of Budget & Financial Services could conduct an initial fiscal analysis in accordance with 12-43.3-501, C.R.S. Taking into account the Department's initial fee analysis, these emergency rules establish application fees, license fees, renewal fees, and research project proposal fees for Licensed Research Businesses, which are intended to align with existing marijuana license classes. Following adoption of these emergency and subsequent permanent Medical Marijuana Rules and Retail Marijuana Rules, the State Licensing Authority will request the Department of Revenue's Office of Budget & Financial Services to perform additional fiscal analysis as required to further evaluate these fee amounts, taking into account the direct and indirect costs of the State Licensing Authority, and the need to avoid exceeding the statutory limit on uncommitted reserves in administrative agency cash funds. As part of this analysis, the State Licensing Authority will request the Department of Revenue's Office of Budget & Financial Services to evaluate additional data collected by the Department of Revenue's Marijuana Enforcement Division on the direct and indirect costs of House Bill 17-1367 implementation, including but not limited to (1) the number of Licensed Research Business applications submitted for each license; (2) the number and types of research project proposals submitted; and (3) time and resources required to complete investigations on and processing of Licensed Research Business applications and research project proposals.

M and R 1700 Series Emergency Rules

The Medical and Retail Rules 1700 Series governs Medical and Retail Marijuana Operator licenses. House Bill 17-1034, concerning changes to the Medical Marijuana Code to conform with the Retail Marijuana Code, created a Medical Marijuana Business Operator License. In the 2016 legislative session, the General Assembly passed House Bill 16-1261, which created a Retail Marijuana Establishment Operator License. As a result, existing permanent rules provide for a Retail Marijuana Establishment Operator License, as well as a Medical Marijuana Business Operator Registration. Through these emergency rules the State Licensing Authority amends Rule M 1701 to allow entities to apply for and hold a Medical Marijuana Operator License, and to enable Medical Marijuana Operator Registrants to renew as a Medical Marijuana Operator License. Amendments to Rules M and R 1702 permit financial interest holders in a Medical or Retail Marijuana Operator to hold a financial interest in another Medical Marijuana Business or Retail Marijuana Establishment. The State Licensing Authority also amends Rules M and R 1704 to specify licensure requirements for individuals owning or in the employment of a Medical or Retail Marijuana Operator.

The amendments reflected in these emergency rules were originally presented in a Notice of Rulemaking Hearing filed by the State Licensing Authority on September 15, 2017, and discussed in public stakeholder meetings as part of permanent rulemaking proceedings. However, these amendments were inadvertently excluded from the five-day notice provision in accordance with 24-4-103(4)(a), C.R.S. Consequently, the State Licensing Authority removed these amendments from the permanent rulemaking proceeding and hereby adopts these emergency rules.

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Effective Date of Emergency Rules and Permanent Rulemaking

Following adoption of these emergency rules, the State Licensing Authority will file a permanent rulemaking notice. That process will include the opportunity for substantial stakeholder and public participation. All fees reflected in the emergency rules are subject to change through permanent rulemaking. Specifically, because the State Licensing Authority, through the Department of Revenue's Marijuana Enforcement Division, has not previously engaged in background investigations related to Licensed Research Businesses associated fees reflected in the emergency rules represent best estimates and may be subject to significant change after additional data is obtained following implementation of the emergency rules.

The attached emergency rules are effective immediately upon adoption. The prior versions of Rules M 207, M 208, M 209, M 210, M 1701, M 1702, and M 1703, 1 CCR 212-1, and R 1702, and R 1703, 1 CCR 212-2, are hereby repealed and replaced by the attached emergency rules. These emergency rules will remain in effect until their expiration 120 days from the date of adoption, or until replaced by permanent rules.



Michael S. Hartman
Executive Director
Colorado Department of Revenue
State Licensing Authority

12/27/17
Date