

**DEPARTMENT OF REVENUE
Marijuana Enforcement Division
COLORADO MARIJUANA RULES
1 CCR 212-3**

Part 2 – Applications and Licenses

Basis and Purpose – 2-265

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(2)(b)-(c), 44-10-203(2)(e), 44-10-203(2)(t)-(u), 44-10-203(2)(w), 44-10-307, 44-10-308(2), 44-10-313(6), 44-10-401(2)(c), 44-10-901(1), and 24-76.5-101 et seq., C.R.S. Historically, natural persons who held an Owner's Interest in a Regulated Marijuana Business were required to hold an Associated Key License. This Rule transitions the Associated Key designation to an Owner License designation after August 1, 2019. The purpose of this rule is to clarify the requirements and procedures a Person must follow when applying for or possessing either an Owner License or an Employee License. This rule also identifies factors the State Licensing Authority will consider in determining whether a natural person is a resident and whether such person possess good moral character.

2-265 – Owner and Employee License: License Requirements, Applications, Qualifications, and Privileges

- A. Associated Key Licenses. Associated Key licenses remain valid until the first renewal following August 1, 2019, after which such licenses will be renewed as an Owner License.
- B. Owner Licenses Required.
1. Each Controlling Beneficial Owner must hold a valid Owner License.
 2. If a Controlling Beneficial Owner is an Entity, then its Executive Officer(s) and any natural person who indirectly holds ten percent or more of the Owner's Interests in the Regulated Marijuana Business must also hold a valid Owner's License.
 3. A Passive Beneficial Owner who is a natural person may elect to hold an Owner License and obtain an Owner Identification Badge provided that such Person agrees to be disclosed as holding an Owner's Interest in the Regulated Marijuana Business.
 4. Only Controlling Beneficial Owners and Passive Beneficial Owners can obtain an Owner License.
- C. Owner License and Identification Badge or Employee License and Identification Badge Required. The following natural persons must possess a valid Owner License and Identification Badge or an Employee License and Identification Badge:
1. Any natural person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, or delivers Regulated Marijuana or Regulated Marijuana Products as permitted by privileges of a Regulated Marijuana Business license;
 2. Any natural person who has access to the Inventory Tracking System or a Regulated Marijuana Business point-of-sale system; and
 3. Any natural person with unescorted access in the Limited Access Area.
- D. Escort or Monitoring Required.

1. Any natural person in a Limited Access Area that does not have a valid Owner License and Identification Badge or an Employee License and Identification Badge is a visitor and must be escorted at all times by a person who holds a valid Owner License and Identification Badge or Employee License and Identification Badge. Failure by a Regulated Marijuana Business to continuously escort an individual who does not have a valid Owner License and Identification Badge or an Employee License and Identification Badge in the Limited Access Area is a license violation affecting public safety.
 2. Patients and consumers in a Restricted Access Area and third-party vendors in a Limited Access Area do not need to be escorted at all times but must be reasonably monitored to ensure compliance with these rules.
- E. Employee License Required to Commence or Continue Employment. Any natural person required to obtain an Employee License by these rules must obtain such license before commencing activities permitted by his or her Employee License.
- F. Owner License and Employee License Identification Badges Are Property of the State Licensing Authority. All Owner Licenses and Employee Licenses, and all Identification Badges are property of the State Licensing Authority.
- G. Owner and Employee Initial and Renewal Applications Required. Owner Licensees and Employee Licensees must submit initial license applications and renewal applications on Division forms and in accordance with this Rule and Rules 2-215, 2-220, and 2-225.
- H. Licenses Requiring Proof of Residency. Where a license issued by the State Licensing Authority requires the Applicant to establish Colorado residency, an Applicant may demonstrate his or her residency by the following methods including, but are not limited to:
1. Current valid Colorado driver's license or current Colorado identification card with a current address; or
 2. A government issued photo identification and two of the following documents showing the Applicant's correct name, current date, and current Colorado address:
 - a. Utility bill or phone bill;
 - b. Car registration;
 - c. Voter registration card;
 - d. Statement from a major creditor;
 - e. Bank statement;
 - f. Recent County tax notice;
 - g. Recent contract/mortgage statement.
- I. Owner License Qualifications and Privileges.
1. Owner License Qualifications. Each Controlling Beneficial Owner, or Passive Beneficial Owner who elects to be subject to disclosure and licensure, must meet the following criteria before receiving an Owner License:

- a. The Applicant is not prohibited from licensure pursuant to section 44-10-307, C.R.S.;
 - b. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for Persons licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application;
 - c. The Division has not received notice that the Applicant has failed to comply with a court or administrative order for current child support, child support debt, retroactive child support, or child support arrearages. If the Division receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied or delayed until the Applicant has established compliance with the order to the satisfaction of the state child support enforcement agency.
 - d. Each Controlling Beneficial Owner required to hold an Owner License, and any Passive Beneficial Owner that elects to hold an Owner License, must be fingerprinted at least once every two years, and may be fingerprinted more often at the Division's discretion.
 - i. Emergency Suspension of Fingerprinting for Renewal Applications. In response to the presence of COVID-19 in the state and the executive orders and public health orders in effect, the requirement for an Owner Licensee to submit fingerprints under this subparagraph (l)(1)(d) with a renewal application is temporarily suspended. This emergency suspension shall remain effective pursuant to section 24-4-103(6), C.R.S., or until repealed by the State Licensing Authority upon notice to the Secretary of State.
 - e. An Owner Licensee who exercises day-to-day operational control on the Licensed Premises of a Regulated Marijuana Business must possess an Identification Badge and must establish and maintain Colorado residency. Proof of residency may be accomplished by submission of the documents identified in Rule 2-265(H). A Controlling Beneficial Owner will not be deemed to exercise day-to-day operational control by reason of holding a title defined as an Executive Officer.
2. Owner License Exercising Privileges of an Employee License. A natural person who holds an Owner License and Identification Badge may exercise the privileges of an Employee License in a Regulated Marijuana Business, subject to the following limitations:
 - a. If the Owner Licensee is not a Controlling Beneficial Owner of the Regulated Marijuana Business for which he or she is seeking to exercise the privileges of an Employee License, the Owner Licensee may exercise such Employee License privileges regardless of that Person's residency.
 - b. If the Owner Licensee is a Controlling Beneficial Owner of the Regulated Marijuana Business for which he or she is seeking to exercise the privileges of an Employee License, the Owner Licensee may only exercise such Employee License privileges if he or she is a Colorado resident.
 3. Business License Required. A natural person cannot hold an Owner License without holding a Regulated Marijuana Business license, or without at least submitting an application for a Regulated Marijuana Business license.

J. Employee License Qualifications and Privileges.

1. Employee License Qualifications and Requirements. An Employee License Applicant must meet the following criteria before receiving an Employee License:
 - a. The Applicant is not prohibited from licensure pursuant to section 44-10-307, C.R.S.;
 - b. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for Persons licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application.
 - c. The Division has not received notice that the Applicant has failed to comply with a court or administrative order for current child support, child support debt, retroactive child support, or child support arrearages. If the Division receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied or delayed until the Applicant has established compliance with the order to the satisfaction of the state child support enforcement agency.
2. Medical and Retail Employee Licenses. A natural person who holds a current, valid Employee License and Identification Badge issued pursuant to the Marijuana Code may work in any Regulated Marijuana Business.

K. Owner Licensees and Employee Licensees Required to Maintain Licensing Qualification. An Owner Licensee or Employee Licensee's failure to maintain qualifications for licensure may constitute grounds for discipline, including but not limited to, suspension, revocation, or fine.

L. Evaluating a Natural Person's Good Moral Character Based on Criminal History.

1. In evaluating whether a Person is prohibited from holding a license pursuant to sections subsections 44-10-307(1)(b) or (c), C.R.S., based on a determination that the person's criminal history indicates she or he is not of Good Moral Character, the Division will not consider the following:
 - a. The mere fact a person's criminal history contains an arrest(s) or charge(s) of a criminal offense that is not actively pending;
 - b. A conviction of a criminal offense in which the Applicant/Licensee received a pardon;
 - c. A conviction of a criminal offense which resulted in the sealing or expungement of the record; or
 - d. A conviction of a criminal offense in which a court issued an order of collateral relief specific to the application for state licensure.
2. In evaluating whether a Person is prohibited from holding a license pursuant to subsections 44-10-307(1)(b) or (c), C.R.S., based on a determination that the person's criminal history indicates he or she is not of Good Moral Character, the Division may consider the following history:
 - a. Any felony conviction(s);
 - b. Any conviction(s) of crimes involving moral turpitude;

- c. Pertinent circumstances connected with the conviction(s); and
 - d. Conduct underlying arrest(s) or charge(s) or a criminal offense for which the criminal case is not actively pending.
3. When considering criminal history in subparagraph (L)(2) above, the Division will consider:
- a. Whether there is a direct relationship between the conviction(s) and the duties and responsibilities of holding a state license issued pursuant to the Marijuana Code;
 - b. Any information provided to the Division regarding the person's rehabilitation, which may include but is not limited to the following non-exhaustive considerations:
 - i. Character references;
 - ii. Educational, vocational, and community achievements, especially those achievements occurring during the time between the person's most recent criminal conviction and the application for a state license;
 - iii. Successful participation in an alcohol and drug treatment program;
 - iv. That the person truthfully and fully reported the criminal conduct to the Division;
 - v. The person's employment history after conviction or release, including but not limited to whether the person was vetted and approved to hold a state or out-of-state license for the purposes of employment in a regulated industry;
 - vi. The person's successful compliance with any conditions of parole or probation imposed after conviction or release; or
 - vii. Any other facts or circumstances tending to show the Applicant has been rehabilitated and is ready to accept the responsibilities of a law-abiding and productive member of society.

Part 3 – Regulated Marijuana Business Operations

Basis and Purpose – 3-345

The statutory basis for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(1)(f), 44-10-203(1)(j), 44-10-203(2)(e), 44-10-203(2)(h), 44-10-203(2)(i), and 44-10-203(2)(v), C.R.S. On March 11, 2020, Governor Polis issued Executive Order 2020 003 "Declaring a Disaster Emergency Due to the Presence of Coronavirus Disease 2019 in Colorado," related to the presence of COVID-19 in Colorado. Since then, Governor Polis has issued over two hundred Executive Orders amending and extending disaster declaration. This emergency rule provides Medical Marijuana Stores and Retail Marijuana Stores the ability to accept orders over the phone, or online, and to provide pick-up outside the Licensed Premises to patients and consumers. This emergency rule establishes safeguards that ensure Licensees can take necessary steps to accomplish "social distancing" pursuant to state and national guidelines. This emergency rule also provides that it will be effective for 120 days, or until Executive Order 2020 003, including any amendments and extensions, is rescinded, withdrawn, or expires, if such rescission, withdrawal, or expiration occurs earlier.

Rule 3-345 – Emergency Allowances, Restrictions, and Requirements in Response to COVID-19

A. Social Distancing Measures.

- 1. All Regulated Marijuana Businesses. All Regulated Marijuana Businesses must comply with guidance and directives for maintaining a clean and safe work environment issued by the Colorado Department of Public Health and Environment and any applicable local health department, and must comply with non-medical cloth face covering requirements when in indoor spaces, social distancing requirements, including but not limited to requirements for individuals to maintain at least a six-foot distance from other individuals, wash hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, cover coughs or sneezes (into the sleeve or elbow, not hands), regularly clean high-touch surfaces, and not shake hands.**
- 2. Additional Requirements for Medical Marijuana Stores and Retail Marijuana Stores.**
 - a. Medical Marijuana Stores and Retail Marijuana Stores must ensure social distancing between patients, consumers, and employees. Such social distancing measures may include, but are not limited to the following:**
 - i. Limit the number of people on the Licensed Premises at any one-time (including employees) such that all people are at least six-feet apart at all times;**
 - ii. Limit the amount of time a patient or consumer can remain on the Licensed Premises;**
 - iii. Utilize additional portions of the Licensed Premises, such as the lobby, to provide additional space to facilitate social distancing between individual employees and between employees and patients or consumers;**
 - iv. Make temporary modifications to the Licensed Premises pursuant to Rule 2-260(A)(1), to provide additional space or create barriers to facilitate social distancing between individual employees and between employees and patients or consumers;**
 - v. Use online or web-based applications for virtual lines (waitlists);**
 - vi. Require or encourage advanced appointment scheduling for patients and consumers to pick-up orders;**
 - vii. Instruct patients and consumers to arrive only after receiving notification that their order is ready for pick-up; and**
 - viii. Require or encourage patients and consumers to complete orders and payments over the telephone or online prior to arrival for pick-up.**
 - b. Medical Marijuana Stores and Retail Marijuana Stores must limit the formation of lines outside the Licensed Premises to the greatest extent possible. If preventing the formation of lines entirely is not feasible, the Licensee shall:**
 - i. Assign staff to monitor and manage queuing;**
 - ii. Limit the total number of patients or consumers allowed to congregate outside of the Licensed Premises, to the greatest extent possible;**

- iii. Ensure patients and consumers are at least six-feet apart at all times; and
- iv. Ensure patients and consumers are not blocking pedestrian traffic or the entry or exit to or from any neighboring business.

B. Transactions Outside the Restricted Access Area of the Licensed Premises.

1. Licensed Premises. For purposes of this Rule 3-345(B), and to ensure Licensees can effectual social distancing pursuant to state and local requirements, the Licensed Premises includes the property immediately adjacent to the Licensed Premises and under control of the Licensee. The Licensed Premises does not include any public property such as public streets, public sidewalks, or public parking lots.

2. Medical Marijuana Stores.

a. Accepting Orders.

- i. A Medical Marijuana Store that complies with this Rule 3-345 may accept orders over the internet, over the phone, or from a mobile device provided by the Medical Marijuana Store pursuant to this Rule.
- ii. If a Medical Marijuana Store accepts orders via a mobile device it physically provides to patients, the Medical Marijuana Store is responsible for ensuring the device is regularly cleaned and sanitized before each use and consistent with guidance and directives issued by the Colorado Department of Public Health and Environment and any applicable local health department.
- iii. Other than internet, phone or mobile device orders permitted by this Rule 3-345, a Medical Marijuana Store shall not accept orders outside the Restricted Access Area of the Licensed Premises. See subparagraph (1) of this Rule.
- iv. A Medical Marijuana Store may provide patients the option to pick-up orders outside the Restricted Access Area so long as such pick-up occurs on the Licensed Premises pursuant to this Rule. See subparagraph (1) of this Rule.

b. Accepting Payment.

- i. A Medical Marijuana Store that complies with this Rule 3-345 may accept payment and complete sales transactions over the internet, over the phone, or from the Medical Marijuana Store's mobile device outside the Restricted Access Area of the Licensed Premises. See subparagraph (1) of this Rule.
- ii. Cash Payment Prohibited. A Medical Marijuana Store may not accept cash payments for the sale of Medical Marijuana outside of the Restricted Access Area of the Licensed Premises.

3. Retail Marijuana Stores.

a. Accepting Orders.

- i. A Retail Marijuana Store that complies with this Rule 3-345 may accept orders over the internet, over the phone, or from a mobile device provided by the Retail Marijuana Store pursuant to this Rule.
- ii. If a Retail Marijuana Store accepts orders via a mobile device it physically provides to consumers, the Retail Marijuana Store is responsible for ensuring the device is regularly cleaned and sanitized before each use and consistent with guidance and directives issued by the Colorado Department of Public Health and Environment and any applicable local health department. See subparagraph (1) of this Rule.
- iii. Other than internet, phone or mobile device orders permitted by this Rule 3-345, a Retail Marijuana Store shall not accept orders outside the Restricted Access Area of the Licensed Premises. See subparagraph (1) of this Rule.
- iv. A Retail Marijuana Store may provide consumers the option to pick-up orders outside the Restricted Access Area so long as such pick-up occurs on the Licensed Premises pursuant to this Rule. See subparagraph (1) of this Rule.

b. Accepting Payment.

- i. Pursuant to Executive Order D 2020 011, "Ordering the Temporary Suspension of Certain Regulatory Statutes Due to the Presence of COVID-19", and any extension of such executive order, a Retail Marijuana Store that complies with this Rule 3-345 may accept payment and complete sales transactions over the internet, over the phone, or from the Retail Marijuana Store's mobile device outside the Restricted Access Area of the Licensed Premises. See subparagraph (1) of this Rule.
- ii. Subparagraph (B)(3)(b)(i) allowing Retail Marijuana Stores to accept payment and complete sales transactions over the phone, internet or using the Retail Marijuana Store's mobile device shall remain effective until the Executive Order D 2020 011, including any extension of such executive order, is rescinded, withdrawn, or expires.
- iii. Cash Payment Prohibited. A Retail Marijuana Store may not accept cash payments for the sale of Retail Marijuana outside of the Restricted Access Area of the Licensed Premises.

4. Transfers within the Licensed Premises. Nothing in this Rule 3-345 prohibits a Medical Marijuana Store or Retail Marijuana Store from accepting orders or accepting payment for Regulated Marijuana within the Restricted Access Area, or from Transferring Regulated Marijuana within the Restricted Access Area.

C. Order Requirements. A Medical Marijuana Store or Retail Marijuana Store may accept orders of Regulated Marijuana from patients who are at least 21 years of age, from parents or guardians of a patient under 21 years of age, or consumers who are at least 21 years of age.

1. Orders Over the Phone, Internet or Mobile Device. Prior to a Medical Marijuana Store or Retail Marijuana Store initiating an order for Regulated Marijuana over the phone, internet or using a mobile device, the Licensee taking the order shall confirm the following information:

- a. The name and date of birth of the patient or consumer placing the order;
- b. The desired time of pick-up for phone or internet orders; and
- c. For Medical Marijuana Stores, the following additional information:
 - i. The registration number reflected on the patient's registry identification card; and
 - ii. If the patient is under 18 years of age, the parent or guardian designated as the patient's primary caregiver, and if applicable, the registration number of the primary caregiver.

2. The Licensee must ensure that all electronic transactions taken on-line, over the phone or using a mobile device are entered into the Point of Sale System and Inventory Tracking System pursuant to the requirements of these Rules.

D. Identification Requirements.

1. For a Medical Marijuana Store that allows patients to pick-up orders pursuant to this Rule 3-345 the Licensee must physically view and inspect the patient or caregiver's registry card, including any valid and verified digital registry card, and proof of identification to confirm the information contained on the documents and also to judge the authenticity of the documents presented prior to Transferring possession of Regulated Marijuana.
2. For a Retail Marijuana Store that allows customers to pick-up orders pursuant to this Rule 3-345, the Licensee must physically view and inspect the consumer's identification and ensure that the consumer's is 21 years of age or older prior to Transferring possession of Regulated Marijuana.

E. Additional Requirements.

1. Video Surveillance Requirements. For every Transfer of Regulated Marijuana pursuant to this Rule 3-345, the Medical Marijuana Store or Retail Marijuana Store's video surveillance must enable the recording of the patient, caregiver, or consumer (and the patients', caregivers' or consumer's vehicle in the event of Transfer to a vehicle), and must enable the recording of the Licensee verifying the patient's, caregiver's, or consumer's identification and completion of the transaction through the Transfer of Regulated Marijuana. For all Transfers completed inside the Restricted Access Area, Licensees shall also ensure compliance with video surveillance requirements in Rule 3-225.
2. Packaging and Labeling Requirements. A Medical Marijuana Store or Retail Marijuana Store accepting orders pursuant to this Rule 3-345 shall ensure that all Regulated Marijuana is packaged and labeled in accordance with Rules 3-1010 and Rule 3-1015 prior to leaving the Restricted Access Area of the Licensed Premises.
3. Local Restrictions. Transfers of Regulated Marijuana pursuant to this Rule 3-345 remain subject to requirements and restrictions imposed by the relevant Local Licensing Authority or Local Jurisdiction.

- F. Effect of this Emergency Rule 3-345. In response to the presence of COVID-19 in the state and the executive orders and public health orders in effect, this Emergency Rule 3-345 shall remain effective pursuant to section 24-4-103(6), C.R.S., or until repealed by the State Licensing Authority upon notice to the Secretary of State.

G. Violation Affecting Public Safety. It is a violation affecting public safety if a Regulated Marijuana Business violates the provisions of this Rule 3-345 or fails to comply with state or local social distancing requirements. Violations of this Rule 3-345 may result in the fine, suspension, summary suspension, and/or revocation of a Licensee's Owner License and Regulated Marijuana Business License pursuant to section 44-10-901, C.R.S. and the 8-200 Series Rules.