

STATE OF COLORADO

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Colorado Department of Revenue Marijuana Enforcement Division

John W. Hickenlooper
Governor

Barbara J. Brohl
Executive Director

Emergency Rules:

Revised Rules, Medical Marijuana, 1 CCR 212-1

Rule M 201 – Application Process

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

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

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

Rule M 210 – Schedule of Other Application Fees: All Licensees

Rule M 235 – Schedule of License Fees: Individuals

Rule M 236 – Schedule of Renewal License Fees: Individuals

Revised Rules, Retail Marijuana, 1 CCR 212-2

Rule R 207 – Schedule of Application Fees: Retail Marijuana Establishments

Rule R 208 – Schedule of Business License Fees: Retail Marijuana Establishments

Rule R 209 – Schedule of Business License Renewal Fees: Retail Marijuana Establishments

Rule R 210 – Schedule of Other Application Fees: All Licenses

Rule R 234 – Schedule of License Fees: Individuals

Rule R 235 – Schedule of Renewal Fees: Individuals

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, Barbara J. Brohl, 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.

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(1)(e), 12-43.3-202(2)(a)(XVI), 12-43.3-202(2)(a)(XVIII.5), 12-43.3-202(2)(a)(XX), 12-43.3-301(3), 12-43.3-302(5)(c), 12-43.3-401(1)(a)-(e), and 12-43.3-401(1)(d), and sections 12-43.3-104, 12-43.3-305, 12-43.3-306, 12-43.3-307.5, 12-43.3-310, 12-43.3-311, 12-43.3-313, 12-43.3-401, 12-43.3-501, 12-43.3-502, 12-43.3-1101, 12-43.3-1102, and 24-76.5-103, 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 12-43.4-104(1)(a)(I), 12-43.4-202(2)(a), 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(a)(II), 12-43.4-202(3)(a)(XIV.5), 12-43.4-202(3)(b)(VIII), 12-43.4-202(3)(b)(IX); 12-43.4-304(1), 12-43.4-306.5(5)(a)-(b), 12-43.4-309(6), 12-43.4-310(2)(a), and 12-43.4-401(1)(a)-(g), C.R.S., and sections 12-43.4-103, 12-43.4-104, 12-43.4-305, 12-43.4-401, 12-43.3-501, 12-43.3-502, and 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 to set fees related to several new types of licenses, registrations and interests in medical marijuana businesses and retail marijuana establishments, and related services, which will become effective January 1, 2017. The new license, registration and interest types were created pursuant to Senate Bill 16-040 and House Bill 16-1211, as well as pre-existing statutory and rule-making authority contained in the Medical and Retail Marijuana Codes, including the statutory provisions identified above.

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 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 State Licensing Authority must review the fees at least annually.

The fiscal analysis required for attached rule revisions could not be completed until now due to the short timeline for implementation of new types of licenses, registrations and interests that may be held in medical marijuana businesses and retail marijuana establishments, as set forth in Senate Bill 16-040 and House Bill 16-1211, and the time required for the subsequent rulemaking proceeding. Specifically, the Department of Revenue's Office of Budget & Financial Services could not perform its required fiscal analysis to determine appropriate fees for each license, registration, or interest prior to adoption of the implementing rules. The rules were adopted by the State Licensing Authority on October 13, 2016. The contents of those rules were key to performance of the requisite fiscal analysis to determine fee amounts

in accordance with subsection 12-43.3-501, C.R.S., after 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. The Office of Budget & Financial Services completed its fiscal analysis in mid-December 2016.

Consequently, there is not enough time to undergo a permanent rulemaking process for Rules M 201, M 207, M 208, M 209, M 210, M 235, M 236, 1 CCR 212-1 and Rules R 207, R 208, R 209, R 210, R 234 and R 235, 1 CCR 212-2, prior to January 1, 2017, the date on which the fees must be in place to comply with statute. As a result, these rules were adopted on an emergency basis on December 22, 2016. These emergency rules will expire on April 21, 2017.

The State Licensing Authority filed a permanent rulemaking notice for all of these fee rules, as well as other rules, on December 22, 2016, with an expected effective date of approximately March 30, 2017. 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 out of state ownership interests, 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 201, M 207, M 208, M 209, M 210, M 235, and M 236, 1 CCR 212-1, and R 207, R 208, R 209 and R 210, R 234, and R 235, 1 CCR 212-2, are hereby repealed and replaced by the attached emergency rules. These emergency rules will remain in effect until their expiration or until replaced by permanent rules.



Barbara J. Brohl
Executive Director
Colorado Department of Revenue
State Licensing Authority



Date