



**Colorado Department of Revenue
Marijuana Enforcement Division
Emergency Rule Adoption**

Revised and Repealed Medical Marijuana Rules, 1 CCR 212-1

M 100 Series – General Applicability

Rule M 103 – Definitions (Revised)

M 200-1 Series Rules – Application and Licenses (Entire Rule Series Repealed)

New Medical Marijuana Rules, 1 CCR 212-1

Part 2 – Applications and Licensure

2-100 Series – Applicability

Rule 2-105 – Applicability

2-200 Series – Applications and License Rules

Rule 2-205 – Fees

Rule 2-210 – Duties of All Applicants and Licensees

Rule 2-215 – All Application Requirements

Rule 2-220 – Initial Application Requirements for Regulated Marijuana Businesses

Rule 2-225 – Renewal Application Requirements for All Licensees

Rule 2-230 – Disclosure of Financial Interests in a Regulated Marijuana Business

Rule 2-235 – Suitability

Rule 2-240 – Factors Considered in Determining Reasonable Cause for Disclosure, Finding of Suitability and Extension of 120 Deadline for Finding of Suitability

Rule 2-245 – Change of Controlling Beneficial Owner Application or Notification

Rule 2-250 – Regulated Marijuana Business that is a Publicly Traded Corporation – Notification of Non-Confidential Securities Filings

Rule 2-255 – Change of Location of a Regulated Marijuana Business

Rule 2-260 – Changing, Altering, Modifying Licensed Premises

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

Rule 2-270 – Application Denial and Voluntary Withdrawal

Rule 2-275 – Temporary Appointee Registrations for Court Appointees

Rule 2-280 – Controlling Beneficial Owners that are Persons Prohibited, Unsuitable, Revoked or Suspended; At Least One Controlling Beneficial Owner Holding a Valid Owner License Required; and Prohibited Third-Party Acts

Revised and Repealed Retail Marijuana Rules, 1 CCR 212-2

R 100 Series – General Applicability

Rule R 103 – Definitions (Revised)

R 200-1 Series Rules – Applications and Licenses (Entire Rule Series Repealed)

New Retail Marijuana Rules, 1 CCR 212-2

Part 2 – Applications and Licensure

2-100 Series – Applicability

Rule 2-105 – Applicability

2-200 Series – Applications and License Rules

Rule 2-205 – Fees

Rule 2-210 – Duties of All Applicants and Licensees

Rule 2-215 – All Application Requirements

Rule 2-220 – Initial Application Requirements for Regulated Marijuana Businesses

Rule 2-225 – Renewal Application Requirements for All Licensees

Rule 2-230 – Disclosure of Financial Interests in a Regulated Marijuana Business

Rule 2-235 – Suitability

Rule 2-240 – Factors Considered in Determining Reasonable Cause for Disclosure, Finding of Suitability and Extension of 120 Deadline for Finding of Suitability

Rule 2-245 – Change of Controlling Beneficial Owner Application or Notification

Rule 2-250 – Regulated Marijuana Business that is a Publicly Traded Corporation – Notification of Non-Confidential Securities Filings

Rule 2-255 – Change of Location of a Regulated Marijuana Business

Rule 2-260 – Changing, Altering, Modifying Licensed Premises

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

Rule 2-270 – Application Denial and Voluntary Withdrawal

Rule 2-275 – Temporary Appointee Registrations for Court Appointees

Rule 2-280 – Controlling Beneficial Owners that are Persons Prohibited, Unsuitable, Revoked or Suspended; At Least One Controlling Beneficial Owner Holding a Valid Owner License Required; and Prohibited Third-Party Acts

Statement of Emergency Justification and Adoption

Pursuant to sections 24-4-103, 44-11-202, and 44-12-202, C.R.S, I, Heidi Humphreys, Deputy Executive Director and Chief Operating Officer of the Department of Revenue and State Licensing Authority, hereby adopt the aforementioned 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 44-11-101 to -1102, C.R.S., and Retail Marijuana Code, sections 44-12-101 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 repealed, revised and new Medical Marijuana Rules is identified in the statement of basis and purpose preceding each rule.

The statutory authority for the attached repealed, revised and new Retail Marijuana Rules is identified in the statement of basis and purpose preceding each rule.

Purpose

As identified in the August 1, 2019 Emergency Rule Adoption (“August Emergency Rules”), the current emergency rules expire November 29, 2019. The State Licensing Authority is adopting the aforementioned emergency rules in advance of November 29, 2019 because HB19-1090, Concerning Measures to Allow Greater Investment Flexibility in Marijuana Businesses (“HB19-1090”) permits applications beginning November 1, 2019. To facility these application and minimize disruption to the regulated industry, the State Licensing Authority is adopting the emergency rules on November 1, 2019.

The State Licensing Authority filed a permanent rulemaking notice including all of the August Emergency Rules on August 30, 2019, and held a rulemaking hearing on October 15, 2019. The proposed permanent rules have an effective date of January 1, 2019. The permanent rulemaking process included the opportunity for additional stakeholder and public participation.

The purpose of the revisions to these rules on an emergency basis is as follows:

The State Licensing Authority adopted Emergency Medical Rules M 103, and 2-105, 2-205, 2-210, 2-215, 2-220, 2-225, 2-230, 2-235, 2-240, 2-245, 2-250, 2-255, 2-260, 2-265, 2-270, 2-275 and 2-280; and Retail Rules R 103, and 2-105, 2-205, 2-210, 2-215, 2-220, 2-225, 2-230, 2-235, 2-240, 2-245, 2-250, 2-255, 2-260, 2-265, 2-270, 2-275 and 2-280, on November 1, 2019 (“November Emergency Rules”). The purpose of the November Emergency Rules is to implement HB19-1090. There was insufficient time to undergo a permanent rulemaking process for the implementation of HB19-1090, as the act became effective immediately upon the Governor’s signature pursuant to a safety clause. However, significant stakeholder

input was received during four stakeholder work groups and the October 15, 2019 permanent rulemaking hearing, all of which were completed prior to adoption of the November Emergency Rules.

House Bill 19-1090

On May 29, 2019 Governor Jared Polis signed into law HB 19-1090. This bill permits certain publicly traded company ownership in marijuana businesses (prior law expressly prohibited such ownership). The act limits publicly traded company ownership to those organized under and with a principle place of business in the U.S. or a country that authorizes the sale of marijuana and that satisfies one of the following:

1. Have registered securities that constitute “Covered Securities” or are listed on the OTCQX or OTCQB Tier and in compliance with SEC filing and certain corporate governance obligations; or
2. Is a “foreign private issuer” listed on CSE, TSE or TSXVE (Canadian exchanges), and for the preceding 365 days demonstrated compliance with all governance and reporting obligations imposed by the relevant exchange.

The act prohibits certain “ineligible issuers”. In addition to the publicly traded company provisions, HB19-1090 permits the use of certain private investment vehicles including private equity and venture capital funds. The bill also creates new ownership and investment categories, Controlling Beneficial Owner, Passive Beneficial Owner, Indirect Financial Interest Holder, Qualified Institutional Investor, and Qualified Private Fund.

The act limits the scope of disclosure and suitability requirements for marijuana business owners and investors. It requires disclosure and suitability findings for persons owning 10% or more of the securities or owner’s interest in a marijuana business or otherwise in control of the business, and provides exemptions to disclosure and suitability findings for those owning less than 10% of the securities or owner’s interest and not in control of the marijuana business. The act also requires disclosure of persons with more than one indirect financial interest in the same marijuana business, persons contributing over 50% of the marijuana business’s operating capital, and persons with less than a controlling ownership interest in a marijuana business upon a showing of “reasonable cause”.

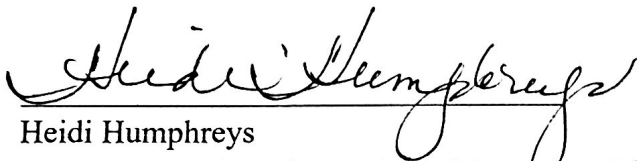
HB19-1090 provides rulemaking authority for ownership and financial procedures/requirements; records required to be maintained regarding owners and indirect financial interest holders; procedures/requirements for findings of suitability; procedures/requirements for divestiture of a person found unsuitable; procedures, processes and requirements for transfers of ownership involving a publicly traded corporation (e.g. investments, mergers and public offerings); designation of persons who are a controlling beneficial owner by virtue of common control; modification of the percentage of owner’s interests held by controlling or passive beneficial owners; designation of persons that qualify for an exemption from a finding of suitability; and designation of indirect financial interest holders and qualified institutional investors. HB19-1090 includes a safety clause and applies to applications made on or after November 1, 2019.

Effective Date of Emergency Rules

The attached emergency rules are effectively immediately upon adoption.

1. The M 200-1 Series Rules, 1 CCR 212-1, and the R 200-1 Series Rules, 1 CCR 212-2, are hereby repealed.
2. The prior versions of Medical Rule M 103, 1 CCR 212-1, and Retail Rule R 103, 212-2 are hereby amended.
3. Medical Rules 2-105, 2-205, 2-210, 2-215, 2-220, 2-225, 2-230, 2-235, 2-240, 2-245, 2-250, 2-255, 2-260, 2-265, 2-270, 2-275, and 2-280 CCR 212-1 and Retail Rules 2-105, 2-205, 2-210, 2-215, 2-220, 2-225, 2-230, 2-235, 2-240, 2-245, 2-250, 2-255, 2-260, 2-265, 2-270, 2-275, and 2-280, 1 CCR 212-2 are hereby adopted.

The attached emergency rules remain in effect until their expiration date, 120 days from the date of adoption, or until replaced by rules promulgated pursuant to the emergency or permanent rulemaking process.



Heidi Humphreys
Deputy Executive Director/Chief Operating Officer
Colorado Department of Revenue
State Licensing Authority

11.01.19
Date