Colorado
Department of Revenue

Marijuana Enforcement Division

1 CCR 212-2

DRAFT Permanent Rules Related to the

Colorado Medical Marijuana Code

Redline Version – Grammar and Format Corrections
08/19/13

M 100 Series – General Applicability

Basis and Purpose – M 101

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-901(2), and 18-18-406(7.5), C.R.S. Notwithstanding defined, very limited exceptions in the Colorado Constitution, any person who buys, sells, transfers, gives away, or acquires Medical Marijuana outside the requirements the Medical Code is engaging in illegal activity pursuant to Colorado law. This rule clarifies that those engaged in the business of possessing, cultivating, or selling medical marijuana must be properly licensed to be in compliance with Colorado law.

M 101 – Engaging in Business

No person shall engage in the business of cultivating, possessing, selling, or offering to sell Medical Marijuana or Medical Marijuana-Infused Products unless said Person is duly licensed by the State Licensing Authority and the relevant Local Licensing Authorities.

Basis and Purpose – M 102

The statutory authority for this rule is found at subsection 12-43.3-202(1)(b)(I), C.R.S. The purpose of this rule is to clarify that each rule is independent of the others, so if one is found to be invalid, the remainder will stay in place. This will give the regulated community confidence in the rules even if one is challenged.

M 102 – Severability

If any portion of the rules is found to be invalid, the remaining portion of the rules shall remain in force and effect.

Basis and Purpose – M 103

The statutory authority for this rule is found at subsection 12-43.3-202(1)(b)(I), C.R.S. The purpose of this rule is to provide necessary definitions of terms used throughout the rules.

M 103 – Definitions

Definitions. The following definitions of terms, in addition to those set forth in section 12-43.3-104, C.R.S., shall apply to all rules and regulations promulgated pursuant to the Medical Code, unless the context requires otherwise:

"Advertising" means the act of providing consideration for the promotion of a Medical Marijuana Business, particular Medical Marijuana or a Medical Marijuana-Infused Product, by means of a positive statement or endorsement. Advertising includes marketing, but does not include packaging and labeling. Advertising is commercial speech.

“Alarm Installation Company” means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.

“Applicant” means a Person that has submitted an application pursuant to these rules that was accepted by the Division for review but has not been approved or denied by the State Licensing Authority.

“Associated “Key License” means an Occuaptional lLicense for an individual who is an Owner of ~~performs duties that are key to~~ the Medical Marijuana Business.~~' operation and have the highest level of responsibility. Examples of individuals who need this type of license include, but are not limited to, managers and bookkeepers.~~

“Batch” means a specifically identified quantity of processed Medical Marijuana that is uniform in strain and potency, cultivated utilizing the same herbicides, pesticides, and fungicides, and harvested during the same cultivation cycle.

“Child-Resistant Packaging” means special packaging that is:

a. Designed or constructed to be significantly difficult for children under 5 years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 and ASTM classification standard D3475-12, http://www.astm.org/Standards/D3475.htm. Note that the rule does not include any later amendments or editions to the Code of Federal Regulations or the ATSM classification standards. The Division has maintained a copy of the applicable federal regulation and ATSM classification standard, which are available to the public.
b. Opaque so that the product cannot be seen from outside the packaging;
c. Reclosable for any product intended for more than a single use or containing multiple servings, and
d. Labeled properly as required by Rule R 1004 (B) (1) (h) (ii) or Rule R 1004 (D) (1) (g) (ii).

"Container" means the sealed package in which Medical Marijuana or a Medical Marijuana Product is placed for sale to a patient and that has been labeled according to the requirements set forth in Rule M 1002 *et. seq.*

"Denied Applicant" means any Person whose application for licensure pursuant to the Medical Code has been denied.

“Department” means the Colorado Department of Revenue.

"Director" means the Director of the Marijuana Enforcement Division.

"Division" means the Marijuana Enforcement Division.

"Edible Medical Marijuana-Infused Product" means any Medical Marijuana-Infused Product that is intended to be consumed orally, including but not limited to, any type of food, drink, or pill.

“Executive Director” means the Executive Director of the Department of Revenue.

"Exit Package" means a sealed Container or package provided at the retail point of sale, in which any Medical Marijuana or Medical Marijuana-Infused Products already within a Container are placed. An Exit Package must be designed to ensure that the contents are secure and are child-resistant.

"Final Agency Order" means an Order of the State Licensing Authority issued in accordance with the Medical Code and the State Administrative Procedure Act. The State Licensing Authority will issue a Final Agency Order following review of the Initial Decision and any eExceptions filed thereto. A Final Agency Order is subject to judicial review.

"Good Cause" for purposes of denial of an initial, renewal or reinstatement license application or certification or for purposes of discipline of a license or certification means:

1. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Medical Code, any rules promulgated pursuant to the Medical Code, or any supplemental relevant state or local law, rule, or regulation;

2. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local licensing authority; or

3. The Licensee's or the Applicant's Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

"Good Moral Character" means an individual with a personal history demonstrating honesty, fairness, and respect for the rights of others and for the law.

"Harvest Batch" means

"Identity Statement" means the name of the business as it is commonly known and used in any advertising or marketing materials.

"Immature plant" means a nonflowering Medical Marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping, or seedling and that is in a growing/cultivating container that is no larger than two inches wide and two inches tall that is sealed on the sides and bottom.

"Initial Decision" means a decision of a hearing officer in the Department following a licensing, disciplinary, or other administrative hearing.

"Key License" means an Occuaptional License for an individual who performs duties that are key to the Medical Marijuana Business' operation and have the highest level of responsibility. Examples of individuals who need this type of license include, but are not limited to, managers and bookkeepers.

"Label" or "Labeling" means all labels and other written, printed, or graphic matter upon a Container holding Medical Marijuana or a Medical Marijuana-Infused Product.

"License" means to grant a license or registration pursuant to the Medical Code and these rules.

"Licensed Premises" means the premises specified in an application for a license pursuant to the Medical Code that are (or would be) owned or in possession of the Licensee (or Applicant) and within which the Licensee (or Applicant) is (or would be) authorized to cultivate, manufacture, distribute, sell, or test Medical Marijuana in accordance with the provisions of the Medical Code and these rules.

"Licensee" means any Person licensed or registered pursuant to the Medical Code.

"Limited Access Area" means a building, room, or other contiguous area upon the licensed premises where Medical Marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the Licensee.

"LOD" or "Limit of Detection" means the lowest quantity of a substance that can be distinguished from the absence of that substance (a *blank value*) within a stated confidence limit (generally 1%).[1]

"LOQ" or "Limit of Quantitation" means the lowest concentration at which the analyte can not only be reliably detected but at which some predefined goals for bias and imprecision are met.

"Medical Code" means the Colorado Medical Marijuana Code found at sections 12-43.3-101 *et. seq.*, C.R.S.

"Medical Marijuana" means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants.

"Medical Marijuana Business" means a licensed Medical Marijuana Center, a Medical Marijuana-Infused Products Manufacturing Business, or an Optional Premises Cultivation Operation.

"Medical Marijuana Center" means a Person that is licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-402, C.R.S., and that sells Medical Marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

"Medical Marijuana-Infused Product" means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures. These products, when manufactured or sold by a licensed Medical Marijuana Center or a Medical Marijuana-Infused Products Manufacturer, shall not be considered a food or drug for purposes of the "Colorado Food and Drug Act," part 4 of Article 5 of Title 25, C.R.S.

"Medical Marijuana-Infused Products Manufacturer" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-404, C.R.S.

"MITS" means Marijuana Inventory Tracking Solution.

"MITS Trained Administrator" means an Owner or an occupationally licensed employee of a Medical Marijuana Business who has attended and successfully completed MITS training and who has completed any additional training required by the Division.

"MITS User" means an Owner or an occupationally licensed Medical Marijuana Business employee who is granted MITS User account access for the purposes of conducting inventory tracking functions in the MITS system, who has been successfully trained by MITS Trained Administrator(s) in the proper and lawful use MITS, and who has completed any additional training required by the Division.

"Monitoring Company" means a ~~p~~Person in the business of providing Monitoring services for a Medical Marijuana Business.

"Monitoring" means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Medical Marijuana Business Licensed Premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

"Notice of Denial" means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.

"Occupational License" means a license granted to an individual by the State Licensing Authority pursuant to section 12-43.3-401, C.R.S. An Occupational License may be an Associated Key License, a Key License or a Support License.

"Optional Premises Cultivation Operation" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-403, C.R.S.

"Order to Show Cause" means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee's license.

"Owner" means the Person or Persons whose beneficial interest in the license is such that they bear risk of loss other than as an insurer, and have an opportunity to gain profit from the operation or sale of the establishment. Each individual Owner must have an Associated K~~k~~ey ~~l~~License.

"Person" means a natural Person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof; except that "Person" does not include any governmental organization.

"Proficiency Testing Samples" means performing the same analyses on the same samples and comparing results to ensure the Samples are homogenous and stable, and also that the set of samples analyzed are appropriate to test and display similarities and differences in results.

"Production Run" means a group of similar or related Medical Marijuana that is produced by using a particular group of manufacturing procedures, processes or conditions.

"RFID" means Radio Frequency Identification

"Restricted Access Area" means is an area where no one but certain people can enter.

"Respondent' means a Person who has filed a Petition for Declaratory Order or a Licensee who is subject to an Order to Show Cause.

"Retail Code" means the Colorado Retail Marijuana Code, found at sections 12-43.4-101 *et. seq*., C.R.S.

"Retail Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds

of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

"Retail Marijuana Cultivation Facility" means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Stores, to Retail Marijuana Product Manufacturing Facilities, and to other Retail Marijuana Cultivation Facilities, but not to consumers.

"Retail Marijuana Establishment" means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Testing Facility.

“Retail Marijuana Product Manufacturing Facility” means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Products; and sell Retail Marijuana and Retail Marijuana Products to other Retail Marijuana Product Manufacturing Facilities and to Retail Marijuana Stores, but not to consumers.

"Retail Marijuana Product" means concentrated Retail Marijuana Products and Retail Marijuana Products that are comprised of Retail Marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edib~~x~~le products, ointments, and tinctures.

“Retail Marijuana Store” means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Products from a Retail Marijuana Product Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Products to consumers.

“Retail Marijuana Testing Facility” means an entity licensed and certified to analyze and certify the safety and potency of Retail Marijuana.

“Sample” means any Medical Marijuana or Medical Marijuana Product provided for testing or research purposes to a Retail Marijuana Testing Facility with a vendor registration and occupational license in accordance with Rule M 701 – Vendor Registration and Occupational License for Medical Marijuana Testing and Research~~for testing purposes~~ .

"Security Alarm System” means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

“Shipping Container” means any container or wrapping used solely for the transportation of Medical Marijuana or Medical Marijuana-Infused Products in bulk, or in a quantity for other Medical Marijuana Businesses.

"State Licensing Authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of Medical Marijuana and Retail Marijuana in Colorado, pursuant to section 12-43.3-201, C.R.S.

“Support License” means a license for an individual who performs duties that support the Medical Marijuana Business’ operations. While a Support Licensee must conduct himself or herself professionally, he or she

has limited decision making authority and always fall under the supervision of an Associated Key Licensee. Examples of individuals who need this type of license include, but are not limited to, sales clerks or cooks.

"THC" means tetrahydrocannabinol.

“Unrecognizable” means not able to be recognized or identified.

Basis and Purpose – M 104

The statutory authority for this rule exists in sections 12-43.3-201, 12-43.3-202, and 24-4-105, C.R.S. The purpose of this rule is to establish a system by which a licensee may petition the Division to get a formal position by the State Licensing Authority on issues that will likely be applicable to other licensees. By utilizing this system, licensees can ensure that their due process rights are protected because the Administrative Procedure Act will apply. The State Licensing Authority intends to adopt these formal positions as rules each year. This system works for other divisions within the Department of Revenue and helps the regulated community get clarity on yet-unknown issues.

M 104 – Declaratory Orders Concerning the Medical Code

A. Who May Petition for Statement of Position. Any Person, municipality, county, or city and county, may petition the Division for a statement of position concerning the applicability to the petitioner of any provision of the Medical Code, or any regulation of the State Licensing Authority. The Division shall respond with a written statement of position within 30 days of receiving a proper petition.

B. Petition for Declaratory Order. Any Person who has properly petitioned the Division for a statement of position, and who is dissatisfied with the statement of position or who has not received a response within 30 days, may petition the State Licensing Authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. A petition shall set forth the following:

    1. The name and address of the petitioner.

    2. Whether the petitioner is licensed pursuant to the Medical Code, and if so, the type of license and address of the Licensed Premises.

    3. The statute, rule or order to which the petition relates.

    4. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statue, rule or order to which the petition relates.

    5. A concise statement of the legal authorities, if any, and such other reasons upon which petitioner relies.

    6. A concise statement of the declaratory order sought by the petitioner.

C. State Licensing Authority Retains Discretion Whether to Entertain Petition. The State Licensing Authority will determine, in its discretion and without prior notice to the petitioner, whether to entertain any petition. If the

State Licensing Authority decides it will not entertain a petition, it shall promptly notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:

1. The petitioner failed to properly petition the Division for a statement of position, or if a statement of position was issued, the petition for declaratory order was filed with the State Licensing Authority more than 30 days after statement of position was issued.

2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule or order in question.

3. The petition involves a subject, question or issue which is currently involved in a pending hearing before the state or any local licensing authority, or which is involved in an on-going investigation conducted by the Division, or which is involved in a written complaint previously filed with the State Licensing Authority.

4. The petition seeks a ruling on a moot or hypothetical question.

5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo. R. Civ. Pro. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule or order.

D. If State Licensing Authority Entertains Petition. If the State Licensing Authority determines that it will entertain the petition for declaratory order, it shall notify the petitioner within 30 days, and the following procedures shall apply:

1. The State Licensing Authority may expedite the hearing, where the interests of the petitioner will not be substantially prejudiced thereby, by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the Division to submit additional evidence and legal argument in writing.

2. In the event the State Licensing Authority determines that an evidentiary hearing or legal argument is necessary to a ruling on the petition, a hearing shall be conducted in conformance with Rules M 1304 – Administrative Hearings, M 1305 – Administrative Subpoenas, and M 1306 – Administrative Hearing Appeals. The petitioner will be identified as Respondent.

3. The parties to any proceeding pursuant to this rule shall be the petitioner/Respondent and the Division. Any other interested Person may seek leave of the State Licensing Authority to intervene in the proceeding and such leave may be granted if the licensing authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested Person.

4. The declaratory order shall constitute agency action subject to judicial review pursuant to section 24-4-106, C.R.S.

E. Mailing Requirements. A copy of any petition for a statement of position to the Division and of any petition for a declaratory order to the State Licensing Authority shall be mailed, on the same day that the petition is filed with the Division or authority, to the individual county or municipality within which the petitioner's Licensed Premises, or premises proposed to be licensed, are located. Any petition filed with the Division or State Licensing Authority shall contain a certification that the mailing requirements of this paragraph have been met.

F. Public Inspection. Files of all petitions, requests, statements of position, and declaratory orders will be maintained by the Division. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.

G. Posted on Website. The Division shall post a copy of all statements of positions or declaratory orders constituting final agency action on the Division's website.

M 200 Series – General Applicability

Basis and Purpose – M 201

The statutory authority for this rule is found at subsections 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)(XX), and 12-43.3-310(7), C.R.S. The purpose of this rule is to establish that only materially complete applications for licenses, accompanied ~~with~~by all required fees, will be accepted and processed by the Division. The State Licensing Authority understands there may be instances where an application is materially complete, but further information is required before it can be fully processed. In such instances, the applicant must provide the additional requested information within the time frame given by the Division in order for the application to be acted on in a timely manner.

M 201 – Complete Applications Required: Medical Marijuana Businesses

A. General Requirements

1. All applications for state licenses authorized pursuant to subsections 12-43.3-401(1)(a)-(d), C.R.S., shall be made upon current forms prescribed by the Division. Applications submitted to the Division may include, but not be limited to, new business premises, transfers of ownership, change of locations, premises modification, and changes in trade name.

2. A license issued by the Division to a Medical Marijuana Business constitutes a revocable privilege. The burden of proving an Applicant's qualifications for licensure rests at all times with the Applicant.

3. If required by the forms supplied by the Division, each application shall identify the relevant local jurisdiction.

4. Applicants must submit a complete application to the Division before it will be accepted or considered.

    a. All applications must be complete in every material detail.

    b. All applications must include all attachments or supplemental information required by the forms supplied by the Division.

    c. All applications must be accompanied by a full remittance for the whole amount of the application, license, or other relevant fees.

    d. The Applicant or its authorized agent must provide a surety bond and prove that all tax returns related to the Medical Marijuana Business have been timely filed;

5. The Division may refuse to accept an incomplete application.

B. Additional Information May Be Required

1. Each Applicant shall provide any additional information required that the Division may request to process and fully investigate the application. The additional information must be provided to the Division no later than 14 days of the request unless otherwise specified by the Division. Each Applicant shall provide any additional information required that the Division may request to process and fully investigate the application.

2. An Applicant's failure to provide the requested evidence or information by the Division deadline may be grounds for denial.

C. Information Must Be Provided Truthfully. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

D. Application Forms Accessible. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, shall be accessible by the State Licensing Authority, local jurisdictions, and any law enforcement agent.

E. Other Considerations Regarding Medical Marijuana Business Applications. The Applicant, if not an individual, must be comprised of individuals:

1. Whose criminal history background checks establish they are all of Good Moral Character; and

2. Who have met all other licensing requirements.

Basis and Purpose – M 202

The statutory authority for this rule is found at subsections 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)(XX), and 12-43.3-310(7), and sections 12-43.3-308, 24-4-104, and 24-76.5-101 *et. seq.,*C.R.S. The purpose of this rule is to establish basic requirements for all Division applications for new Medical Marijuana Business licenses. It helps the regulated community understand the procedural licensing requirements.

M 202 – Process for Issuing a New License: Medical Marijuana Businesses

A. General Requirements

1. All applications for state licenses authorized pursuant to subsections 12-43.3-401(1)(a)-(d), C.R.S., shall be made upon forms prescribed by the Division. Each application for a new license shall identify the relevant Local Licensing Authority.

2. All applications for new Medical Marijuana Businesses must include application and licensing fees for each premises. *See* Rules M 207 - Schedule of Application Fees: Medical Marijuana Businesses and M 208 - Schedule of Business License Fees: Medical Marijuana Businesses.

3. Each Applicant for a new license shall provide:

    a. Suitable evidence of proof of lawful presence, residence, if applicable, and good character and reputation that the Division may request;

    b. All requested information concerning financial and management associations and interests of other Persons in the business;

    c. Department of Revenue tax payment information;

    d. Proof of good and sufficient surety bond;

    e. Accurate floor plans for the premises to be licensed; and

    f. The deed, lease, contract, or other document governing the terms and conditions of occupancy of the premises licensed or proposed to be licensed.

    Nothing in this section is intended to limit the Division's ability to request additional information it deems necessary or relevant to determining an Applicant's suitability for licensure.

4. Failure to provide such additional evidence by the requested deadline may result in denial of the application.

5. All applications to reinstate a license will be deemed applications for new licenses.

B. Other Factors

1. If the Division grants a state license before the relevant local jurisdiction approves the application or grants a local license, the state license will be conditioned upon local approval. Such a condition will not be viewed as a denial pursuant to the Administrative Procedure Act. If the Local Licensing Authority fails to approve or denies the application, the state license will be revoked. Once the local license is issued, the Division will determine whether an unconditional state license will be issued.

2. The Applicant has one year from the date of licensing by the State Licensing Authority to obtain approval or licensing through the relevant ~~L~~local ~~L~~licensing ~~A~~authority. Should the Applicant fail to obtain Local Licensing Authority approval or licensing within the specified period, the State license shall expire and may not be renewed.

3. An Applicant is prohibited from operating a Medical Marijuana Business prior to obtaining all necessary licenses or approvals from both the State Licensing Authority and the relevant ~~L~~local ~~L~~licensing ~~A~~authority.

Basis and Purpose – M 203

The statutory authority for this rule is found at subsections 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)(XX), and 12-43.3-310(7). and section 12-43.3-311, C.R.S. The purpose of this rule is to establish how licenses can be renewed.

M 203 – Process for Renewing a License: Medical Marijuana Businesses

A. General Process for License Renewal

1. The Division will send a nNotice for lLicense Rrenewal 90 days prior to the expiration of an existing license by first class mail to the Licensee's mailing address of record.

2. A Licensee may apply for the renewal of an existing license no less than 30 days prior to the license's expiration date. If the Licensee files a renewal application within 30 days prior to expiration, the Licensee must provide a written explanation detailing the circumstances surrounding the late filing. If the Division accepts the application, then it may elect to administratively continue the license beyond the expiration date while it completes the renewal licensing process.

3. An application for renewal will only be accepted if it is accompanied by the requisite licensing fees. *See* Rule M 209 - Schedule of Business License Renewal Fees: Medical Marijuana Businesses.

B. Failure to Receive a nNotice for lLicense rRenewal. Failure to receive a nNotice for lLicense rRenewal does not relieve a Licensee of the obligation to renew all licenses.

C. If License Not Renewed Before Expiration. A license is immediately invalid upon expiration if the Licensee has not filed a late renewal application and remitted all of the required fees.

1. In the event the license is not renewed prior to expiration, a Medical Marijuana Business may not operate.

2. If a late application is filed by the Licensee and the requisite fees are remitted to the Division within 90 days of expiration of the license, the Division may administratively continue the license from the date the late application was received until it can complete its renewal application process and investigate the extent to which the Licensee operated with an expired license.

3. If a former licensee files a renewal application after 90 days from date of expiration, the application will be treated as a new license application.

~~D. If License Not Renewed Before Expiration. A license is immediately invalid upon expiration if the Licensee has not filed a late renewal application and remitted all of the required fees. If a late application is filed by the Licensee and the requisite fees are remitted to the Division within 90 days of expiration of the license, the Division may administratively continue the license until it can complete its renewal application process and investigate the extent to which the Licensee operated with an expired license.~~

Basis and Purpose – M 204

The statutory authority for this rule is found at subsections 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)(XX), and 12-43.3-310(7), and section 12-43.3-310, C.R.S. The purpose of this rule is to clarify what elements the State Licensing Authority considers when determining who has a beneficial interest in a license to such an extent that one is considered an Owner.

M 204 – Factors Considered When Evaluating Ownership of a License: Medical Marijuana Businesses

A. Licenses Held By Owners. Each Medical Marijuana Business License must be held by the Owner or Owners of the licensed establishment. The Division may consider the following non-exhaustive list of elements when determining who is an Owner:

1. Who bears risk of loss and opportunity for profit;

2. Who is entitled to possession of the Licensed Premises or premises to be licensed;

3. Who has final decision making authority over the operation of the licensed Medical Marijuana Business;

4. Who guarantees the Medical Marijuana Business' debts or production levels;

5. Who is a beneficiary under the Medical Marijuana Business' insurance policies;

6. Who acknowledges liability for the Medical Marijuana Business' federal, state, or local taxes; or

7. Who is an officer or director of a Medical Marijuana Business.

B. Management Companies. Any Person contracted to manage the overall operation of a Licensed Premises shall be considered an Owner.

C. Spouses. A spouse of a Licensee may hold a license in his or her own right if he or she is the Owner of the licensed establishment, regardless of whether the spouses file separate or joint income tax returns.

D. Entities. A partnership interest, limited or general, a joint venture interest, a licensing agreement, ownership of a share or shares in a corporation or a limited liability company which is licensed, or having a secured interest in furniture, fixtures, equipment or inventory constitutes ownership and a direct financial interest. Unsecured notes or loans shall constitute an indirect financial interest. ~~and i~~It shall be unlawful to fail to completely report all financial interests in each license issued.

Basis and Purpose – M 205

The statutory authority for this rule is found at subsection 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)(XX), and 12-43.3-310(7), and sections 12-43.3-309 and 24-76.5-101 *et. seq.,* C.R.S. The purpose of this rule is to establish protocol for ownership transfers.

M 205 – Transfer of Ownership and Changes in Licensed Entities: Medical Marijuana Businesses

A. General Requirements

1. All applications for transfers of ownership or changes in corporate entities by licensed ~~Retail~~ Medical Marijuana ~~Establishments~~ Businesses authorized pursuant to section 12-43.~~4~~3-401, C.R.S., shall be made upon current forms prescribed by the Division. Each application shall identify the relevant local ~~jurisdiction~~ licensing authority.

2. All applications for transfers of ownerships and changes in licensed entities by ~~Retail~~ Medical Marijuana ~~Establishments~~ Businesses must include application fees and be complete in every material detail.

3. Each Applicant for a transfer of ownership shall provide suitable evidence of a Person's proof of lawful presence, residence and good character and reputation that the Division may request. Each Applicant shall also provide all requested information concerning financial and management associations and interests of other Persons in the business, Department of Revenue tax payment information, proof of good and sufficient surety bond and the deed, lease, contract, or other document governing the terms and conditions of occupancy of the Licensed P~~p~~remises ~~licensed or proposed to be licensed~~. Nothing in this section is intended to limit the Division's ability to request additional information it deems necessary relevant to determining an Applicant's suitability for licensure.

4. Failure ~~-~~to ~~-~~provide ~~-~~such ~~-~~additional ~~-~~evidence ~~-~~by~~-~~ the~~-~~ requested~~-~~ deadline~~-~~ may~~-~~ result~~-~~ in~~-~~ denial of ~~-~~the application.

5. The Division will not approve a transfer of ownership application without first receiving written notification and approval from the relevant ~~L~~local ~~L~~licensing ~~A~~authority. *See* Rule M 1401 Instructions for Local Licensing Authorities and Law Enforcement Officers.

~~B. General Requirements~~

~~1. All applications for transfers of ownership or changes in corporate entities by licensed Medical Marijuana Businesses authorized pursuant to section 12-43.3-401, C.R.S., shall be made upon current forms prescribed by the Division. Each application shall identify the relevant Local Licensing Authority.~~

~~2. All applications for transfers of ownerships and changes in licensed entities by Medical Marijuana Businesses must include application fees and be complete in every material detail.~~

~~3. Each Applicant for a transfer of ownership shall provide suitable evidence of a Person's proof of lawful presence, residence and good character and reputation that the Division may request. Each Applicant shall also provide all requested information concerning financial and management associations and interests of other Persons in the business, Department of Revenue tax payment information, proof of good and sufficient surety bond and the deed, lease, contract, or other document governing the terms and conditions of occupancy of the premises licensed or proposed to be licensed. Nothing in this section is intended to limit the Division's ability to request additional information it deems necessary relevant to determining an Applicant's suitability for licensure.~~

~~4. Failure to provide such additional evidence by the requested deadline specified by the Division may result in denial of the application.~~

~~C.~~B. ~~-~~As It Relates to Corporations and Limited Liability Companies

1. If the Applicant for any license pursuant the Medical Code is a corporation or limited liability company, it shall submit with the application the names, mailing addresses, and Owner's background forms of all of its principal officers, directors, and Owners; a copy of its articles of incorporation or articles of organization; and evidence of its authorization to do business within this State. In addition, each Applicant shall submit the names, mailing addresses and Owner's background applications of all Persons owning any of the outstanding or issued capital stock, or of any Persons holding a membership interest.

2. Any proposed transfer of capital stock or any change in principal officers or directors of a corporation shall be reported and approved by the State Licensing Authority and the ~~L~~local ~~L~~licensing ~~A~~authority prior to such transfer or change.

3. Any proposed transfer of membership interest or any change in members of any limited liability company holding a license shall be reported and approved by the State Licensing Authority and the Local Licensing Authority prior to such transfer or change.

~~D.~~C. As It ~~Pertains~~ Relates to Partnerships

1. If the Applicant for any license pursuant to this section is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, it shall submit with the application the names, mailing addresses, and Owner's background forms of all of its partners and a copy of its partnership agreement.

2. Any proposed transfer of partnership interest or any change in general or managing partners of any partnership holding a license shall be reported and approved by the State Licensing Authority and Local Licensing Authority prior to such transfer or change.

~~E.~~D. As It Relates to Entity Conversions. Any Licensee that qualifies for an entity conversion pursuant to sections 7-90-201, C.R.S., *et. seq*., shall not be required to file a transfer of ownership application pursuant to section 12-43.3-309, C.R.S., upon statutory conversion, but shall submit a report containing suitable evidence of its intent to convert at least 30 days prior to such conversion. Such evidence shall include, but not be limited to, any conversion documents or agreements for conversion at least ten days prior to the date of recognition of conversion by the Colorado Secretary of State. In addition, prior to the date of the conversion, the Licensee shall submit the names, mailing addresses, and Owner's background forms of any new officers, directors, general or managing partners, and all Persons having an ownership interest.

~~F.~~E. Approval Required. No change shall be effective as it pertains to any Licensee, until and unless the proposed transfer of ownership has been approved by the State Licensing Authority and relevant Local Licensing Authority.

~~G.~~F. Applications for Reinstatements Deemed New Applications. All applications for a transfer of ownership for a license requiring reinstatement will be deemed applications for new licenses pursuant to section 12-43.3-305, C.R.S. *See* Rule M 202 - Process for Issuing a New License: Medical Marijuana Businesses.

Basis and Purpose – M 206

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), and 12-43.3-310(13), C.R.S. The purpose of this rule is to clarify the application process for changing location of a Licensed Premises.

M 206 – Changing Location of the Licensed Premises: Medical Marijuana Businesses

A. Application Required to Change Location of Licensed Premises

1. An authorized representative of a ~~licensed~~ Medical Marijuana Business must make application to the Division for permission to change location of its ~~premises~~Licensed Premises.

2. Such application shall:

a. Be made upon current forms prescribed by the Division;

b. Be complete in every material detail and include remittance of all applicable fees;

c. Explain the reason for requesting such change;

d. Be supported by evidence that the application complies with any ~~l~~Local ~~l~~licensing a~~A~~uthority requirements; and

e. Contain a report of the relevant ~~l~~Local ~~l~~licensing ~~A~~authority(-ies) in which the Medical Marijuana Business is to be situated, which report shall demonstrate the approval of the ~~l~~Local ~~l~~licensing ~~A~~authority(-ies) with respect to the new location.

B. Permit Required Before Changing Location

1. No change of location shall be permitted until after the Division considers the application, and such additional information as it may require, and issues to the Applicant a permit for such change.

2. The permit shall be effective on the date of issuance, and the Licensee shall, within 120 days, change the location of its business to the place specified therein and at the same time cease to operate a Medical Marijuana Business at the former location. For ~~G~~good ~~C~~cause shown, the 120 day deadline may be extended for an additional 90 days.

3. The permit shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains.

4. No change of location will be allowed except to another place within the same city, town, county or city and county in which the license as originally issued was to be exercised.

C. General Requirements

1. An application for change of location to a different Local Licensing Authority shall follow the same procedures as an application for a new Medical Marijuana Business license, except that licensing fees will not be assessed until the license is renewed. See Rule M 202 - Process for Issuing a New License: Medical Marijuana Businesses.

2. An Applicant for change of location shall file a change of location application with the Division and pay the requisite change of location fee. See Rule M 207 - Schedule of Application Fees: Medical Marijuana Businesses.

Basis and Purpose – M 207

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), and 12-43.3-501(3), C.R.S. The purpose of this rule is to clarify the schedules of application fees for Medical Marijuana Business Applicants.

M 207 – Schedule of Application Fees: Medical Marijuana Businesses

A. Medical Marijuana Center Application Fees

1. Type 1 Center (1-300 patients) - $7,500.00

2. Type 2 Center (301-500 patients) - $12,500.00

3. Type 3 Center (501 or more patients) - $18,000.00

B. Business Registration Application Fee. $250.00

C. Medical Marijuana-Infused Product Manufacturer Application Fee. $1,250.00

D. Optional Premises Cultivation Location Application Fee. $1,250.00

E. Medical Marijuana Businesses Converting to Retail Marijuana Establishments. Medical Marijuana Center Applicants or Licensees that want to convert to Retail Marijuana Establishments should refer to 1 CCR 212-2, Rule R 207 – Schedule of Application Fees: Retail Marijuana Establishments.

F. Change of Location Application Fee: $150

G. When Application Fees Are Due. All application fees are due at the time an application is submitted.

H. Renewal Application Fees. Renewal application fees are the same as the initial application fees.

Basis and Purpose – M 208

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), and 12-43.3-501(3), and section 24-4-104, C.R.S. The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

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

A. Medical Marijuana Center License Fees

    1. Type 1 Center (1-300 patients) - $3, 750.00

    2. Type 2 Center (301-500 patients) - $8,750.00

    3. Type 3 Center (501 or more patients) - $14,000.00

B. Medical Marijuana-Infused Product Manufacturer License Fee. $2,750.00

C. Optional Premises Cultivation Location License Fee. $2,750.00

D. When License Fees Are Due. All license fees are due at the time an application is submitted.

E. If Application is Denied. If an application is denied, an Applicant may request that the State Licensing Authority refund the license fee after the denial appeal period has lapsed or after the completion of the denial appeal process, whichever is later.

Basis and Purpose – M 209

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), and 12-43.3-501(3), and section 24-4-104, C.R.S. The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

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

A. Medical Marijuana Center Renewal Fees

    1. Type 1 Center – $3,750.00

    2. Type 2 Center – $8,750.00

    3. Type 3 Center – $14,000.00

B. When License Fees Are Due. License renewal fees are due at the time the renewal application is submitted.

C. If Renewal Application is Denied. If an application for renewal is denied, an Applicant may request that the State Licensing Authority refund the license fee after the denial appeal period has lapsed or after the completion of the denial appeal process, whichever is later.

Basis and Purpose – M 210

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), and 12-43.3-501(3), and section 24-4-104, C.R.S. The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

M 210 – Schedule of Administrative Service Fees: All Licensees

A. Administrative Service Fees. The following administrative service fees apply:

1. Change of Corporation or LLC Structure - $1000/person

2. Change of Trade Name - $50

3. Modification of License Premises - $150

4. Duplicate Business License or Certificate of Application - $50

5. Duplicate Occupational License - $10

B. When Administrative Service Fees Are Due. All administrative service fees are due at the time each applicable request is made.

Basis and Purpose – M 211

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.3-202(3)(a), and 12-43.4-202(4)(b)(I)(a), and section 12-43.4-104, C.R.S. The purpose of this rule is to clarify that existing Medical Marijuana Businesses may apply to convert a Medical Marijuana Business License to a Retail Marijuana Establishment License or may apply to obtain one additional license to operate a Retail Marijuana Establishment. A Medical Marijuana Business may only obtain one Retail Marijuana Establishment License, whether it converts the Medical Business License or obtains a Retail Marijuana Establishment License, for each valid Medical Marijuana Business License it holds. In order to ensure all Retail Marijuana and Retail Marijuana Products are tracked in MITS and as a condition of licensure, a Medical Marijuana Business Licensee is required to declare in MITS all Medical Marijuana and Medical Marijuana Infused-Products that are converted for sale as Retail Marijuana or Retail Marijuana Products prior to initiating or allowing any sales. This declaration may be made only once.

M 211 –Conversion - Medical Marijuana Business to Retail Marijuana Establishment

A. Medical Marijuana Licensees Applying for Retail Marijuana Establishments. A Medical Marijuana Business Licensee in good standing or who had a pending application as of December 10, 2012 that has not yet been

denied, and who has paid all applicable fees may apply for a Retail Marijuana Establishment license in accordance with the Retail Code and these rules on or after October 1, 2013. A Medical Marijuana Business meeting these conditions may apply to convert a Medical Marijuana Business license to a Retail Marijuana Establishment license or may apply for a single Retail Marijuana Establishment of the requisite class of license in the Medical Marijuana Code for each Medical Marijuana Business License not converted.

B. Retail Marijuana Establishment Licenses Conditioned

1. It shall be unlawful for a Retail Marijuana Establishment to operate without being issued a Retail Marijuana Establishment license by the State Licensing Authority and receiving all relevant local approvals. Each Retail Marijuana Establishment license issued shall be conditioned on the Licensee's receipt of all required local approvals and licensing, if required.

2. Each Retail Marijuana Establishment license issued shall be conditioned on the Medical Marijuana Business Licensee's declaration of the amount of Medical Marijuana or Medical Marijuana-Infused Products it intends to transfer from the requisite Medical Marijuana Business for sale as Retail Marijuana or Retail Marijuana Products. A Retail Marijuana Establishment shall not exercise any of the rights or privileges of a Retail Marijuana Establishment Licensee until such time as all such Medical Marijuana and Medical Marijuana-Infused Products are fully transferred and declared in the MITS system. *See also*, Rule R 309 – Marijuana Inventory Tracking Solution (MITS).

C. One-Time Transfer. Once a Retail Marijuana Establishment has declared Medical Marijuana inventory as Retail Marijuana or Retail Marijuana Product and begun exercising the rights and privileges of the license, no additional Medical Marijuana can be transferred from the Medical Marijuana Business to the relevant Retail Marijuana Establishment at any time.

Basis and Purpose – M 230

The statutory authority for this rule is found at subsections 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)(XX), and 12-43.3-310(7), C.R.S. The purpose of this rule is to establish that only complete applications for licenses, accompanied with all required fees, will be accepted and processed by the Division.

M 230 – Complete Applications Required: Individuals

A. General Requirements

1. All applications for state licenses authorized pursuant to subsection 12-43.3-401(1)(e), C.R.S., shall be made upon forms prescribed by the Division. Applications submitted to the Division may include, but not be limited to, Occupational Licenses for individuals as Owners and transfers of ~~ownershi~~ownership as well as Associated Key Licenses ~~p~~and Support Licenses.

2. An Occupational License ~~license issued by the Division to Owners and Support/occupational Licensees~~ constitutes a revocable privilege. The burden of proving an Applicant's qualifications for licensure rests at all times with the Applicant.

3. Applicants must submit a complete current application to the Division before it will be accepted or considered.

    a. All applications must be complete in every material detail.

    b. All applications must include all attachments or supplemental information required by the forms supplied by the Division.

    c. All applications must be accompanied by a full remittance for the whole amount of the application, license, or other relevant fees.

4. The Division may refuse to accept an incomplete application.

B. Additional Information May Be Required

1. Each Applicant shall provide any additional information required that the Division may request to process and fully investigate the application.

2. An Applicant's failure to provide the requested evidence or information by the Division deadline may be grounds for denial. The additional information must be provided to the Division no later than 14 days of the request unless otherwise specified by the Division. Each Applicant shall provide any additional information required that the Division may request to process and fully investigate the application.

C. Information Must Be Provided Truthfully. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

D. Application Forms Accessible. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, shall be accessible by the State Licensing Authority, local ~~jurisdictions~~ licensing authorities, and any law enforcement agent.

Basis and Purpose – M 231

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), and 12-43.3-310(4), and sections 24-76.5-101 *et. seq.* and 12-43.3-307, C.R.S. The purpose of this rule is clarify the qualifications for licensure, including, but not limited to, the requirement for a fingerprint-based criminal history record check for all Owners, officers, managers, contractors, employees, and other Support Licensees.

M 231 – Qualifications for Licensure: Individuals

A. General Requirements

1. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

2. The Division may deny the application of an Applicant who fails to provide the requested evidence or information by the Division deadline.

B. Other Licensing Requirements

1. Fingerprints Required

a. All Applicants for initial licensure shall be fingerprinted for a fingerprint-based criminal history record check.

b. A renewal Applicant shall be fingerprinted at the Director's discretion.

c. An Applicant shall also be fingerprinted if the Director has required the Applicant to submit a new application. The Director may require a new application for the following non-exhaustive list of reasons:

i. An Applicant is re-applying after more than one year since the expiration of his or her most recent license;

ii. If an Applicant's previous license was denied or revoked by the State Licensing Authority; or

iii. When the Division needs additional information in order to proceed with a background investigation.

2. Other Documents May Be Required. Any Applicant may be required to establish his or her identity and age by any document required ~~a certified birth certificate and other valid identification containing a photograph as required~~ for a determination of lawful presence.

3. Maintaining Ongoing Suitability For Licensing: Duty to Report Offenses. An Applicant or Licensee shall notify the Division in writing of any felony criminal charge and felony conviction against such person within ten days of such person's arrest, felony summons, and within ten days of the disposition of any arrest or summons. Failure to make proper notification to the Division may be grounds for disciplinary action. Licensees shall cooperate in any investigation conducted by the Division. This duty to report includes, but is not limited to, deferred sentences or judgments that are not sealed. If the Division lawfully finds a disqualifying event and an Applicant asserts that the record was sealed, the Division may require the Applicant to provide proof from a court evidencing the sealing of the case.

4. Application Forms Accessible to Law Enforcement and Licensing Authorities. All application forms supplied by the Division and filed by an Applicant for license shall be accessible by the State Licensing Authority, local jurisdictions, and any state or local law enforcement agent.

C. Associated Key Licenses/Owners . An Owner Applicant for an Associated Key License must meet the following criteria before receiving a license:

1. The Applicant must pay the annual application and licensing fees;

2. The Applicant's criminal history must indicate that he or she is of Good Moral Character;

3. The Applicant is not employing, or financed in whole or in party by any other Person whose criminal history indicates that he or she is not of Good Moral Character;

4. The Applicant is at least 21 years of age;

5. The Applicant has paid all taxes, interest, or penalties due the Department of Revenue relating to a Medical Marijuana Business;

6. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

7. The Applicant can prove that he or she has not discharged a sentence in the five years immediately preceding the application date for a conviction of a felony not related to possession, distribution, manufacturing, cultivation, or use of a controlled substance;

8. The Applicant can prove that he or she has not been convicted at any time of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance;

9. The Applicant can establish that he or she does not employ another person who does not have a valid occupational license issued pursuant to the Medical Code;

10. The Applicant can establish that he or she is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local licensing authority;

11. The Applicant can establish that it is not currently licensed as a retail food establishment or wholesale food registrant;

12. The Applicant has been a resident of Colorado for at least two years prior to the date of the Application. *See* Rule M 232 – Factors Considered When Determining Residency: Individuals.

D. Support/ and Key ~~Occupational~~ Licenses. An occupational license Applicant for a Support License must meet the following criteria before receiving a license:

1. The Applicant must pay the annual application and licensing fees;

2. The Applicant's criminal history must indicate that he or she is of Good Moral Character;

3. The Applicant is at least 21 years of age;

4. An Applicant can establish that he or she is currently a resident of Colorado.

5. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

6. The Applicant can prove that he or she has not discharged a sentence in the five years immediately preceding the application date for a conviction of a felony not related to possession, distribution, manufacturing, cultivation, or use of a controlled substance;

7. The Applicant can prove that he or she has not been convicted at any time of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance, except that the State Licensing Authority may grant a license to an Applicant if the Applicant has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the employee were convicted of the offense on the date he or she applied for a license; and

8. The Applicant can establish that he or she is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a Local Licensing Authority;

E. Current Medical Marijuana Occupational Licensees

1. An individual ~~that~~ who holds a current, valid occupational license issued pursuant to the Medical Code may also work in a Retail Marijuana Establishment; no separate occupational license is required.

2. An individual ~~that~~ who holds a current, valid occupational license issued pursuant to the Retail Code shall not work at a Medical Marijuana Business unless ~~they~~ he or she also holds a current, valid occupational license issued pursuant to the Medical Code.

Basis and Purpose – M 232

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), 12-43.3-307(1)(m), and 12-43.3-310(6), C.R.S. The purpose of this rule is to interpret residency requirements set forth in the Medical Code.

M 232 – Factors Considered When Determining Residency: Individuals

This rule applies to individual Applicants who are trying to obtain Medical Marijuana Business licenses. When the State Licensing Authority determines whether an Applicant is a resident, the following factors will be considered:

A. Primary Home Defined. The location of an Applicant's principal or primary home or place of abode ("primary home") may establish Colorado residency. An Applicant's primary home is that home or place in which a ~~P~~person's habitation is fixed and to which the ~~P~~person, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A primary

home is a permanent building or part of a building and may include, by way of example, a house, condominium, apartment, room in a house, or manufactured housing. No rental property, vacant lot, vacant house or cabin, or other premises used solely for business purposes shall be considered a primary home.

B. Reliable Indicators That an Applicant's Primary Home is in Colorado. The State Licensing Authority considers the following types of evidence to be generally reliable indicators that a person's primary home is in Colorado.

1. Evidence of business pursuits, place of employment, income sources, residence for income or other tax purposes, age, residence of parents, spouse, and children, if any, leaseholds, situs of ~~P~~personal and real property, existence of any other residences outside of Colorado and the amount of time spent at each such residence, and any motor vehicle or vessel registration;

2. Duly authenticated copies of the following documents may be taken into account: A current driver's license with address, recent property tax receipts, copies of recent income tax returns where a Colorado mailing address is listed as the primary address, current voter registration cards, current motor vehicle or vessel registrations, and other public records evidencing place of abode or employment; and

3. Other types of reliable evidence.

C. Totality of the Evidence. The State Licensing Authority will review the totality of the evidence, and any single piece of evidence regarding the location of a ~~P~~person's primary home will not necessarily be determinative.

D. Other Considerations for Residency. The State Licensing Authority may consider the following circumstances

1. Members of the armed services of the United States or any nation allied with the United States who are on active duty in this state under permanent orders and their spouses;

2. Personnel in the diplomatic service of any nation recognized by the United States who are assigned to duty in Colorado and their spouses; and

3. Full-time students who are enrolled in any accredited trade school, college, or university in Colorado. The temporary absence of such student from Colorado, while the student is still enrolled at any such trade school, college, or university, shall not be deemed to terminate their residency. A student shall be deemed "full-time" if considered full-time under the rules or policy of the educational institution he or she is attending.

E. Entering Armed Forces Does Not Terminate Residency. An individual who is a Colorado resident pursuant to this rule does not terminate Colorado residency upon entering the armed services of the United States. A member of the armed services on active duty who resided in Colorado at the time the ~~P~~person entered military service and the ~~P~~person's spouse are presumed to retain their status as residents of Colorado throughout the member's active duty in the service, regardless of where stationed or for how long.

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(e), 12-43.3-202(2)(a)(VIII), 12-43.3-202(2)(a)(XX), and 12-43.3-310(7), C.R.S. The purpose of this rule is to clarify when an individual must be licensed or registered with the Division before commencing any work activity at a Medical Marijuana Business. The rule also sets forth the process for obtaining a license or registration and explains what information may be required before obtaining such license or registration.

M 233 – Medical Code Occupational Licenses Required

A. Medical Code Occupational Licenses and Identification Badges

1. Any person within a Restricted Access Area, Limited Access Area or who possesses, cultivates, manufactures, dispenses, sells, serves, transports or delivers Medical Marijuana or Medical Marijuana-Infused Products as permitted by privileges granted under a Medical Marijuana Business License must either have a valid occupational license or valid identification badge or be escorted at all times by a person who holds a valid Owner or occupational license.

2. Any person who has the authority to access or input data into MITS or a Medical Marijuana Business ~~P~~point of ~~S~~sale system must have a valid occupational license.

3. Failure by a Medical Marijuana Business to continuously escort a person who does not have a valid occupational license at all times while that person is engaged in any of the activities listed above shall be considered a license violation affecting the public safety. See Rule M 1307 – Penalties.

B. Occupational Licensees Commencing Employment. Any person required to be licensed pursuant to this rule shall obtain all Division approvals and obtain a Division-issued identification badge before commencing activities permitted by the Medical Code occupational license. *See also* Rule M 231 – Qualifications for Licensure: Individuals.

C. Identification Badges Are Property of State Licensing Authority. All identification badges shall remain the property of the State Licensing Authority, and all identification badges shall be returned to the Division upon demand of the State Licensing Authority or the Division.

Basis and Purpose - M 234

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), and 12-43.3-501(3), C.R.S. The purpose of this rule is to clarify the schedules of application fees for individuals.

M 234 – Schedule of Application Fees: Individuals

A. Individual Application Fees

1. Occupational License - Key License and Associated Key License ~~Employee~~ Application Fee. $250.00

2. Occupational License - Support License ~~Employee~~ Application Fee. $75.00

B. When Fees Are Due. Application fees are due at time Applicant submits application.

Basis and Purpose – M 235

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), and 12-43.3-501(3), C.R.S. The purpose of this rule is to establish licensing fees for individuals.

M 235 – Schedule of License Fees: Individuals

A. Individual License Fees

1. Occupational License - Key ~~Employee~~ License/Associated Key License Application Fee. $250.00

2. Occupational License - Support ~~Employee~~ License Application Fee. $75.00

B. When Fees Are Due. License fees are due at time Applicant submits application.

Basis and Purpose – M 236

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), and 12-43.3-501(3), C.R.S. The purpose of this rule is to establish license renewal fees for individuals.

M 236 – Schedule of Renewal Fees: Individuals

A. Individual License Renewal Fees

1. Occupational License - Key ~~Employee~~ License/Associated Key License - Application Fee. $250.00

2. Occupational License- Support ~~Employee~~ License Application Fee. $75.00

B. When Fees Are Due. License renewal fees are due at time applicant submits application for renewal.

Basis and Purpose – M 250

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-31(7), and 12-43.3-305(1), C.R.S. The purpose of this rule is to clarify that a Licensee must keep its mailing address current with the Division.

M 250 – Licensee Required to Keep Mailing Address Current with the Division: All Licensees

A. Timing of Notification. A Licensee shall inform the Division in writing of any change to its mailing address within 30 days of the change. The Division will not change a Licensee's information without explicit written notification provided by the Licensee or its authorized agent.

B. Division Communications. Division communications are sent to the last mailing address furnished by an Applicant or a Licensee to the Division.

C. Failure to Change Address Does Not Relieve Licensee's or Applicant's Obligation. Failure to notify the Division of a change of mailing address does not relieve a Licensee of the obligation to respond to a Division communication.

D. Application and Disciplinary Communications. The State Licensing Authority will send any Application, disciplinary or sanction communication, as well as any notice of hearing, to the last mailing address furnished to the Division by the Licensee.

Basis and Purpose – M 251

The statutory authority for this rule is found at subsections 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)(XX), and section 12-43.2-306, C.R.S. The purpose of this rule is to establish what factors the State Licensing Authority will consider when denying an application for licensure.

M 251 – Application Denial and Voluntary Withdrawal: All Licensees

A. Applicant Bears Burden of Proving It Meets Licensing Requirements

1. At all times during the application process, an Applicant must be capable of establishing that it is qualified to hold a license.

2. An Applicant that does not cooperate with the Division during the application phase may be denied as a result. For example, if the Division requests additional evidence of suitability and the Applicant does not furnish such evidence by the date requested, the Applicant's application may be denied.

B. Applicants Must Provide Accurate Information

1. An Applicant must provide accurate information to the Division during the entire Application process.

2. If an Applicant provides inaccurate information to the Division, the Applicant's application may be denied.

C. Grounds for Denial

1. The State Licensing Authority will deny an application from an Applicant that forms a business or nonprofit, including but not limited to a sole proprietorship, corporation, or other business enterprise, with the purpose or intent, in whole or in part, of transporting, cultivating, processing, transferring, or

distributing marijuana or marijuana products without receiving prior approval from all relevant licensing authorities.

2. The State Licensing Authority will deny an application for Good Cause.

3. The State Licensing Authority will deny an application from an Applicant that is statutorily disqualified from holding a license.

D. Voluntary Withdrawal of Application

1. The Division and Applicant may mutually agree to allow the voluntary withdrawal of an application for licensing in lieu of a denial proceeding.

2. Applicants must first submit a notice to the Division requesting the voluntary withdrawal of the application. Applicants will submit the notice with the understanding that they were not obligated to request the voluntary withdrawal and that any right to a hearing in the matter is waived once the voluntary withdrawal is approved.

3. The Division will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Division may at its discretion grant the request with or without prejudice or deny the request.

4. The Division will notify the Applicant of its acceptance of the voluntary withdrawal and the terms thereof.

5. If the Applicant agrees to a voluntary withdrawal granted with prejudice, then the Applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.

E. An Applicant May Appeal a Denial

1. An Applicant may appeal a denial pursuant to the Administrative Procedure Act.

2. *See also* Rules M 1304 – Administrative Hearings, M 1305 – Administrative Subpoenas, and M 1306 – Administrative Hearing Appeals.

Basis and Purpose – M 252

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-310(6), C.R.S. The purpose of this rule is to clarify that all licenses, whether for a Medical Marijuana Business or individual, are valid for one year.

M 252 – Length of License: All Licensees

A. Medical Marijuana Business License. All Medical Marijuana Business Licenses are valid for one year.

B. Occupational Licenses. Occupational Licenses are valid for two years.

C. License May Be Valid for Less Than Full Term. A License may be valid for less than one year if revoked, suspended, or otherwise disciplined.

M 300 Series – The Licensed Premises

Basis and Purpose – M 301

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(2)(a)(XX), and section 12-43.3-105, C.R.S. The purpose of this rule is to establish Limited Access Areas for Licensed Premises under the control of the Licensee to only Persons licensed by the State Licensing Authority.

M 301 – Limited Access Areas

A. Proper Display of License Badge. All persons in a Limited Access Area as provided for in section 12-43.3-105, C.R.S., shall be required to hold and properly display a current license badge issued by the Division at all times. Proper display of the license badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the Licensee visible. The Licensee shall not alter, obscure, damage, or deface the badge in any manner.

B. Visitors in Limited Access Areas.

1. Prior to entering a Limited Access Area, all visitors, including outside vendors, contractors or otherswisitors, must obtain a visitor identification badge from management personnel of the Licensee that shall remain visible while in the Limited Access Area.

2. Visitors shall be escorted by Licensee personnel at all times. No more than five visitors may be escorted by a single employee.

3. The Licensee shall maintain a log of all visitor activity, for any purpose, within the Limited Access Area and shall make such logs available for inspection by the Division or relevant local licensing authority.

4. All visitors must provide proof of age and must be at least 21 years of age. *See* Rule M 405 – Acceptable Forms of Identification.

5. The Licensee shall check the identification for all visitors to verify that the name on the identification matches the name in the visitor log.

6. A Licensee may not receive consideration or compensation for permitting a visitor to enter a Limited Access Area.

C. Required Signage. All areas of ingress and egress to Limited Access Areas on the Licensed Premises shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Do Not Enter - Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors".

D. Diagram for Licensing Licensed Premises. All Limited Access Areas shall be clearly identified to the Divisions or relevant local licensing authority and described by the filing of a diagram of the Licensed Premises reflecting walls, partitions, counters and all areas of ingress and egress. The diagram shall also

reflect all propagation, cultivation, manufacturing, and patient/primary caregiver sales areas. *See* Rule M 901 – Business Records Required.

E. Modification of Limited Access Area. A Licensee's proposed modification of designated Limited Access Areas shall be approved by Division or local licensing authorities. *See* Rule M 303 – Changing, Altering, or Modifying Licensed Premises.

F. Law Enforcement Personnel Authorized. Notwithstanding the requirements of subsection A of this rule, nothing shall prohibit investigators and employees of the Division, authorities from local licensing authority or law enforcement from entering a Limited Access Area upon presentation of official credentials identifying them as such.

Basis and Purpose – M 302

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), and 12-43.3-308(1)(b), C.R.S. The purpose of this rule is to establish and clarify the means by which the Licensee has lawful possession of the Licensed Premises.

M 302 – Possession of Licensed Premises

A. Evidence of Lawful Possession. Persons licensed pursuant to sections 12-43.3-402, 12-43.3-403, or 12-43.3-404, C.R.S., or those making application for such licenses, must demonstrate proof of lawful possession of the Licensed Premises. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents acceptable to licensing authorities.

B. Relocation Prohibited. The Licensed Premises shall only be those geographical areas that are specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing a change of location application and obtaining approval from the Division and Local Licensing Authority. Licensees shall not add additional contiguous units or areas, thereby altering the initially-approved premises, without filing an Application to modify the Licensed Premises on current forms prepared by the Division, including any applicable processing fee. *See* Rule M 303 - Changing, Altering, or Modifying Licensed Premises.

C. Subletting Not Authorized. Licensees are not authorized to sublet any portion of Licensed Premises for any purpose, unless all necessary applications to modify the existing Licensed Premises to accomplish any subletting have been approved by the Division and ~~L~~l~~l~~ocal ~~L~~l~~l~~icensing ~~A~~a~~a~~uthority.

Basis and Purpose – M 303

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to establish guidelines for changing, altering or modifying the Licensed Premises.

M 303 – Changing, Altering, or Modifying Licensed Premises

A. Application Required to Alter or Modify Premises. After issuance of a license, the Licensee shall make no physical change, alteration, or modification of the Licensed Premises that materially or substantially alters the Licensed Premises or the usage of the Licensed Premises from the plans originally approved, without the prior written approval of both the Division and relevant licensing authority. The Licensee whose

premises are to be materially or substantially changed is responsible for filing an application for approval on current forms provided by the Division.

B. What Constitutes a Material Change. Material or substantial changes, alterations, or modifications requiring approval include, but are not limited to, the following:

1. Any increase or decrease in the total physical size or capacity of the Licensed Premises;

2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes Limited Access Areas, such as the cultivation, harvesting, manufacturing, or sale of Medical Marijuana or Medical Marijuana-Infused Products within the Licensed Premises;

3. Within a Medical Marijuana Center, the permanent addition of a separate sales counter that creates an additional point-of-sale location, and the permanent addition of a display case, all of which would require the installation of additional video surveillance cameras. *See* Rule M 306 – Video Surveillance;

4. The installation or replacement of electric fixtures or equipment, the lowering of a ceiling, or electrical modifications made for the purpose of increasing power usage to enhance cultivation activities; or

5. The addition or deletion of Ooptional pPremises cCultivation Operation licenses that will be, or have been, combined with other commonly owned cultivation licenses in a common area for the purpose of growing and cultivating Medical Marijuana.

C. Attachments to Application. The Division and relevant local licensing authority shall grant approval for the types of changes, alterations, or modifications described herein upon the filing of an application by the Licensee, and payment of any applicable fee. The Licensee must submit all information requested by the Division including but not limited to, documents that verify the following:

1. The Licensee will continue to have possession of the premises, as changed, by ownership, lease, or rental agreement; and

2. That the proposed change conforms to any local restrictions related to the time, manner, and place of Medical Marijuana Business regulation.

3. If permission to change, alter, or modify the Licensed Premises is denied, the State Licensing Authority shall give notice in writing and shall state grounds upon which the application was denied. *See* Rule M 1304 – Administrative Hearings.

4. The Licensee shall be entitled to a hearing on the denial if a request in writing is made to the State Licensing Authority within 60 days after the date of notice. *See* Rule M 1304 – Administrative Hearings.

Basis and Purpose – M 304

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.4-104(1)(a)(V), 12-43.4-202(2)(b), 12-43.4-401(2), and 12-43.4-404(2), C.R.S. The purpose of this rule is to establish

guidelines for the manner in which a Medical Marijuana Business may share its existing Licensed Premises with a Licensed Retail Marijuana Establishment, and to ensure the proper separation of a Medical Marijuana Business operation from Retail Marijuana Establishment operation.

M 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation

A. Licensed Premises – General Requirements

1. A Medical Marijuana Business licensed pursuant to the Medical Code may, in compliance with these rules, share its existing Licensed Premises with a licensed Retail Marijuana Establishment, if the relevant local licensing authority permits a dual operation at the same location.

2. An Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility may share their Licensed Premises in order to operate a dual cultivation business operation, if the relevant licensing authority permits a dual operation at the same location.

3. A Medical Marijuana-Infused Products Manufacturing Business Licensee may also apply to also hold a Retail Marijuana Product Manufacturing Facility License and operate a dual manufacturing business on the same Licensed Premises, if the relevant local licensing authority permits a dual operation at the same location.

4. A Medical Marijuana Center that does not authorize patients under the age of 21 years to be on the premises, may also hold a Retail Marijuana Store license and operate a dual retail business operation on the same Licensed Premises, if the relevant local licensing authority permits a dual operation at the same location.

5. A Medical Marijuana Center that authorizes Medical Marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its Licensed Premises with a Retail Marijuana Establishment. The two shall not be co-located in this instance and shall maintain distinctly separate Licensed Premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

B. Separation of Co-located Licensed Operations

1. Cultivation Operations. Persons operating both an Optional Premises Cultivation Facility and a Retail Marijuana Cultivation Facility shall maintain either physical or virtual separation of the facilities, marijuana plants, and marijuana inventory. Record keeping for the business operations and Labeling of products must allow the Division and relevant local jurisdiction to clearly distinguish the inventories and business transactions of Medical Marijuana Business from the Retail Marijuana Establishment.

2. Manufacturing Operations. Persons operating Medical Marijuana-Infused Products Manufacturing Business and Retail Marijuana Products Manufacturing Facility shall maintain either physical or virtual separation of the facilities, product ingredients, product manufacturing, and final product inventory. Record keeping for the business operations and Labeling of products must allow the Division and local licensing authority to clearly distinguish the inventories and business transactions of Medical Marijuana-Infused Products from Retail Marijuana Products.

3. Retail Store and Medical Center Operations: No Patients Under The Age of 21 Years. Persons operating a Medical Marijuana Center that specifically prohibits the admittance of patients under the age of 21 years and a Retail Marijuana Store may share their Licensed Premises. Such a Medical Marijuana Center Licensee must post signage that clearly conveys that ~~P~~persons under the age of 21 years may not enter. Under these circumstances and upon approval of the State Licensing Authority, the Medical Marijuana Center and the Retail Marijuana Store may share the same entrances and exits. Also under these circumstances, Medical Marijuana and Retail Marijuana and Medical Marijuana-Infused Products and Retail Marijuana Products must be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the Division and relevant local licensing authority to clearly distinguish the inventories and business transactions of Medical Marijuana and Medical Marijuana-Infused Products from Retail Marijuana and Retail Marijuana Products. Violation of the restrictions in this rule by co-located Medical Marijuana Centers and Retail Marijuana Establishments shall be considered a license violation affecting public safety.

4. Retail Stores and Medical Marijuana Centers: Patients Under The Age of 21 Years. A co-located Medical Marijuana Center and Retail Marijuana Store shall maintain separate Licensed Premises, including entrances and exits, inventory, point of sale operations, and record keeping if the Medical Marijuana Center serves patients under the age of 21 years or permits admission of patients under the age of 21 years on its premises.

5. Clear Separation of Inventory. A Person who operates both a Medical Marijuana Business and Retail Marijuana Establishment within one location is required to maintain separate and distinct inventory tracking processes for ~~m~~Medical and Retail Marijuana inventories. The inventories must be clearly tagged or Labeled so that the products can be reconciled to a particular Medical Marijuana Center or designated for retail sale under the Retail Code and related rules.

Basis and Purpose – M 305

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(X), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to ensure adequate control of the Licensed Premises and the Medical Marijuana and Medical Marijuana-Infused Products contained therein. This rule also establishes the minimum guidelines for security requirements for alarm systems, and commercial locking mechanisms for maintaining adequate security.

M 305 – Security Alarm Systems and Lock Standards

A. Security Alarm Systems – Minimum Requirements

1. Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows. The Security Alarm Systems and lock standards contained in this rule shall apply to all ~~licensed~~ Medical Marijuana Businesses where marijuana is possessed, stored, grown, harvested, cultivated, cured, sold, or where laboratory analysis is performed.

2. Each Licensee must ensure that all of its Licensed Premises are continuously monitored. Licensees may engage the services of a Monitoring Company to fulfill this requirement.

3. *See also* Rule M 301 – Limited Access Area.

4. The Licensees shall maintain up to date and current records and existing contracts on the Licensed Premises that describe the location and operation of each Security Alarm System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company. *See* Rule M 901 – Business Records Required.

5. Upon request, Licensees shall make available to agents of the Division or relevant local licensing authority or other state or local law enforcement agency all information related to Security Alarm Systems, Monitoring, and alarm activity.

6. Any outdoor Optional Premises Cultivation Facility, or greenhouse cultivation, is a Limited Access Area and must meet all of the requirements for Security Alarm Systems described in this rule. Outdoor or greenhouse Optional Premises Cultivation Facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individual. This shall, at a minimum include, perimeter fencing designed to prevent the general public from entering the Limited Access Areas. It shall be the responsibility of the licensee to maintain physical security in a manner similar to an Optional Premises Cultivation Facility located in an indoor Licensed Premises so it can be fully secured and alarmed.

B. Lock Standards – Minimum Requirement

1. At all points of ingress and egress, the Licensee shall ensure the use of a commercial-grade, non-residential door lock.

2. Any outdoor Optional Premises Cultivation Facility, or greenhouse cultivation, must meet all of the requirements for the lock standards described in this rule.

Basis and Purpose – M 306

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(X), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to ensure adequate control of the Licensed Premises and the Medical Marijuana and Medical Marijuana-Infused Products contained therein. This rule also establishes the minimum guidelines for security requirements for video surveillance systems for maintaining adequate security.

M 306 - Video Surveillance

A. Minimum Requirements~~.~~

1. The video surveillance requirements contained in this rule shall apply to all ~~licensed~~ Medical Marijuana Businesses where Medical Marijuana or Medical Marijuana- Infused Products are possessed, stored, grown, harvested, cultivated, cured, sold, or where laboratory analysis is performed.

2. Prior to the issuance of any state license, Applicants must install fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this section.

3. All video surveillance records and recordings must be stored in a secure area that is only accessible to Licensee's management staff.

4. Video surveillance records and recordings must be made available upon request to the Division, the relevant local licensing authority, or any other state or local law enforcement agency for a purpose authorized by the Medical Code or for any other state or local law enforcement purpose.

5. Video surveillance records and recordings of point-of-sale areas shall be held in confidence by all employees and representatives of the Division, except that the Division may provide such records and recordings to the relevant local licensing authority, or any other state or local law enforcement agency for a purpose authorized by the Medical Code or for any other state or local law enforcement purpose.

B. Video Surveillance Equipment

1. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

2. All video surveillance must be equipped with a failure notification system that provides prompt notification to the Licensee of any prolonged surveillance interruption and/or the complete failure of the surveillance system.

3. Licensees are responsible for ensuring that all surveillance equipment is properly functioning and maintained so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas.

4. All video surveillance equipment shall have sufficient battery backup to support a minimum of four hours of recording in the event of a power outage.

C. Placement of Cameras and Required Camera Coverage

1. Camera coverage is required for all Limited Access Areas, point-of-sale areas, security rooms, all points of ingress and egress to Limited Access Areas, and all points of ingress/egress to the exterior of the Licensed Premises.

2. Camera placement shall be capable of identifying activity occurring within 20 feet of all points of ingress and egress and shall allow for the clear and certain identification of any individual and activities on the Licensed Premises.

3. At each point-of-sale location, camera coverage must enable recording of the patients, caregiver or customer(s) and employee(s) facial features with sufficient clarity to determine identity.

4. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.

5. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions. If the Licensed Premises have a Medical Marijuana cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress and egress points to flowering areas remain constantly illuminated for recording purposes.

6. Areas where Medical Marijuana is grown, cured, or manufactured shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

7. Cameras shall also be placed at each location where weighing, packaging, transportation, preparation, or tagging activities occur.

8. At least one camera must be dedicated to record the access points to the secured surveillance recording area.

9. All outdoor cultivation areas must meet the same video surveillance requirements for any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment

1. The surveillance room or surveillance area is a Limited Access Area.

2. Surveillance recording equipment must be housed in a designated, locked and secured room or other enclosure with access limited to authorized employees, agents of the Division and relevant local licensing authority, state or local law enforcement agencies, and service Personnel or contractors.

3. Licensees must keep a current list of all authorized employees and service Personnel who have access to the surveillance system and/or room on the Licensed Premises. Licensees must keep a surveillance equipment maintenance activity log on the Licensed Premises to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.

4. Off-site Monitoring and video recording storage of the Licensed Premises by the Licensee or an independent third-party is authorized as long as standards exercised at the remote location meets or exceeds all standards for on-site Monitoring.

5. Each Medical Marijuana Licensed Premises located in a common or shared building must have a separate surveillance room/area that is dedicated to that specific Licensed Premises. Commonly-owned Medical Marijuana Businesses located in the same local jurisdiction may have one central surveillance room located at one of the commonly owned Licensed Premises which simultaneously serves all of the commonly-owned Medical Marijuana Businesses. The facility that does not house the central surveillance room is required to have a review station, printer, and map of camera placement on the premises. All minimum requirements for equipment and security standards as set forth in the section apply to the review station.

6. Licensed Premises that combine both a Medical Marijuana Business and a Retail Marijuana Establishment may have one central surveillance room located at the shared Licensed Premises. *See* Rule M 304 – Medical Marijuana Business and Retail Marijuana Establishment: Shared Licensed Premises and Operational Separation.

E. Video Recording and Retention Requirements

1. All camera views of all Limited Access Areas must be continuously recorded 24 hours a day. The use of motion detection is authorized when a Licensee can demonstrate that monitored activities are adequately recorded.

2. All surveillance recordings must be kept for a minimum of 40 days and be in a format that can easily be accessed for viewing by state and local licensing authorities and law enforcement. Video recordings must be archived in a format that ensures authentication of the recording as legitimately-captured video and guarantees that no alteration of the recorded image has taken place.

3. The Licensee's surveillance system or equipment must have the capabilities to produce, upon request, a color still photograph from any camera image, live or recorded, of the Licensed Premises.

4. The date and time must be embedded on all surveillance recordings without significantly obscuring the picture. The date and time must be synchronized with any point-of-sale system.

5. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at: http://www.time.gov/timezone.cgi?Mountain/d/-7/java.

6. Only after the 40 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to disposal, sale or transfer of the facility or business to another Licensee or manufacturer, or if discarded for any other purpose. Surveillance video recordings may not be destroyed if the Licensee knows or should have known of a pending criminal, civil or administrative investigation or any other proceeding for which the recording may contain relevant information.

7. Surveillance recordings and color still photos must be made available to the state and relevant local licensing authorities or any local law enforcement agency acting on behalf of the local licensing authority, upon request and without unreasonable delay.

F. Other Records

1. All records applicable to the surveillance system shall be maintained on the Licensed Premises. At minimum, Licensees shall maintain a map of the camera locations, direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list and operating instructions for the surveillance equipment.

2. A chronological point-of-sale transaction log must be made available to be used in conjunction with recorded video of those transactions.

Basis and Purpose – M 307

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XII), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to establish sanitary requirements for Medical Marijuana

Businesses. The State Licensing Authority modeled this rule after the rules adopted in the Colorado department of Revenue's Medical Marijuana Rules.

M 307 – Waste Disposal

A. All Applicable Laws Apply. Medical Marijuana and Medical Marijuana-Infused Product waste must be stored, secured and managed in accordance with all applicable state and local statutes, regulations, ordinances or other requirements.

B. Liquid Waste. Liquid waste from Medical Marijuana Businesses shall be disposed of in compliance the applicable Water Quality Control Division statutes and regulations.

C. Waste Must Be Made Unusable and Unrecognizable. Medical Marijuana and Medical Marijuana-Infused Product waste must be made unusable and Unrecognizable as marijuana prior to leaving the Licensed Premises.

D. Methods to Make Waste Unusable and Unrecognizable Medical Marijuana and Medical Marijuana-Infused Product waste shall be rendered unusable and Unrecognizable as marijuana through one of the following methods:

1. Grinding and incorporating the marijuana waste with non-consumable, solid wastes listed below such that the resulting mixture is at least 50 percent non-marijuana waste:

    a. Paper waste;

    b. Plastic waste;

    c. Cardboard waste;

    d. Food waste;

    e. Grease or other compostable oil waste;

    f. Bokashi, or other compost activators;

    g. Other wastes approved by the State Licensing Authority that will render the Medical Marijuana and Medical Marijuana-Infused Product waste unusable and ~~u~~Unrecognizable as marijuana; and

    h. Soil.

2. Incorporating the Medical Marijuana and Medical Marijuana-Infused Product waste with non-consumable, recyclable solid wastes listed below:

    a. Grease or other compostable oil waste;

    b. Bokashi, or other compost activators; and

c. Other wastes approved by the State Licensing Authority that will make the Medical Marijuana waste unusable and unrecognizable as marijuana.

E. After Waste is Made Unusable and Unrecognizable. After the Medical Marijuana and Medical Marijuana-Infused Product waste is made unusable and Unrecognizable as marijuana, then the rendered waste shall be:

1. Disposed of at a solid waste site and disposal facility that has a Certificate of Designation from the local governing body;

2. Deposited at a compost facility that has a Certificate of Designation from the Department of Public Health and Environment; or

3. Composted on-site at a facility owned by the generator of the waste and operated in compliance with the Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2, Part 1) in the Department of Public Health and Environment.

4. Licensees shall not dispose of Medical Marijuana and Medical Marijuana-Infused Product waste in an unsecured waste receptacle not in possession and control of the Licensee.

F. Inventory Tracking Requirements

1. In addition to all other tracking requirements set forth in these rules, Licensees shall utilize MITS tracking methods to ensure its waste materials are identified, weighed and tracked while on the Licensed Premises until ~~it is~~ disposed of.

2. All Medical Marijuana waste must be weighed before leaving any Medical Marijuana Business. *See* Rule M~~.~~ 309~~(G)(2)~~ – Medical Marijuana Business: Marijuana Inventory Tracking Solution (MITS).

3. Licensee is required to maintain accurate and comprehensive records regarding its waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of Marijuana. *See* Rule M.~~-~~901~~(C)~~ – Business Records Required.

Basis and Purpose – M 309

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to establish a seed-to-sale tracking system, Marijuana Inventory Tracking Solution~~s~~, MITS, which will allow the Division, through the use of radio frequency identification, RFID, to track all Medical Marijuana and Medical Marijuana-Infused Product inventory from either seed or immature plant stage until the Medical Marijuana or Medical Marijuana-Infused Product is sold to the patient or primary care-giver or disposed of. The intent of the MITS is to eliminate diversion and the ensure that all marijuana grown, processed, sold and disposed of in the regulated Medical Marijuana market is transparently accounted for by Licensees and monitored by the Division.

M 309 – Medical Marijuana Business: Marijuana Inventory Tracking Solution (MITS)

A. Inventory Tracking System. The Division has developed a seed-to-sale tracking system, MITS, which will allow the Division, through the use of RFID, to track all Medical Marijuana and Medical Marijuana-Infused Marijuana Products inventory from either seed or immature plant stage until the Medical Marijuana or Medical Marijuana-Infused Product is sold to the patient or primary care-giver or disposed of. The intent of the MITS is to ensure that all medical marijuana grown, processed, and sold in the regulated Medical Marijuana market is transparently accounted for by Licensees and monitored by the Division.

B. MITS Required. A Medical Marijuana Business is required to use MITS as the primary inventory tracking system of record. A Medical Marijuana Business must have a MITS account activated and functional on or before December 31, 2013. After December 31, 2013, a Medical Marijuana Business without a MITS account that is activated and functional shall not operate or exercise ~~prior to operating or exercising~~ any privileges of a license. Medical Marijuana Businesses converting to or adding a Retail Marijuana Establishment must follow the inventory transfer guidelines detailed in Rule R 309 (~~F~~E) below.

C. MITS Access - MITS Administrator

1. MITS Administrator Required. A Medical Marijuana Business must have at least one individual Owner who is a MITS Administrator. A Medical Marijuana Business may also designate additional Owners and occupationally licensed employees to obtain MITS Administrator accounts.

2. Training for MITS Administrator Account. In order to obtain a MITS Administrator account, a person must attend and successfully complete all required MITS training. The Division may also require additional ongoing, continuing education for an individual to retain his or her MITS Administrator account.

D. MITS Access - MITS User Accounts. A Medical Marijuana Business may designate licensed Owners and employees who hold a valid occupational license as a MITS User. A Medical Marijuana Business shall ensure that all Owners and Occupational Licensees who are granted MITS User account access for the purposes of conducting inventory tracking functions in the system are trained by MITS Administrators in the proper and lawful use of MITS.

E. Medical Marijuana Business License Conversions- Declaring Inventory Prior to Exercising Licensed Privileges as a Medical Marijuana Business

1. Medical Marijuana Inventory Transfer to Retail Marijuana Establishments. Each Medical Marijuana Business ~~Licensee~~ that is either converting to or adding a Retail Marijuana Establishment license must create a Retail Marijuana MITS account for each license it is converting or adding. A Medical Marijuana Business ~~Licensee~~ must transfer all relevant Medical Marijuana inventory into the Retail Marijuana Establishment's MITS account and affirmatively declare those items as Retail Marijuana and Retail Marijuana Products.

2. No Further Transfer Allowed. Once a Licensee has declared any portion of its Medical Marijuana inventory as Retail Marijuana, no further transfers of inventory from Medical Marijuana to Retail Marijuana shall be allowed.

F. RFID Tags Required

1. Authorized Tags Required and Costs. Licensees are required to use RFID tags issued by a Division-approved vendor that is authorized to provision RFID tags for MITS. Each licensee is responsible for the cost of all RFID tags and any associated vendor fees.

2. Use of RFID Tags Required. Licensees are responsible to ensure its inventories are properly tagged where MITS requires RFID tag use. A Medical Marijuana Business must ensure it has an adequate supply of RFID tags to properly tag Medical Marijuana and Medical Marijuana- Infused Products.

G. General MITS Use

1. Reconciliation with Inventory. All inventory tracking activities at a Medical Marijuana Business must be tracked through use of MITS. A Licensee must reconcile all on-premises and in-transit Medical Marijuana and Medical Marijuana-Infused Product inventories each day in MITS at the close of business.

2. Common Weights and Measures.

   a. A Medical Marijuana Business must utilize a standard of measurement that is supported by MITS to track all Medical Marijuana and Medical Marijuana-Infused Products.

   b. A scale used to weigh products prior to entry into the MITS system shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S.

3. MITS Administrator and User Accounts – Security and Record

   a. A Medical Marijuana Business shall maintain an accurate and complete list of all MITS Administrators and Users for each Licensed Premises. A Medical Marijuana Business shall update this list when a new MITS User is trained. A Medical Marijuana Business Licensee must train and authorize any new MITS Users before those Owners or employees may access MITS or input, modify, or delete any information in MITS.

   b. A Medical Marijuana Business must prohibit any MITS Administrators and MITS Users from associated MITS accounts once any such individual no longer employed by the Licensee or at the Licensed Premises.

   c. A Medical Marijuana Business is accountable for all actions employees take while logged into MITS or otherwise conducting ~~Retail~~ Medical Marijuana or ~~Retail~~ Medical Marijuana-Infused Products inventory tracking activities.

4. Secondary Software Systems Allowed

   a. Nothing in this rule prohibits a Medical Marijuana Business from using separate software applications to collect information to be used by the business as a secondary inventory tracking or point of sale systems.

b. A Licensee must ensure that all relevant MITS data is accurately transferred to and from MITS for the purposes of reconciliations with any secondary applications.

c. A Medical Marijuana Business must preserve original MITS data when transferred to and from a secondary application(s). Secondary software applications must use MITS data as the primary source of data and must be compatible with updating to MITS.

H. Conduct While Using MITS

1. Misstatements or Omissions Prohibited. A Medical Marijuana Business ~~Licensee~~ and its designated MITS Administrator(s) and MITS User(s) shall enter data into MITS that fully and transparently accounts for all inventory tracking activities. A Medical Marijuana Business ~~Licensee~~ is responsible for the accuracy of all information enter into MITS. Any misstatements or omissions may be considered a violation affecting public safety.

2. Use of Another User's Login Prohibited. Individuals entering data into the MITS system shall only use that individual's MITS account.

3. Loss of System Access. If at any point a Medical Marijuana Business ~~Licensee~~ loses access to MITS for any reason, the Medical Marijuana Business ~~Licensee~~ must keep and maintain comprehensive records detailing all Medical Marijuana and Medical Marijuana-Infused Products tracking inventory activities that were conducted during the loss of access. *See* Rule ~~R~~ M 901 – Business Records Required. Once access is restored, all Medical Marijuana and Medical Marijuana- Infused Product inventory tracking activities that occurred during the loss of access must be entered into MITS. A Medical Marijuana Business ~~Licensee~~ must document when access to the system was lost and when it was restored. A Medical Marijuana Business ~~Licensee~~ shall not transport any Medical Marijuana or Medical Marijuana-Infused Product to another Medical Marijuana Business until such time as access is restored and all information is recorded into MITS.

I. System Notifications

1. Compliance Notifications. A Medical Marijuana Business ~~Licensee~~ must monitor all compliance notifications from MITS. The Licensee must resolve the issues detailed in the compliance notification. Compliance notifications shall not be dismissed in MITS until the Medical Marijuana Business ~~Licensee~~ resolves the compliance issues detailed in the notification.

2. Informational Notifications. A Medical Marijuana Business must take appropriate action in response to informational notifications received through MITS, including but not limited to notifications related to RFID billing, enforcement alerts, and other pertinent information.

J. Lawful Activity Required. Proper use of MITS does not relieve a Licensee of its responsibility to maintain compliance with all laws, rules, and other requirements at all times.

M 400 Series – Medical Marijuana Center

Basis and Purpose – M 401

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), and 12-43.3-310(4), C.R.S. The purpose of this rule is to establish that it is unlawful for a Medical Marijuana Center Licensee to exercise any privileges other than those granted by the State Licensing Authority, and to clarify the license privileges.

M 401 – Medical Marijuana Center: License Privileges

A. Privileges Granted. A Medical Marijuana Center ~~Licensee~~ shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. To the extent authorized by Rule ~~R~~ M 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation, an Optional Premises Cultivation Operation may share a location with a commonly-owned Retail Marijuana Cultivation Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Authorized Sources of Medical Marijuana-Infused Products Inventory. A Medical Marijuana Center ~~Licensee~~ may sell Medical Marijuana-Infused Products that it has purchased from a Medical Marijuana-Infused Products Manufacturing ~~Licensee~~, so long as such products are pre-packaged and labeled upon purchase from the manufacturer.

Basis and Purpose – M 402

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), ~~–~~and 12-43.3-310(4), C.R.S. The purpose of this rule is to help ensure that plants designated to a particular patient are only being grown at one Medical Marijuana Center. The State Licensing Authority believes this rule will help alleviate any concern that more than one Medical Marijuana Center is growing plants for one patient because it requires that a Medical Marijuana Center first confirm with the patient that no other center is designated as that patient's primary center before registering that patient. This rule will help keep Medical Marijuana Centers in compliance with the Medical Code.

M 402 – Registration of a Primary Medical Marijuana Center

A. Medical Marijuana Center May Only Grow Plants for Patients Who Have Designated the Medical Marijuana Center As Being His or Her Primary Center. A Medical Marijuana Center may only grow ~~m~~Medical ~~m~~Marijuana plants for its properly-designated patients.

B. Change Only Allowed Every 30 Days. A Medical Marijuana Center shall not register a patient as being the patient's Primary Center if the patient has designated another Medical Marijuana Center as his or her ~~P~~primary ~~C~~center in the preceding 30 days. The Medical Marijuana Center and its employees

must require a patient to sign in writing that he or she has not designated another Medical Marijuana Center as his or her ~~P~~primary ~~C~~center before growing medical marijuana plants on behalf of the patient.

C. Required Questions. A Medical Marijuana Center must maintain a written record of the following questions and their answers at the time a patient indicates a desire to designate said center as his or her ~~P~~primary ~~C~~center:

1. Questions to the patient:

a. Which Medical Marijuana Center is currently the patient's ~~P~~primary ~~C~~center; and

b. How many plants is the patient's current ~~P~~primary ~~C~~center is cultivating for that patient.

2. Questions to the current Primary Center:

a. How many plants is the Medical Marijuana Center cultivating for the patient; and

b. How many of the patient's plants has the Medical Marijuana Center harvested.

D. Other Requirements. The new Primary Center shall also maintain written authorization from the patient and any relative plant count waivers to support the number of plants designated for that patient.

Basis and Purpose – M 403

The statutory authority for this rule is found at subsections 12-43.3-103(2)(b), 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)(XX), 12-43.3-310(7), and 12-43.3-310(4), and section 12-43.3-201, C.R.S. This rule was adopted to clarify that the State Licensing Authority will only allow a licensed center to sell 30% of its inventory based on a yearly schedule.

The Medical Code allows Medical Marijuana Businesses ~~Licensee~~ to purchase up to thirty percent (30%) of the Medical Marijuana needed to fulfill patient needs. Despite significantly raising the barrier to entry by increasing costs since licensees must own the entire chain of production and distribution, this requirement promotes efficiencies of economies of scale and markedly improves supply chain coordination.

For purposes of this rule, a calendar year means January 1st to December 31st.

~~The State Licensing Authority expects that licensees selling and buying medical marijuana will apply proper due diligence when verifying that the other party to the transaction has a license in good standing. The State Licensing Authority does not intend to pursue disciplinary action against a licensee that applies such due diligence in the event the other party to the transaction is dishonest about the status of their license~~.

M 403 – Medical Marijuana Sales: General Limitations or Prohibited Acts (30% Rule)

A. Transactions Must Occur During Statutory Business Hours. During the hours established in section 12-43.3-901(4)(l), C.R.S., Medical Marijuana may be sold to other licensed Medical Marijuana Centers

or licensed Medical Marijuana-Infused Products Manufacturing Facilities, under the following conditions:

1. Pursuant to section 12-43.3-402(4), C.R.S., a Medical Marijuana Center may purchase not more than thirty percent (30%) of its total on-hand medical marijuana inventory from another licensed Medical Marijuana Center in Colorado. A Medical Marijuana Center may sell no more than thirty percent (30%) of its total on-hand Medical Marijuana inventory to another Medical Marijuana Center.

2. Total on-hand inventory as used in section 12-43.3-402(4), C.R.S., shall only include Medical Marijuana grown on the Medical Marijuana Center's dedicated Optional Premises Cultivation Operation that has been processed and the total amount or quantity has been accounted for in the licensed Medical Marijuana Center's inventory during the previous calendar year, or in the case of a newly licensed business, its first 12 months of business. For purposes of this rule, a calendar year means January 1st to December 31st.

B. Medical Marijuana-Infused Products Manufacturers. A Medical Marijuana Center ~~Licensee~~ may also contract for the manufacture of Medical Marijuana-Infused Products with Medical Marijuana-Infused Products Licensees utilizing a contract as provided for in Rule M 602 – Medical Marijuana-Infused Products Manufacturing Facility: General or Prohibited Acts (Infused Products Contracts). Medical Marijuana distributed to a Medical Marijuana-Infused Products ~~Licensee~~ Manufacturer by a Medical Marijuana Center ~~Licensee p~~pursuant to such a contract for use solely in Medical Marijuana-Infused Product(s) that are returned to the contracting Medical Marijuana Center shall not be included for purposes of determining compliance with subsection A.

Basis and Purpose – M 404

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(a)(VII), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to establish that a Medical Marijuana Center must control and safeguard access to certain areas where Medical Marijuana and Medical Marijuana-Infused Products will be sold, and to prevent diversion to non-patients or their primary caregivers.

M 404 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Medical Marijuana or Medical Marijuana-Infused Products are sold, possessed for sale, displayed or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Restricted Access Area – Only Medical Marijuana Patients or Their Primary Caregivers Allowed."

B. Display of Medical Marijuana and Medical Marijuana-Infused Products. The display of Medical Marijuana or Medical Marijuana-Infused Products for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the customer must be supervised by the Licensee or licensed employees at all times when customers are present.

Basis and Purpose – M 405

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), and 12-43.3-402(5), C.R.S. The Medical Code requires Medical Marijuana Center employees to verify that the purchaser has a valid registration card issued pursuant to section 25-1.5-106, C.R.S., and a valid picture identification card that matches the name on the registration card. Accordingly, this rule was adopted to explain exactly what types of picture identification cards can be accepted. Not only will this rule alleviate any confusion on the part of Medical Marijuana Center employees, but it will help reduce the amount of fraudulent transactions, thereby helping to maintain the integrity of Colorado's Medical Marijuana Businesses.

M 405 – Acceptable Forms of Identification for Medical Sales

A. When Sales Allowed. Licensees shall only sell ~~medical~~ Medical ~~m~~Marijuana to any patient or caregiver permitted to deliver ~~medical~~ Medical ~~m~~Marijuana to homebound patients as permitted by section 25-1.5-106(7)(d), C.R.S., if the patient or caregiver can produce:

1. A valid patient registry card and adequate, currently valid proof of identification; or

2. A copy of a current and complete new application for the ~~medical~~ Medical ~~m~~Marijuana registry that is documented by a certified mail return receipt as having been submitted to the Colorado Department of Public Health and Environment within the preceding thirty-five days and adequate, currently valid proof of identification.

B. Acceptable Forms of Identification. As long as it contains a picture and date of birth, the kind and type of identification deemed adequate shall be limited to the following:

1. An operator's, chauffeur's or similar type driver's license, issued by any state within the United States, any U.S. Territory;

2. An identification card, issued by any state for the purpose of proof of age using requirements similar to those in sections 42-2-302 and 42-2- 303, C.R.S.;

3. A United States military identification card;

4. A passport; or

5. Enrollment card issued by the governing authority of a federally recognized Indian tribe located in the state of Colorado, if the enrollment card incorporates proof of age requirements similar to sections 42-2-302 and 42-2- 303, C.R.S.

C. Physical Inspection Required. A Licensee must physically view and inspect the patient or caregiver's registry card and proof of identification to confirm the information contained on the documents and also to judge the authenticity of the documents presented.

Basis and Purpose – M 406

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I)~~,~~ and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to eliminate diversion of Medical Marijuana.

M 406 – Medical Marijuana Center: Marijuana Inventory Tracking Solution

A. What Constitutes Inventory. Inventory shall be measured by common weights and measures and consist of both:

1. Plant count within a Licensee's Optional Premises Cultivation Operation and Medical Marijuana Center, which shall not exceed six plants per patient designated to the Medical Marijuana Center, including Medical Marijuana Immature Plants placed in a growing medium; and

2. The total weight of all packaged or bulk Medical Marijuana, including but not limited to flowers, kief, leaf, shake, concentrates, and oils not subject to section12-43.3-104(9) of the Medical Code, located at the Medical Marijuana Center not to exceed two ounces per registered primary center patient.

B. When Additional Plants Are Allowed. A licensee may possess such additional Medical Marijuana per registered primary center patient as allowed by the Medical Code.

C. Inventory Determination

1. Once harvested, tagged Medical Marijuana plants shall be combined in Batches for tracking through the entire manufacturing process with the tags for each Medical Marijuana plant accompanying each Batch at each stage of manufacture. Each Batch will be identified by listing the identifying markers from the individual plants from the designated flowering area and a data collection point will occur in which the Batch will be weighed, duly recorded and clearly identified within sight of a video camera and the "wet" weight of buds, stems and leaf duly recorded as unprocessed product, wholesale byproduct, and waste. The identifying markers associated with each Batch shall be prominently displayed on drying racks or wires and curing containers throughout the manufacturing process.

2. Processed Medical Marijuana means the final dried, finished and useable Medical Marijuana product having been sifted and sorted to remove plant waste, stems, and/or seeds and other byproducts prepared for final packaging and transport to the ~~licensed~~ Medical Marijuana C~~c~~enter as permitted in law.

3. Prior to packaging, the processed Medical Marijuana plants shall be weighed before transfer to the Medical Marijuana Center or Medical Marijuana-Infused Products Manufacturer(s), and the weight of unfinished product, wholesale byproduct and waste as a data collection point recorded. Processed Medical Marijuana shall be immediately packaged, sealed, weighed and stored in an approved secure transportation Container for transport to a Medical Marijuana Center or Medical Marijuana-Infused Products Manufacturer(s). Medical marijuana packaging shall be in sealed Containers/packaging with tamper-proof bands.

4. All Medical Marijuana shall be weighed in a Limited Access Area of an Optional Premises Cultivation Operation before and after packaging to determine product weight and total package weight and tagged with both weights before being transported to another licensed facility.

5. Processed Medical Marijuana plants shall be packaged in units of one pound or less and tagged with the total weight of the packaged product and securely sealed in a tamper-proof manner. The packages must be transported to another Medical Marijuana Business within 48 hours and recorded as inventory at the receiving licensed facility.

6. Packaged Medical Marijuana shall be weighed, logged out, and transported directly from the Optional Premises Cultivation Operation to another licensed facility in a secure fashion and out of plain sight.

7. Only licensed individuals may transport Medical Marijuana.

8. All packages containing Medical Marijuana shall be re-weighed within eight hours of arrival at the other licensed facility. Such re-weighing must be done in a Limited Access Area and within plain sight of one or more video cameras and logged in to the Medical Marijuana Center or Medical Marijuana-Infused Products Manufacturer's on-hand inventory.

9. If Medical Marijuana-Infused Product is intended for wholesale distribution to a separately licensed Medical Marijuana Center, it shall be weighed in a Limited Access Area of the Medical Marijuana Center, monitored by one or more video cameras, and logged out of the originating center for pickup and transport to the receiving Medical Marijuana Center.

Basis and Purpose – M 407

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XII), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to establish minimum health and safety regulation for Medical Marijuana Centers. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Medical Marijuana Centers.

M 407 - Health and Safety Regulations: Medical Marijuana Center

A. Local Safety Inspections. Licensees may be subject to inspection of the Medical Marijuana Center by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to Medical Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.

B. Reference Rule M 605. *See* Rule M 605 – Sanitary Requirements: Medical Marijuana-Infused Products Manufacturing Facility for further sanitation-related requirements.

500 Series – Medical Marijuana Optional Premises Cultivation ~~Facilities~~Operations

Basis and Purpose –M 501

The statutory authority for this rule is found at subsections 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)(XX), 12-43.3-310(7), and 12-43.3-310(4), C.R.S. The purpose of this rule is to establish that it is unlawful for an Optional Premises Cultivation Operation to exercise any privileges other than those granted by the State Licensing Authority, and to clarify the license privileges.

M 501 – Medical Marijuana Optional Premises Cultivation Operation: License Privileges

A. Privileges Granted. A Medical Marijuana Optional Premises Cultivation Operation ~~Licensee~~ shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. To the extent authorized by Rule M 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation, a Medical Marijuana Optional Premises Cultivation Facility may share a location with a commonly-owned Retail Marijuana Cultivation Facility. However, a separate license is required for each specific business entity regardless of geographical location.

C. Cultivation of Medical Marijuana Authorized. A Medical Marijuana Optional Premises Cultivation Operation may propagate, cultivate, harvest, prepare, cure, package, store, and label Medical Marijuana, whether in concentrated form or otherwise.

D. Authorized Sales. A Medical Marijuana Optional Premises Cultivation Operation ~~Licensee~~ may only transfer Medical Marijuana to its commonly-owned Medical Marijuana Center.

E. Authorized On-Premises Storage. A Medical Marijuana Optional Premises Cultivation Operation Licensee is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premise must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

Basis and Purpose – M 502

The statutory authority for this rule is found at subsections 12-43.3-103(2)(b), 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)(XX), 12-43.3-310(7), and 12-43.3-310(4), and section 12-43.3-201, C.R.S. The purpose of this rule is to clarify what activity is or is not allowed at an Optional Premises Cultivation Operation.

M 502 – Medical Marijuana Optional Premises Cultivation Operation: General Limitations or Prohibited Acts

A. Transfer Restriction. An Optional Premises Cultivation Operation may only transfer Medical Marijuana to its commonly-owned Medical Marijuana Center.

B. Packaging and Labeling Standards Required. An Optional Premises Cultivation Operation ~~Licensee~~ is prohibited from selling Medical Marijuana that is not packaged and ~~l~~Labeled in accordance with these rules.

See Rules M 1001 – Packaging Requirements: General Requirements and M 1002 – Labeling Requirements: General Requirements.

C. Sale to Patient Prohibited. An Optional Premises Cultivation Operation ~~Licensee~~ is prohibited from selling Medical Marijuana to a patient or primary caregiver.

D. Consumption Prohibited. An Optional Premises Cultivation Operation ~~Licensee~~ shall not permit the consumption of Medical Marijuana or Medical Marijuana-Infused Products on its Licensed Premises.

Basis and Purpose – M 503

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to eliminate diversion of Medical Marijuana.

M 503 – Medical Marijuana Optional Premises Cultivation Operation: Marijuana Inventory Tracking Solution (MITS)

Minimum Tracking Requirement. An Optional Premises Cultivation Operation ~~Licensee~~ must use MITS to ensure its inventories are identified and tracked from the point Medical Marijuana is propagated from seed or cutting to the point when it is delivered to a Medical Marijuana Business. *See also* Rule M 309, Medical Marijuana Business: Marijuana Inventory Tracking Solution (MITS). An Optional Premises Cultivation Operation ~~Licensee~~ must have the ability to reconcile its inventory records with MITS and the associated transaction history and sale receipts. *See also* Rule M 901 – Business Records Required.

1. An Optional Premises Cultivation Operation ~~Licensee~~ is prohibited from accepting any Medical Marijuana from another Medical Marijuana Optional Premises Cultivation Operation without receiving a valid transportation manifest generated from MITS.

2. An Optional Premises Cultivation Operation ~~Licensee~~ must immediately input all Medical Marijuana delivered to its Licensed Premises and account for all RFID tags into MITS at the time of delivery from another Medical Marijuana Optional Premises Cultivation Facility.

3. An Optional Premises Cultivation Operation ~~Licensee~~ must reconcile its transaction history and on-hand inventory to MITS at the close of business each day.

Basis and Purpose – M 504

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XII), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to establish minimum health and safety regulation for Optional Premises Cultivation ~~Facilities~~ Operations. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Medical Marijuana Businesses.

M 504 – Optional Premises Cultivation Operation: Health and Safety Regulations

A. Local Safety Inspections. A Retail Marijuana Cultivation Facility ~~Licensee~~ may be subject to inspection of its Licensed Premises by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local ~~jurisdiction~~ licensing authority restrictions related to Medical Marijuana or other local businesses. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.

B. General Sanitary Requirements. An Optional Premises Cultivation Operation ~~Licensee~~ shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Medical Marijuana shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That all persons working in direct contact with Medical Marijuana shall conform to hygienic practices while on duty, including but not limited to:

   a. Maintaining adequate personal cleanliness;

   b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated;

   c. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices; and

   d. Refraining from having direct contact with Medical Marijuana if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

3. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Medical Marijuana is exposed;

4. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;

5. That there is adequate lighting in all areas where Medical Marijuana is stored and where equipment or utensils are cleaned;

6. That the Licensee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

7. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

8. That toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of Medical Marijuana;

9. That each Optional Premises Cultivation Operation Licensee shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

10. That Medical Marijuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

C. Sanitary Requirements for Concentrate Production. If an Optional Premises Cultivation Operation ~~Licensee~~ produces Medical Marijuana concentrates, all areas in which those concentrates are produced shall be subject to all of sanitary requirements for a Medical Marijuana Infused-Products Manufacturing Facility. See Rule M 605 – Sanitary Requirements: Medical Marijuana-Infused Products Manufacturers.

D. Prohibited Chemicals. The following chemicals shall not be used in Medical Marijuana cultivation. Possession of chemicals and/or containers from these chemicals upon the Licensed Premises shall be a violation of this rule. Prohibited chemicals are:

Chemical Name

CAS Registry Number (or EDF Substance ID)

ALDRIN
309-00-2

ARSENIC OXIDE (3)
1327-53-3

ASBESTOS (FRIABLE)
1332-21-4

AZODRIN
6923-22-4

1,4-BENZOQUINONE, 2,3,5,6-TETRACHLORO-
118-75-2

BINAPACRYL
485-31-4

2,3,4,5-BIS (2-BUTENYLENE) TETRAHYDROFURFURAL
126-15-8

BROMOXYNIL BUTYRATE
EDF-186

CADMIUM COMPOUNDS
CAE750

CALCIUM ARSENATE [2ASH3O4.2CA]
7778-44-1

CAMPHECHLOR
8001-35-2

CAPTAFOL
2425-06-1

CARBOFURAN
1563-66-2

CARBON TETRACHLORIDE
56-23-5

CHLORDANE
57-74-9

CHLORDECONE (KEPONE)

143-50-0

CHLORDIMEFORM
6164-98-3

CHLOROBENZILATE
510-15-6

CHLOROMETHOXYPROPYLMERCURIC ACETATE [CPMA] EDF-
183

COPPER ARSENATE
10103-61-4

2,4-D, ISOOCTYL ESTER
25168-26-7

DAMINOZIDE
1596-84-5

DDD

72-54-8

DDT
50-29-3

DI(PHENYLMERCURY)DODECENYLSUCCINATE [PMDS] EDF-187

1,2-DIBROMO-3-CHLOROPROPANE (DBCP)
96-12-8

1,2-DIBROMOETHANE
106-93-4

1,2-DICHLOROETHANE
107-06-2

DIELDRIN
60-57-1

4,6-DINITRO-O-CRESOL
534-52-1

DINITROBUTYL PHENOL
88-85-7

ENDRIN
72-20-8

EPN
2104-64-5

ETHYLENE OXIDE
75-21-8

FLUOROACETAMIDE
640-19-7

GAMMA-LINDANE
58-89-9

HEPTACHLOR
76-44-8

HEXACHLOROBENZENE
118-74-1

1,2,3,4,5,6-HEXACHLOROCYCLOHEXANE (MIXTURE OF ISOMERS)
608-73-1

1,3-HEXANEDIOL, 2-ETHYL-
94-96-2

LEAD ARSENATE
7784-40-9

LEPTOPHOS
21609-90-5

MERCURY
7439-97-6

METHAMIDOPHOS
10265-92-6

METHYL PARATHION
298-00-0

MEVINPHOS
7786-34-7

MIREX
2385-85-5

NITROFEN
1836-75-5

OCTAMETHYLDIPHOSPHORAMIDE
152-16-9

PARATHION
56-38-2

PENTACHLOROPHENOL
87-86-5

PHENYLMERCURIC OLEATE [PMO]
EDF-185

PHOSPHAMIDON
13171-21-6

PYRIMINIL
53558-25-1

SAFROLE
94-59-7

SODIUM ARSENATE

13464-38-5

SODIUM ARSENITE
7784-46-5

2,4,5-T
93-76-5

TERPENE POLYCHLORINATES (STROBANE6)
8001-50-1

THALLIUM(I) SULFATE
7446-18-6

2,4,5-TP ACID (SILVEX)
93-72-1

TRIBUTYLTIN COMPOUNDS
EDF-184

2,4,5-TRICHLOROPHENOL
95-95-4

VINYL CHLORIDE
75-01-4

E. The use of Dimethylsulfoxide (DMSO) in the production of Medical Marijuana products shall be prohibited and possession of DMSO upon the Licensed Premises is prohibited.

F. That all sanitary requirements shall also apply to any person making hashish on the Licensed Premises of an Optional Premises Cultivation Operation.

G. Production of water based hashish may only be made in an area so designated clearly on the current diagram of the Licensed Premises. *See* Rule ~~R~~ M 901- Business Records Required. All other methods of extraction shall meet these standards and only be produced in a facility licensed to manufacture.

Basis and Purpose – R 505

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XII), and 12-43.3-202(2)(a)(XX), 12-43.3-402(6), and 12-43.3-404(10), C.R.S. The purpose of this rule is to permit laboratory testing of Medical Marijuana and establish minimum health and safety regulation for Optional Premises Cultivation Facilities. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Medical Marijuana Businesses.

M 505 – Optional Premises Cultivation Operation: Testing

A. An Optional Premises Cultivation Operation ~~Licensee~~ shall, upon request of the Division, make available to the person so requesting a sufficient quantity of such Medical Marijuana to enable laboratory or chemical analysis thereof. The Division will notify the Licensee of the results of the analysis.

B. An Optional Premises Cultivation Operation ~~Licensee~~ may provide samples to enable laboratory testing of Medical Marijuana at certified and licensed Retail Marijuana Testing Facilities with a vendor certification and occupational license for Medical Marijuana testing and research. *See* Rule M 701- Vendor Registration and Occupational License for Medical Marijuana Testing and Research.

M 600 Series – Medical Marijuana-Infused Products Manufacturers

Basis and Purpose – M 601

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(2)(a)(XX), and section 12-43.3-404, C.R.S. The purpose of this rule is to establish that it is unlawful for a Medical Marijuana-Infused Products Manufacturing Facility ~~Licensee~~ to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

M 601 – Medical Marijuana-Infused Products Manufacturing Facility: License Privileges

A. Privileges Granted. A Medical Marijuana-Infused Products Manufacturing Facility ~~Licensee~~ shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. A separate license is required for each specific business or business entity and geographical location.

C. Licensees Authorized for Sale. A Medical Marijuana-Infused Products Manufacturer ~~Licensee~~ may sell Medical Marijuana-Infused Products of its own manufacture to Medical Marijuana Centers ~~Licensees~~ and to other Medical Marijuana-Infused Manufacturing ~~Facility Licensees~~Facilities.

D. Manufacture of Medical Marijuana-Infused Products Authorized. A Medical Marijuana-Infused Products Manufacturing Facility may manufacture, prepare, package, and Label Medical Marijuana-Infused Products, whether in concentrated form or that are comprised of Medical Marijuana and other ingredients intended for use or consumption, such as edible products, ointments, or tinctures.

Basis and Purpose – M 602

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), and 12-43.3-404(3), C.R.S. The Medical Code sets forth minimum requirements for written agreements between Medical Marijuana-Infused Products Manufacturers and Medical Marijuana Centers. Specifically, the written agreements must set forth the total amount of Medical Marijuana obtained from a Medical Marijuana Center licensee to be used in the manufacturing process, and the total amount of Medical Marijuana-Infused Products to be manufactured from the Medical Marijuana obtained from the Medical Marijuana Center. This rule clarifies that the Division must approve such written agreements to ensure they meet those requirements.

M 602 – Medical Marijuana-Infused Products Manufacturing Facility: General Limitations or Prohibited Acts (Infused Products Contracts)

Any contract required pursuant to section 12-43.3-404(3), C.R.S., shall contain such minimum requirements as to form and substance as required by statute. All contracts need to be current and available for inspection on the Licensed Premises by the Division when requested. *See* Rule M 901 – Business Records and Reporting.

Basis and Purpose – M 603

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(2)(a)(XX), and section 12-43.3-404, C.R.S. The purpose of this rule is to establish a Medical Marijuana-Infused Products Manufacturing Facility's ~~Licensee's~~ obligation to account for and track all inventories from the point it is either transferred from the Optional Premises Cultivation Operation or the point when the Medical Marijuana-Infused Products Manufacturer receives the Medical Marijuana from another licensed Optional Premises Cultivation Operation.

M 603 – Medical Marijuana-Infused Products Manufacturing Facility: Marijuana Inventory Tracking Solution (MITS)

Minimum Tracking Requirement. A Medical Marijuana-Infused Products Manufacturing Facility must use MITS to ensure its inventories are identified and tracked from the point they are transferred from an Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturing Facility through wholesale, transfer, or transaction. *See also* Rule M 309 – Marijuana Inventory Tracking Solution (MITS). A Medical Marijuana-Infused Products Manufacturer must have the ability to reconcile its inventory records with MITS and the associated transaction history and sale receipts. *See also* Rule M 901 – Business Records Required.

1. A Medical Marijuana-Infused Products Manufacturing Facility is prohibited from accepting any Medical Marijuana or Medical Marijuana-Infused Products from an Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturing Facility without receiving a valid transportation manifest generated from MITS.

2. A Medical Marijuana-Infused Products Manufacturing Facility must immediately input all Medical Marijuana and Medical Marijuana-Infused Products delivered to the Licensed Premises, accounting for all RFID tags, into MITS at the time of delivery from an Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturing Facility.

3. A Medical Marijuana-Infused Products Manufacturing Facility must reconcile transactions to MITS at the close of business each day.

Basis and Purpose – M 604

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(2)(a)(XX), and section 12-43.3-404, C.R.S. The purpose of this rule is to establish minimum health and safety regulations for Medical Marijuana-Infused Products Manufacturing Facilities. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Medical Marijuana Businesses.

M 604 – Health and Safety Regulations: Medical Marijuana-Infused Products Manufacturing Facility

A. General Standards. A Medical Marijuana-Infused Products Manufacturing Facility that manufacturers Edible Medical Marijuana-Infused Products shall comply with all kitchen-related health and safety standards of the relevant local jurisdiction and, to the extent applicable, with all Colorado Department of Public Health and

Environment health and safety regulations applicable to retail food establishments, as set forth in 6 CCR 1010-2.

B. Annual Inspection: If the relevant local licensing authority does not conduct at least an annual health and safety inspection meeting the standards outlined above, the Medical Marijuana-Infused Products Manufacturing Facility that manufacturers Edible Medical Marijuana-Infused Products must retain a private entity to perform such inspection. The Licensee shall maintain a copy of the current annual inspection on the Licensed Premises. *See* Rule M 901 – Business Records Required.

Basis and Purpose – M 605

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(2)(a)(XX), and section 12-43.3-404, C.R.S. This rule sets forth basic sanitary requirements for Medical Marijuana-Infused Products Manufacturers. It covers the physical premises where the products are made as well as the individuals handling the products. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and patient.

M 605 – Sanitary Requirements: Medical Marijuana-Infused Products Manufacturing Facility

General Requirements. The Licensee shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with preparation surfaces for Medical Marijuana or Medical Marijuana-Infused Products shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That all persons working in direct contact with preparation of Medical Marijuana or Medical Marijuana-Infused Products shall conform to hygienic practices while on duty, including but not limited to:

    a. Maintaining adequate personal cleanliness;

    b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated;

    c. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the facility and/or in Medical Marijuana-Infused Products preparation areas and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices; and

    d. Refraining from having direct contact with preparation of Medical Marijuana or Medical Marijuana-Infused Products if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

3. That there is sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations for production of Medical Marijuana or Medical Marijuana-Infused Products;

4. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Medical Marijuana or Medical Marijuana-Infused Products are exposed;

5. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;

6. That there is adequate safety-type lighting in all areas where Medical Marijuana or Medical Marijuana-Infused Products are processed or stored and where equipment or utensils are cleaned;

7. That the facility provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

9. That all contact surfaces, including utensils and equipment used for the preparation of Medical Marijuana or Medical Marijuana-Infused Products, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. Only sanitizing agents registered with the Environmental Protection Agency shall be used in Medical Marijuana-Infused Products Manufacturing Facilities and used in accordance with labeled instructions;

10. That toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of Medical Marijuana or Medical Marijuana-Infused Products;

11. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the facility's needs;

12. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines;

13. That each Medical Marijuana-Infused Products Manufacture Licensee shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair;

14. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Medical Marijuana or Medical Marijuana-Infused Products shall be conducted in accordance with adequate sanitation principles;

15. That Medical Marijuana or Medical Marijuana-Infused Products that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms; and

16. That storage and transportation of finished Medical Marijuana-Infused Products shall be under conditions that will protect products against physical, chemical, and microbial contamination as well as against deterioration of any container.

M 700 Series – Retail Marijuana Testing Facilities with Medical Marijuana Vendor Registration and Key Occupational Licensure to Test and Research Medical Marijuana.

Basis and Purpose – M 701

The statutory basis for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XII), 12-43.3-202(2)(a)(XX), 12-43.3-402(6), and 12-43.3-404(10), C.R.S. The purpose of this rule is to clarify the means by which the Division may utilize to ensure Medical Marijuana and Medical Marijuana-Infused Products are safe for patient consumption and that any Medical Marijuana or Medical Marijuana-Infused Products sold for human consumption do not contain contaminants that are injurious to health, and to help ensure sufficient and correct Labeling.

M 701 – Vendor Registration and Occupational License for Medical Marijuana Testing and Research

A. Occupational License For Testing and Research.

1. If a certified and licensed Retail Marijuana Testing Facility wishes to test and research Medical Marijuana, it shall first:

    i. Complete a current Division application, pay all applicable fees and obtain a registration as a vendor;

    ii. Complete a current Division application, pay all applicable fees and obtain an Occupational License ~~key occupational license~~ for at least one Owner to engage in testing and research.

2. The vendor registration and ~~o~~Occupational ~~l~~License referenced in this rule may only be granted to or held by a Retail Marijuana Testing Facility whose license and certification are current, valid and in good standing.

B. Requirements and Violations.

1. A Person holding a vendor registration and ~~key o~~Occupational ~~l~~License to test and research Medical Marijuana must comply with all requirements in the Retail Marijuana Rules, 700 Series.

2. Any violation of such requirements in connection with testing and research of Medical Marijuana shall constitute a violation of these rules and a violation in connection with the Person's Retail Marijuana Testing Facility license.

M 800 Series – Transportation and Storage

Basis and Purpose – M 801

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XI), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of the rule is to provide clarity as to the requirements associated with the delivery of Medical Marijuana and Medical Marijuana-Infused Products between Licensed Premises. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices.

M 801 – Transportation of Medical Marijuana and Medical Marijuana-Infused Products

A. Transportation Authorized. This rule provides for the manner in which Medical Marijuana and Medical Marijuana-Infused Products shall be transported between locations that are licensed pursuant to the Medical Code. Nothing herein authorizes the delivery of Medical Marijuana or Medical Marijuana-Infused Products to or from locations not so licensed, but shall not preclude delivery to a location that also holds a license pursuant to the Retail Code, so long as such delivery does not contravene any section within the Medical Code or the Retail Code or any rules promulgated thereto, and inventories are properly separated and tracked.

B. Persons Authorized to Transport. The only Persons authorized to transport Medical Marijuana or Medical Marijuana Products are those individuals licensed by the State Licensing Authority pursuant to section 12-43.3-401, C.R.S.; including Owners or others holding occupational licenses. No individual who does not possess a current and valid occupational license from the State Licensing Authority may transport Medical Marijuana or Retail Marijuana Products between Licensed Premises.

C. Transport Between Licensed Premises. Medical Marijuana and Medical Marijuana-Infused Products shall only be transported between Licensed Premises and between Licensed Premises and a permitted off-premises storage facility. Licensees transporting Medical Marijuana and Medical Marijuana-Infused Products are responsible for ensuring that the product is secured at all times during transport.

D. MITS-Generated Transportation Manifest Required. Transport of Medical Marijuana and Medical Marijuana-Infused Products shall be accompanied by a MITS-generated manifest that contains information required by this rule and shall be in the format prepared by the State Licensing Authority. A transport from an originating location may have multiple destination locations so long as the manifest reflects the specific inventory destined for specific licensed locations.

E. Motor Vehicle Required. Transport of Medical Marijuana and Medical Marijuana-Infused Products shall be conducted by a motor vehicle that is properly registered in the state of Colorado pursuant to motor vehicle laws, but need not be registered in the name of the Licensee.

F. Documents Required During Transport. Transportation of Medical Marijuana or Medical Marijuana-Infused Products shall be accompanied by a copy of the originating Licensee's business license, the driver's valid occupational license or registration, the driver's valid motor vehicle operator's license, and all required vehicle registration information.

G. Use of Colorado Roadways. State law does not prohibit the transportation of Medical Marijuana and Medical Marijuana-Infused Products on any public road within the state of Colorado as authorized in

this rule. However, nothing herein authorizes a Licensee to violate specific local ordinances or resolutions enacted by any city, town, city and county, or county related to the transportation of Medical Marijuana or Medical Marijuana-Infused Products.

H. Preparation of Medical Marijuana and Medical Marijuana-Infused Products for Transport

1. Final Weighing and Packaging. Each Licensee shall comply with the specific rules associated with the final weighing and packaging of Medical Marijuana inventory or Medical Marijuana-Infused Products inventory before such items are prepared for transport pursuant to this rule. The scale used to weigh product to be transported shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S.

2. Preparation in Limited Access Area. Medical Marijuana and Medical Marijuana-Infused Products shall be prepared for transport in a Limited Access Area, including the packing and Labeling of Shipping Containers.

3. Shipping Containers. Sealed packages or Containers may be placed in larger Shipping Containers, so long as such Shipping Containers are labeled with type and amount of Medical Marijuana or Medical Marijuana-Infused Products contained therein. The contents of Shipping Containers shall be easily accessed and inspected by the State Licensing Authority, local jurisdictions, and state and local law enforcement officials when necessary.

I. Creation of Records and Inventory Tracking

1. Use of MITS-Generated Manifest. Licensees who transport Medical Marijuana or Medical Marijuana-Infused Products shall create a MITS-generated transportation manifest to reflect inventory that leaves the Licensed Premises for destinations to other licensed locations. The manifest may either reflect all deliveries for multiple locations within a single trip, or may reflect each single delivery. In either case, no inventory shall be transported without a MITS-generated manifest.

2. Copy of Manifest to Receiver. Licensees shall provide a copy of the manifest to each Licensee receiving the inventory described in the manifest. In order to maintain transaction confidentiality, the originating Licensee may prepare a separate MITS-generated manifest for each receiving Licensee.

3. The MITS-generated transportation manifest shall include the following:

    a. Departure date and approximate time of departure;

    b. Name, location address, and license number of the originating Licensee;

    c. Name, location address, and license number of the destination Licensee(s);

    d. Product name and quantities (by weight or unit) of each product to be delivered to each specific destination location(s);

    e. Arrival date and estimated time of arrival;

f. Delivery vehicle make and model and license plate number; and

g. Name, occupational license number, and signature of the Licensee transporting.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, Licensees shall be responsible for the procedures associated with the tracking of inventory that is transported between Licensed Premises. *See* Rule M 901 – Business Records Required.

1. Responsibilities of Originating Licensee. Prior to departure, the originating Licensee shall adjust its inventory records to reflect the removal of Medical Marijuana or Medical Marijuana-Infused Products. The scale used to weigh product to be transported shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S. Entries to the inventory records shall note the MITS-generated travel manifest and shall be easily reconciled, by product name and quantity, with the applicable manifest.

2. Responsibilities of Receiving Licensee. Upon receipt, the receiving Licensee shall ensure that the Medical Marijuana or Medical Marijuana-Infused Products received are as described in the transportation manifest and shall immediately adjust its inventory records to reflect the receipt of inventory. The scale used to weigh product being received shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S. Entries to the inventory records shall note the MITS-generated travel manifest and shall be easily reconciled, by product name and quantity, with the applicable manifest.

3. Discrepancies. Receiving Licensees shall separately document any differences between the quantity specified in the manifest and the quantities received. Such documentation shall be made in MITS and in any relevant business records.

K. Adequate Care of Perishable Medical Marijuana-Infused Products. A Medical Marijuana Business must provide adequate refrigeration for perishable Medical Marijuana-Infused Products during transport.

Basis and Purpose - M 802

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XI), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to establish that Medical Marijuana and Medical Marijuana-Infused Products may not be stored outside of Licensed Premises unless the Licensee obtains an off-premises storage permit.

M 802 – Off-Premises Storage of Medical Marijuana and Medical Marijuana-Infused Products

A. Off-premises Storage Permit Authorized. A Licensee may only store Medical Marijuana or Medical Marijuana-Infused Products in its Licensed Premises or in its one permitted off-premises storage facility.

B. Permitting. To obtain a permit for an off-premises storage facility, a Medical Marijuana Business must apply on current Division forms and pay any applicable fees. A permitted off-premises storage facility shall constitute an extension of the Medical Marijuana Business's Licensed Premises, subject to all applicable Medical Marijuana regulations.

C. Limited Access Area. A permitted off-premises storage facility shall be considered a Limited Access Area. M 301.

D. Limitation on Inventory to be Stored. The Licensee may only have upon the permitted off-premises storage facility Medical Marijuana or Medical Marijuana-Infused Products that are part of its finished goods inventory. The Licensee may not share the premises with other Licensees nor store inventory belonging to other Licensees.

E. Restrictions. The permitted off-premises storage facility may be utilized for storage only. A Licensee may not sell, cultivate, manufacture, process or consume any Medical Marijuana or Medical Marijuana-Infused Products within the premises of the permitted off-premises storage facility.

F. Display of Off-premises Storage Permit. The off-premises storage facility permit must be displayed in a prominent place within the permitted off-premises storage facility.

G. Medical Marijuana Business Notice to Local Jurisdiction and Local Jurisdiction Approval.

1. Within seven days of receipt of an off-premises storage facility permit from the Division, the receiving Licensee must provide a copy to the relevant local jurisdiction designated by the location where the permitted off-premises storage facility is situated.

2. No Medical Marijuana or Medical Marijuana-Infused Products may be stored within a permitted storage facility until the relevant local jurisdiction has been provided a copy of the off-premises storage facility permit.

3. Any off-premises storage permit issued by the Division shall be conditioned upon the Medical Marijuana Business's receipt of all required local approvals.

H. Security in Storage Facility. A permitted off-premises storage facility must meet all video and security requirements applicable to Licensed Premises.

I. Transport to or from a Permitted Off-premises Storage Facility. Licensees must comply with the provisions of Rule M 801 when transporting any Medical Marijuana or Medical Marijuana-Infused Products to a permitted off-premises storage facility.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, Licensees shall establish tracking methods to ensure their inventories are identified and tracked from the point of transfer from the Licensed Premises to the point of delivery to a permitted off-premises storage facility. *See* Rule M 901 – Business Records Required.

K. Adequate Care of Perishable Medical Marijuana-Infused Products. A Medical Marijuana Business must provide adequate refrigeration for perishable Medical Marijuana-Infused Products and shall utilize adequate storage facilities and transportation methods.

M 900 Series – Business Records

Basis and Purpose – M 901

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XVII), and 12-43.3-202(2)(a)(XX), C.R.S. This rule explains what business records a Licensee must maintain. It also clarifies that such records must be made available on demand to the Division. The State Licensing Authority shall require that Licensees maintain their own business records and make them available upon request by the Division.

M 901 – Business Records Required

A. General Requirements

1. A Medical Marijuana Business ~~Licensee~~ must maintain the information required in this rule in a format that is readily understood by a reasonably prudent business ~~P~~person.

2. Each Licensee shall retain all books and records necessary to show fully the business transactions of such Licensee for the preceding three years (the current license year and the two prior license years).

    a. On premises records: The Medical Marijuana Business' books and records for the preceding six months (or complete copies of such records) must be maintained on the Licensed Premises at all times.

    b. On- or off-premises records: books and records associated with older periods may be archived on or off of the Licensed Premises~~, but must be available for review without unreasonable delay when requested by the Division~~.

3. The books and records must fully show the transactions of the business and must include, but shall not be limited to:

    a. Current Employee List – This list must provide the full name and Occupational ~~Support or occupational l~~License number of each employee and all ~~including~~ non-employee Owners, who work at a Medical Marijuana Business.

    b. Secure Facility Information – For each business location, a Licensee must maintain the business contact information for vendors that maintain video surveillance systems and Security Alarm Systems.

    c. Licensed Premises – Diagram of all approved Limited Access Areas.

    d. Visitor Log – List of all visitors entering Limited Access Areas or Restricted Access Areas.

e. All records normally retained for tax purposes.

B. Violation Affecting Public Safety. Violation of this rule shall constitute a license violation affecting public safety.

C. Records Related to Inventory Tracking. A Medical Marijuana Business ~~Licensees~~ must maintain accurate and comprehensive inventory tracking records that account for, reconcile and evidence all inventory activity for Retail Marijuana from either seed or Immature Plant stage until the Medical Marijuana or Medical Marijuana-Infused Product is sold to a customer.

D. Records Related to Transportation.

1. Medical Marijuana Business Licensees must maintain adequate records of all transport activities related to Medical Marijuana and Medical Marijuana-Infused Products.

2. A hard copy of the transportation manifest shall be carried at all times with the Medical Marijuana or Medical Marijuana-Infused Products being transported.

3. *See also* Rule M 801 – Transportation of Medical Marijuana or Medical Marijuana-Infused Products.

E. Provision~~Result of Failure to Provide~~ of ~~Any~~ Requested Records to the Division ~~On Demand~~. A Medical Marijuana Business Licensee, and any of its agents and employees, must provide on-demand access to on-premises records following a request from the Division during normal business hours or hours of apparent operation, and must provide access to off-premises records within three business days following a request from the Division.

Basis and Purpose – M 902

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XVII), and 12-43.3-202(2)(a)(XX), C.R.S. All Medical Marijuana Centers must collect and remit sales tax on all retail sales made pursuant to the licensing activities. The purpose of this rule is to clarify when such taxes must be remitted to the Colorado Department of Revenue.

M 902 – Reporting and Transmittal of Taxes

Sales and Use Tax Returns Required. All state and state-collected sales and use tax returns must be filed, and all taxes must be remitted to the Department of Revenue, on or before the 20th day of the month following the reporting month. For example, a January return and remittance will be due to the Department of Revenue by February 20th. If the due date (20th of the month) falls on a weekend or holiday, the next business day is considered the due date for the return and remittance.

Basis and Purpose – M 903

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XVII), and 12-43.3-202(2)(a)(XX), C.R.S. To effectively enforce and implement the Medical Code, the State Licensing Authority must mandate a Licensee-paid audit when necessary. This rule explains when an audit may be deemed necessary and sets forth possible consequences of a Licensee's refusal to cooperate or pay for the audit.

M 903 – Independent Audit May Be Required

A. State Licensing Authority May Require Independent Audit

1. The State Licensing Authority may require a ~~Retail~~ Medical Marijuana ~~Establishment~~ Business ~~Licensee~~ to undergo an audit by an accountant that is independent of the Licensee, when it deems an audit necessary. The audit scope may include, but not be limited to financial transactions, inventory control measures, or other agreed upon procedures.

2. In such instances, the Division and the Licensee may attempt to mutually agree upon the selection of the independent accountant. However, if a mutual agreement cannot be reached, the Division shall select the independent accountant. The independent accountant shall be a certified public accountant licensed by and in good standing with the Colorado State Board of Accountancy.

3. The Licensee will be responsible for all direct costs associated with the independent audit.

B. When Independent Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent accountant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

1. A Licensee does not provide requested records to the Division;

2. The Division has reason to believe that the Licensee does not properly maintain its business records;

3. A Licensee has a prior violation related to recordkeeping or inventory control;

4. A Licensee has a prior violation related to diversion.

5. As determined by the Division, the scope of an audit conducted by the Division would be so extensive as to jeopardize the regular duties and responsibilities of the Division's audit or enforcement staff.

C. Compliance Required. A Licensee must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo and audit in accordance with this rules.

Basis and Purpose – M 904

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XV), 12-43.3-202(2)(a)(XVII), 12-43.3-202(2)(a)(XX), and 12-43.3-310(12) C.R.S. The State Licensing Authority must be able to immediately access information regarding a ~~retail~~ Medical M~~m~~arijuana ~~establishment's~~ Business's managing individual. Accordingly, this rule reiterates the statutory mandate that licensee's provide any management change to

the Division within seven days of any change, and also clarifies that a licensee must save a copy of any management change report to the Division, and clarifies that failure to follow this rule can result in discipline.

M 904 – Manager Change Must Be Reported

A. When Required. A Medical Marijuana Business ~~Licensee~~ shall provide the Division a written report within seven days after any change in manager occurs.

B. Licensee Must Maintain Record of Reported Change. The Licensee must also maintain a copy of this written report with its business records.

C. Consequence of Failure to Report. Failure to report a change in a timely manner may result in discipline.

M 1000 Series – Labeling, Packaging, and Products Safety

Basis and Purpose – M 1001

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), and 12-43.3-202(2)(a)(XX), C.R.S. Extensive Labeling and secure packaging of Medical Marijuana and Medical Marijuana-Infused Products is of statewide concern. A purpose of this rule, and the rules in this series, is to ensure that all Medical Marijuana and Medical Marijuana-Infused Products are sold and delivered to lawful patients is in packaging that is not easily opened by children. This rule also clarifies packaging and Labeling terms that will be used throughout this rule and rules in the same series to ensure that Coloradoans are adequately informed. Other graphic identifies will ensure that the Medical Marijuana and Medical Marijuana-Infused Products are easily and readily detectable if they are diverted out of state, and easily tracked back to the retailer, grower or manufacture.

M 1001 – Packaging Requirements: General Requirements

Medical Marijuana – General Packaging Requirement for Child-Resistant Packaging. The sale of Medical Marijuana is prohibited unless previously placed within a Container by a Medical Marijuana Center. The Container must be designed to ensure that the contents are secure and are child-resistant. *See* Rule M 1003 - Labeling Requirements: Specific Requirements, Medical Marijuana and Medical Marijuana-Infused Products.

Basis and Purpose – M 1002

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to ensure that the Labeling on each Container of Medical Marijuana and Medical Marijuana-Infused Products includes necessary and relevant information for consumers does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable.

M 1002 – Labeling Requirements: General Requirements

A. Labeling Required. All Medical Marijuana and Medical Marijuana-Infused Products sold, transferred, or otherwise provided to a consumer must be in a Container that is Labeled with all required information, s*ee* Rules M 1001 – Packaging Requirements: General Requirements, M 1003 – Labeling Requirements: Specific Requirements, Medical Marijuana and Medical Marijuana-Infused Products and M 1004 – Labeling Requirements: Specific Requirements, Edible Medical Marijuana-Infused Products, and that specifically excludes certain text.

B. Health and Benefit Claims. Labeling text on a Container may not make any false or misleading statements regarding health or physical benefits to the consumer.

C. Font Size. Labeling text on a Container must be no smaller than 1/16 of an inch.

D. Use of English Language. Labeling text on a Container must be clearly written or printed and in the English language.

E. Unobstructed and Conspicuous. Labeling text on a Container must be unobstructed and conspicuous. A Licensee may affix multiple Labels to a Container, provided that none of the information required by these rules is completely obstructed.

Basis and Purpose – M 1003

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to ensure that each Container of Medical Marijuana and Medical Marijuana-Infused Products includes necessary and relevant Labeling information for consumers.

M 1003 – Labeling Requirements: Specific Requirements, Medical Marijuana and Medical Marijuana-Infused Products

A. Labels Required. No Licensee shall sell, transfer, or give away any Medical Marijuana that does not contain a Label with a list of all ingredients, including all chemical additives, including but not limited to nonorganic pesticides, herbicides, and fertilizers that were used in its cultivation and production. The Label must also list:

1. The Batch Number or numbers assigned by the Optional Premises Cultivation Operation to the marijuana plant or plants from which the Medical Marijuana contained within the Container was harvested; and.

2. A complete list of solvents and chemicals used in the creation of any Medical Marijuana concentrate.

B. Medical Marijuana-Infused Product – Child-Resistant Packaging. The sale of a Medical Marijuana-Infused Product is prohibited unless:

1. The Medical Marijuana-Infused Product has previously been placed within a Container by Medical Marijuana-Infused Products Manufacturer. The Container must be designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly and that does not allow the product to be seen without opening the packaging material; or

2. The Medical Marijuana-Infused Product has previously been placed in packaging that is labeled "Medicinal product - keep out of reach of children."

C. Medical Marijuana Container Labeling Must Include the Following Information:

1. The license number of the Optional Premises Cultivation Facility, if different than the Medical Marijuana Center's license number, identifying where the Medical Marijuana within the Container was grown;

2. The license number of the Medical Marijuana Center that sold the Medical Marijuana to the patient;

3. The date of sale; and

4. The patient registry number of the purchaser.

D. Medical Marijuana-Infused Products Container Labeling Must Include the Following Information:

1. The license number of the Medical Marijuana Business(es) where the Medical Marijuana used to manufacture the Medical Marijuana-Infused Product within the Container was grown;

2. The license number of the Medical Marijuana Center that sold the Medical Marijuana-Infused Product the patient;

3. ~~The minimum print size for each of the three required statements for non-infused products and for each of the seven required statements for Medical Marijuana-Infused Products is 1/16 inch. The size of the characters in the net weight statement is determined by the area of the principal display panel and may be greater than 1/16 inch.~~The following statement: "This product is ~~infused with~~ contains ~~M~~medical ~~M~~marijuana and was produced without regulatory oversight for health, safety or efficacy and there may be health risks associated with the consumption of the product."

4. For Medical Marijuana-Infused Products, the product identity and net weight statements must appear on the portion of the Label displayed to the patient.

5. When a Medical Marijuana-Infused Product is made specifically for a designated patient, the Label of that product shall state the patient's Medical Marijuana Registry number.

6. The list of ingredients and company name statements must be conspicuously listed on the Medical Marijuana-Infused Product package.

7. A nutrition facts panel may be required if nutritional claims are made on the Label of any Medical Marijuana-Infused Product.

E. ~~S~~Minimum print size~~pecial Requirement for Medical Marijuana-Infused Products~~. The minimum print size for each of the required statements for non-infused products and for each of the required statements for Medical Marijuana-Infused Products is 1/16 inch. The size of the characters in the net weight statement is determined by the area of the principal display panel and may be greater than 1/16 inch.

Basis and Purpose – M 1004

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XIV), 12-43.3-202(2)(a)(XIV.5), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to ensure that each Container of an Edible Medical Marijuana-Infused Product includes necessary and relevant information for patients.

M 1004 – Labeling Requirements: Specific Requirements, Medical Marijuana-Infused Products

A. Ingredient List. A list of all ingredients used to manufacture the Edible Medical Marijuana-Infused Product; which may include a list of any potential allergens contained within, or used in the manufacture of, the Medical Marijuana-Infused Product.

B. Statement Regarding Refrigeration. A statement that the Medical Marijuana-Infused Product, if perishable, must be refrigerated.

C. Statement of Expiration Date. A product expiration date, for perishable Medical Marijuana-Infused Products, upon which the product will no longer be fit for consumption, or a use-by-date, upon which the product will no longer be optimally fresh. Once a Label with a use-by or expiration date has been affixed to a Container of a Medical Marijuana-Infused Product, a Licensee shall not alter that date or affix a new Label with a later use-by or expiration date.

M 1100 Series – Signage, Marketing, and Advertising

Basis and Purpose – M 1101

The statutory authority for this rule is found at subjections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(a)(VI), 12-43.3-202(2)(a)(VII), 12-43.3-202(2)(a)(XX), and 12-43.3-901(4)(b), C.R.S. The purpose of this rule is to clearly delineate that Licensees are not permitted to make false or misleading statements.

M 1101 – General Requirement: False and Misleading Statements

Advertising Practices

1. No Medical Marijuana Business ~~Licensee~~ shall display upon or in proximity to, or referring to the Licensed Premises, use, publish or exhibit, or permit to be used, or published, any sign, advertisement, display, notice, symbol or other device which are inconsistent with the local laws and regulations in which the licensee operates.

2. No Medical Marijuana Business ~~Licensee~~ shall display upon or in proximity to, or referring to the Licensed Premises, use, publish or exhibit, or permit to be used, or published, any sign, advertisement, display, notice, symbol or other device which uses misleading, deceptive, or false advertising.

M 1200 Series – Enforcement

Basis and Purpose – M 1201

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(II), and 12-43.3-202(2)(a)(XX), and sections 16-2.5-101, 16-2.5-120, and 16-2.5-124.5, C.R.S. The purpose of this rule is to allow for officers and employees of the Division to investigate all aspects of the Licensees to ensure the fair, impartial, stringent, and comprehensive administration of the Medical Code and related regulations.

M 1201 – Duties of Employees of the State Licensing Authority

A. Duties of Director

1. The State Licensing Authority may delegate an act required to be performed by the State Licensing Authority related to the day-to-day operation of the Division to the Director.

2. The Director may authorize investigators and employees of the Division to perform tasks delegated from the State Licensing Authority.

B. Duties of Division Investigators. The State Licensing Authority, the Department's Senior Director of Enforcement, the Director, and Division investigators shall have all the powers of any peace officer to:

1. Investigate violations or suspected violations of the Medical Code and rules promulgated pursuant to it;

2. Make arrests, with or without warrant, for any violation of the Medical Code, rules promulgated pursuant to it, Article 18 of Title 18, C.R.S., any other laws or regulations pertaining to Medical Marijuana in this state, or any criminal law of this state, if, during an officer's exercise of powers or performance of duties under the Medical Code, probable cause exists that a crime related to such laws has been or is being committed;

3. Serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Medical Marijuana and Medical Marijuana-Infused Products;

4. Assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request or the request of other local officials having jurisdiction;

5. Inspect, examine, or investigate any Licensed Premises where Medical Marijuana or Medical Marijuana-Infused Products are grown, stored, cultivated, manufactured, distributed, or sold, and any books and records in any way connected with any licensed activity;

6. Require any Licensee, upon demand, to permit an inspection of Licensed Premises during business hours or at any time of apparent operation, marijuana equipment, and marijuana accessories, or books and records; and, to permit the testing of or examination of Medical

Marijuana or Medical Marijuana-Infused Products;

7. Require Applicants to submit complete applications and fees and other information the Division deems necessary to make licensing decisions and approve material changes made by the Applicant or Licensee;

8. Conduct investigations into the character, criminal history, and all other relevant factors related to suitability of all Licensees and Applicants for Medical Marijuana licenses and such other Persons with a direct or indirect interest in an Applicant or Licensee, as the State Licensing Authority may require; and

9. Exercise any other power or duty authorized by law.

Basis and Purpose – M 1202

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(IV), and 12-43.3-202(2)(a)(XX), C.R.S. This rule explains that Licensees must cooperate with Division employees when they are acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the administrative hold process.

M 1202 – Requirement for Inspections and Investigations, Searches, Administrative Holds, and Such Additional Activities as May Become Necessary from Time to Time

A. Applicants and Licensees Shall Cooperate with Division Employees

1. Applicants and Licensees must cooperate with employees and investigators of the Division who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to the Medical Code.

2. No Applicant or Licensee shall by any means interfere with, obstruct or impede the State Licensing Authority or employee or investigator of the Division from exercising their duties under the provisions of the Medical Code and all regulations promulgated thereunder. This would include, but is not limited to:

    a. Threatening force or violence against an employee or investigator of the Division, or otherwise endeavoring to intimidate, obstruct, or impede employees or investigators of the Division, their supervisors, or any peace officers from exercising their duties. The term “threatening force” includes the threat of bodily harm to such individual or to a member of his or her family;

    b. Denying employees or investigators of the Division access to a Licensed Premises during business hours or times of apparent activity;

    c. Providing false or misleading statements;

d. Providing false or misleading documents and records;

e. Failing to timely produce requested books and records required to be maintained by the Licensee; or

f. Failing to timely respond to any other request for information made by a Division employee or investigator in connection with an investigation of the qualifications, conduct or compliance of an Applicant or Licensee.

B. Administrative Hold

1. To prevent destruction of evidence, diversion or other threats to public safety, while permitting a Licensee to retain its inventory pending further investigation, a Division investigator may order an administrative hold of Medical Marijuana or Medical Marijuana-Infused Products pursuant to the following procedure:

a. As part of an investigation or inspection of a Licensee, a Division investigator may develop reasonable grounds to believe certain Medical Marijuana or Medical Marijuana-Infused Products constitute evidence of acts in violation of the Medical Code or these regulations, or otherwise constitute a threat to the public safety.

b. The Division investigator may issue a notice of administrative hold of any such Medical Marijuana or Medical Marijuana-Infused Product. The notice of administrative hold shall provide a documented description of the Medical Marijuana to be subject to the administrative hold.

c. Following the issuance of a notice of administrative hold, the Division will identify the Medical Marijuana or Medical Marijuana-Infused Product subject to the administrative hold in MITS. The Licensee shall continue to comply with all tracking requirements. *See* Rule M 309 –Marijuana Inventory Tracking Solution~~s~~ (MITS).

d. The Licensee shall completely and physically segregate the Medical Marijuana or Medical Marijuana-Infused Product subject to the administrative hold in a Limited Access Area of the Licensed Premises under investigation, where it shall be safeguarded by the Licensee. Pending the outcome of the investigation and any related disciplinary proceeding, the Licensee is prohibited from selling, giving away, transferring, transporting, or destroying the Medical Marijuana or Medical Marijuana-Infused Product subject to the administrative hold.

e. Nothing herein shall prevent a Licensee from the continued cultivation or harvesting of the Medical Marijuana subject to the administrative hold. All Medical Marijuana or Medical Marijuana-Infused Product subject to an administrative hold must be separately Batched.

f. Following an investigation, the Division may lift the administrative hold, or the Division may order the continuation of the administrative hold.

C. Voluntary surrender of Medical Marijuana or Medical Marijuana-Infused Products

1. A Licensee, prior to a Final Agency Order and upon mutual agreement with the Division, may elect to waive a right to a hearing and associated rights, and voluntarily surrender any Medical Marijuana or Medical Marijuana-Infused Products to the Division. Such voluntary surrender may require destruction of any Medical Marijuana or Medical Marijuana-Infused Products in the presence of a Division investigator.

2. The individual signing on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

Basis and Purpose - M 1203

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(1)(b)(XX), and section 12-43.3-602, C.R.S. The purpose of this rule is to provide guidance following either an agency decision or under any circumstances where the licensee is ordered to surrender and/or destroy Medical Marijuana and Medical Marijuana-Infused Products. This rule also provides guidance as to the need to preserve evidence during agency investigations or subject to agency order.

M 1203 – Disposition of Unauthorized Medical Marijuana

A. After Final Agency Order Mandates Destruction of Medical Marijuana or Medical Marijuana-Infused Products. If the State Licensing Authority issues a Final Agency Order pursuant to section 12-43.3-602, C.R.S., that mandates the destruction of some or all of the Licensee's unauthorized Medical Marijuana or unauthorized Medical Marijuana-Infused Products, the Licensee may:

    1. Voluntarily Surrender. The Licensee may voluntarily surrender to the Division all of its unauthorized Medical Marijuana or unauthorized Medical Marijuana-Infused Products that are described in the Final Agency Order. If the Licensee chooses to voluntarily surrender its plants and products:

        a. The Licensee must complete and return the Division's voluntary surrender form within 15 calendar days of the date of the Final Agency Order; and

        b. The individual signing on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

    2. Seek a Stay. File a petition for stay of the Final Agency Order with the Denver District Court within 15 days of the Final Agency Order.

    3. Take No Action. If the Licensee does not either (1) voluntarily surrender its unauthorized Medical Marijuana or unauthorized Medical Marijuana-Infused Products as set forth in Subsection A.1.a. of this Rule; or (2) properly seek a stay of the Final Agency Order as set forth in section A.1.b. of this Rule, the Division will enter upon the Licensed Premises and seize and destroy the unauthorized Medical Marijuana or unauthorized Medical Marijuana-Infused Products that are the subject of the Final Agency Order. The Division will only take such action if the district attorney for the judicial district in which the unauthorized Medical Marijuana or unauthorized Medical Marijuana-Infused Products are located has not notified the Division within 15 days of receiving notice from the Division that the subject unauthorized Medical Marijuana or unauthorized Medical Marijuana-

Infused Products constitute evidence in a criminal proceeding such that it should not be destroyed.

B. General Requirements Applicable To All Licensees Following Final Agency Order To Destroy Unauthorized Medical Marijuana or Unauthorized Medical Marijuana-Infused Products. The following requirements apply regardless of whether the Licensee voluntarily surrenders its unauthorized Medical Marijuana or unauthorized Medical Marijuana-Infused Products, seeks a stay of agency action, or takes no action:

1. The 15 day period set forth in section 12-43.3-602, C.R.S., and this rule shall include holidays and weekends.

2. During the period of time between the issuance of the Final Agency Order and the destruction of unauthorized Medical Marijuana or unauthorized Medical Marijuana-Infused Products, the Licensee shall not sell, destroy, or otherwise let any unauthorized Medical Marijuana or unauthorized Medical Marijuana-Infused Products that are subject to the Final Agency Order leave the Licensed Premises unless specifically authorized by the State Licensing Authority or a court of competent jurisdiction.

3. Unless the State Licensing Authority otherwise orders, the Licensee may cultivate, water, or otherwise care for any unauthorized Medical Marijuana or unauthorized Medical Marijuana-Infused Products that are subject to the Final Agency Order during the period of time between the issuance of the Final Agency Order and the destruction of the unauthorized Medical Marijuana or unauthorized Medical Marijuana-Infused Products.

4. If the local district attorney tells the Division that some of the marijuana is needed for evidence, the action the Division will take with regard to the subject marijuana will depend on the individual circumstances.

M 1300 Series – Discipline

Basis and Purpose – M 1301

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(V), 12-43.3-202(a)(XIX), and 12-43.3-202(2)(a)(XX), and section 24-4-105, C.R.S. The purpose of this rule is to clarify how the disciplinary process for non-summary license suspensions and license revocations is initiated.

M 1301 – Disciplinary Process: Non-Summary Suspensions

A. How a Disciplinary Action is Initiated

1. If the State Licensing Authority, on its own initiative or based on a complaint, has reasonable cause to believe that a Licensee has violated the Medical Code, any rule or regulation promulgated pursuant to it, or any of its orders, the State Licensing Authority shall issue and serve upon the Licensee an Order to Show Case (administrative citation) as to why the Licensee's license should not be suspended or revoked.

2. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended or revoked should the charges contained in the notice be sustained upon final hearing.

B. Disciplinary Hearings. Disciplinary hearings will be conducted in accordance with Rule M 1304 – Administrative Hearings.

Basis and Purpose – M 1302

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(V), 12-43.3-202(a)(XIX), and 12-43.3-202(2)(a)(XX), and section 24-4-105, C.R.S. The purpose of this rule is to set forth the process for summary suspensions when the State Licensing Authority has cause to immediately revoke a license prior to a hearing. Such an occasion will occur when the State Licensing Authority has reason to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or has committed an infraction of such magnitude that it is imperative its license be revoked to protect the public safety and welfare. The rule ensures proper due process for Licensees when their licenses are temporarily or summarily suspended by requiring prompt initiation of disciplinary proceedings after such suspensions.

M 1302 – Disciplinary Process: Summary Suspensions

A. How a Summary Suspension Action is Initiated

1. When the State Licensing Authority has reasonable grounds to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or that the public health, safety, or welfare imperatively requires emergency action it shall serve upon the Licensee a Summary Suspension Order that temporarily or summarily suspends the License.

2. The Summary Suspension Order shall identify the nature of the State Licensing Authority's basis for the summary suspension. The Summary Suspension Order shall also provide an advisement that the License may be subject to further discipline or revocation should the charges contained in the notice be sustained following a hearing.

3. Proceedings for suspension or revocation shall be promptly instituted and determined after the Summary Suspension Order is issued.

B. Summary Suspension Hearings. Summary suspension hearings will be expedited to the extent practicable and will be conducted in accordance with Rule M 1304 – Administrative Hearings.

Basis and Purpose – M 1303

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(V), 12-43.3-202(a)(XIX), and 12-43.3-202(2)(a)(XX), and section 24-4-105, C.R.S. The State Licensing Authority recognizes that if Licensees are not able to care for their products during a period of active suspension, then their plants could die, their edible products could deteriorate, and their on-hand inventory may not be properly maintained. Accordingly, this rule was written to clarify that Licensees whose licenses are summarily suspended may care for

on-hand inventory, manufactured products, and plants during the suspension (unless the State Licensing Authority does not allow such activity). In addition, the rule clarifies what activity is always prohibited during such suspension.

M 1303 – Suspension Process: Regular and Summary Suspensions

A. Signs Required During Active Suspension. Every Licensee whose License has been suspended, whether summarily or after an administrative hearing, shall post two notices in conspicuous places, one on the exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be two feet in length and 14 inches in width containing lettering not less 1/2'' in height.

1. For suspension following issuance of a Final Agency Order, the sign shall be in the following form:

NOTICE OF SUSPENSION

MEDICAL MARIJUANA LICENSES ISSUED

FOR THESE PREMISES HAVE BEEN

SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

FOR VIOLATION OF THE COLORADO MEDICAL MARIJUANA CODE

2. For a summary suspension pending issuance of a Final Agency Order, the sign shall be in the following form:

NOTICE OF SUSPENSION

MEDICAL MARIJUANA LICENSES ISSUED

FOR THESE PREMISES HAVE BEEN

SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

FOR ALLEGED VIOLATION OF THE COLORADO MEDICAL MARIJUANA CODE

Any advertisement or posted signs that indicate that the premises have been closed or business suspended for any reason other than by the manner described in this rule shall be deemed a violation.

B. Prohibited Activity During Suspension

1. Medical Marijuana Center Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee shall not permit the selling, serving, giving away, distribution, patient possession, transfer, or transport of Medical Marijuana or Medical Marijuana-Infused Products on the Licensed Premises. However, Medical Marijuana and Medical Marijuana-Infused Products shall not be removed from the Licensed Premises or destroyed unless and until the provisions described in section 12-43.3-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. *See also* Rule M 1203 – Disposition of Unauthorized Medical Marijuana.

2. Optional Premises Cultivation Operation Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee may maintain its on hand inventory and otherwise care for its Medical Marijuana inventories. However, marijuana shall not be removed from the Licensed Premises or destroyed unless and until the provisions described in section 12-43.3-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. *See also*

Rule M 1203 – Disposition of Unauthorized Medical Marijuana.

3. Medical Marijuana-Infused Products Manufacturing Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee may maintain Medical Marijuana-Infused Products on the Licensed Premises. However, Medical Marijuana-Infused Products shall not be removed from the Licensed Premises or destroyed unless and until the provisions described in section 12-43.3-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. *See also* Rule M 1203 – Disposition of Unauthorized Medical Marijuana.

Basis and Purpose – M 1304

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(c), 12-43.3-202(2)(a)(V), 12-43.3-202(a)(XIX), and 12-43.3-202(2)(a)(XX), and section 24-4-105, C.R.S. The purpose of this rule is to establish what entity conducts the administrative hearings, the scope of the administrative hearings rules, and other general hearings issues.

M 1304 – Administrative Hearings

A. General Procedures

1. Hearing Location. Hearings will generally be conducted by the Department of Revenue, Hearings Division. Unless the Hearing Officer orders a change of location based on good cause, as described in this rule, all hearings will be conducted at the Division's hearing facilities in Denver, Colorado.

2. Scope of Hearing Rules. The Administrative Hearings rules shall be construed to promote the just and efficient determination of all matters presented.

3. Right to Legal Counsel. Any Denied Applicant or Respondent has a right to legal counsel throughout all processes described in rules associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the Denied Applicant's or Respondent's expense.

B. Requesting a Hearing

1. A Denied Applicant that has been served with a Notice of Denial, and been denied a license pursuant to the M 200 Series – Licensing, may request a hearing within 60 days of the service of the Notice of Denial by making a written request for a hearing to the Division. The request must be submitted by United States mail or by hand delivery. Email or fax requests will not be considered. The request must be sent to:

Marijuana Enforcement Division

Attn: Hearing Request

455 Sherman Street, Suite 390

Denver, CO 80203

The written request for a hearing must be received by the Division within the time stated in the Notice of Denial. An untimely request will not be considered.

2. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.

3. A Denied Applicant or Respondent may waive his or her right to a hearing by submitting a written statement to the State Licensing Authority to that effect before the hearing.

C. When a Responsive Pleading is Required

1. A Respondent shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any administrative notice or Order to Show Cause. If a Respondent fails to file a required answer, the Hearing Officer, upon motion, may enter a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

2. In connection with any request for a hearing, a Denied Applicant shall provide a written response to the Notice of Denial.

D. Hearing Notices

1. Notice to Set. The Division shall send a notice to set a hearing to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record.

2. Notice of Hearing. The Hearings Division shall notify the Division and Denied Applicant or Respondent of the date, place, time and nature of the hearing regarding denial of the license application or whether discipline should be imposed against the Respondent's license at least 30 days prior to the date of such hearing, unless otherwise agreed to by both parties. This notice shall be sent to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record. Hearings shall be scheduled and held as soon as is practicable.

   a. Summary suspension hearings will be scheduled and held promptly.

   b. Continuances may be granted for good cause, as described in this rule, shown. A motion for a continuance must be timely.

   c. For purposes of this rule, good cause may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness' testimony can be taken by telephone

or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

E. Prehearing Matters Generally

1. Prehearing Conferences Once a Hearing is Set. Prehearing conferences may be held at the discretion of the Hearing Officer upon request of any party, or upon the Hearing Officer's own motion. If a prehearing conference is held and a prehearing order is issued by the Hearing Officer, the prehearing order will control the course of the proceedings. Such prehearing conferences may occur by telephone.

2. Depositions. Depositions are generally not allowed; however, a Hearing Officer has discretion to allow a deposition if a party files a written motion and can show why such deposition is necessary to prove its case. When a Hearing Officer grants a motion for a deposition, C.R.C.P. 27 controls. Hearings will not be continued because a deposition is allowed unless both parties stipulate to a continuance and the Hearing Officer grants the continuance.

3. Prehearing Statements Once a Hearing is Set. Prehearing Statements are required and unless otherwise ordered by the Hearing Officer, each party shall file with the Hearing Officer and serve on each party a prehearing statement no later than seven calendar days prior to the hearing. Parties shall also exchange exhibits at that time. Parties shall not file exhibits with the Hearing Officer. Parties shall exchange exhibits by the date on which prehearing statements are to be filed. Prehearing statements shall include the following information:

   a. Witnesses. The name, mailing address, and telephone number of any witness whom the party may call at hearing, together with a detailed statement of the expected testimony.

   b. Experts. The name, mailing address, and brief summary of the qualifications of any expert witness a party may call at hearing, together with a statement that details the opinions to which each expert is expected to testify. These requirements may be satisfied by the incorporation of an expert's resume or report containing the required information.

   c. Exhibits. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and Denied Applicant or~~/~~ Respondent using letters.

   d. Stipulations. A list of all stipulations of fact or law reached, as well as a list of any additional stipulations requested or offered to facilitate disposition of the case.

   e. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on ~~each~~ that party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; (2) it would not prejudice other parties; and (3) it would not necessitate a delay of the hearing.

4. Consequence of Not Filing a Prehearing Statement Once a Hearing is Set. If a party does not timely file a prehearing statement, the Hearing Officer may impose appropriate sanctions including, but not limited to, striking proposed witnesses and exhibits.

F. Conduct of Hearings

1. The Hearing Officer shall cause all hearings to be electronically recorded.

2. The Hearing Officer may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a party is appearing by telephone, the party must provide actual copies of the exhibits to the hearing officer when the prehearing statement is filed.

3. The Hearing Officer may question any witness.

4. Court Rules

   a. To the extent practicable, the Colorado Rules of Evidence apply. Unless the context requires otherwise, whenever the word "court," "judge," or "jury" appears in the Colorado Rules of Evidence, such word shall be construed to mean a Hearing Officer. A Hearing Officer has discretion to consider evidence not admissible under such rules, including but not limited to hearsay evidence, pursuant to section 24-4-105(7), C.R.S.

   b. To the extent practicable, the Colorado Rules of Civil Procedure apply. However, Colorado Rules of Civil Procedure 16 and 26-37 do not apply, although parties are encouraged to voluntarily work together to resolve the case, simplify issues, and exchange information relevant to the case prior to a hearing. Unless the context otherwise requires, whenever the word "court" appears in a rule of civil procedure, that word shall be construed to mean a Hearing Officer.

5. Exhibits

   a. All documentary exhibits must be paginated by the party offering the exhibit into evidence.

   b. The Division shall use numbers to mark its exhibits.

   c. The Denied Applicant~~/~~ or Respondent shall use letters to mark its exhibits.

6. The Hearing Officer may proceed with the hearing or enter default judgment if any party fails to appear at hearing after proper notice.

G. Post Hearing. After considering all the evidence, the Hearing Officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an Initial Decision subject to review by the State Licensing Authority pursuant to the Colorado Administrative Procedure Act and as set forth in Rule M 1306 – Administrative Hearing Appeals/Exceptions to Initial Decision.

H. No Ex Parte Communication. Ex parte communication shall not be allowed at any point in the hearing process. A party or counsel for a party shall not initiate any communication with a Hearing Officer pertaining to any pending matter unless all other parties participate in the communication or unless prior consent of all other parties (and any pro se parties) has been obtained. Copies of all pleadings and correspondence submitted to the Hearing Officer by parties shall be served upon all other parties.

I. Marijuana Enforcement Division Representation. The Division shall be represented by the Colorado Department of Law.

Basis and Purpose – M 1305

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(c), 12-43.3-202(2)(a)(V), 12-43.3-202(a)(XIX), and 12-43.3-202(2)(a)(XX), and section 24-4-105, C.R.S. The purpose of this rule is to establish how all parties, including pro se parties, can obtain subpoenas during the administrative hearing process.

M 1305 – Administrative Subpoenas

A. Informal Exchange of Documents Encouraged. Parties are encouraged to exchange documents relevant to the Notice of Denial or Order to Show Cause prior to requesting subpoenas. In addition, to the extent practicable, parties are encouraged to secure the voluntary presence of witnesses necessary for the hearing prior to requesting subpoenas.

B. Hearing Officer May Issue Subpoenas

1. A party or its counsel may request the Hearing Officer to issue subpoenas to secure the presence of witnesses or documents necessary for the hearing or a deposition, if one is allowed.

2. Requests for subpoenas to be issued by the Hearing Officer must be delivered in Person or by mail to the office of the Department of Revenue – Hearings Division, 1881 Pierce St. #106, Lakewood, CO 80214. Subpoena requests must include the return mailing address, and phone and facsimile numbers of the requesting party or its attorney.

3. Requests for subpoenas to be issued by the Hearing Officer must be made on a "Request for Subpoena" form authorized and provided by the Hearings Division. A Hearing Officer shall not issue a subpoena unless the request contains the following information:

a. Name of Denied Applicant or Respondent;

b. License or application number;

c. Case number;

d. Date of hearing;

e. Location of hearing, or telephone number for telephone check-in;

f. Time of hearing;

g. Name of witness to be subpoenaed; and

h. Mailing address of witness (home or business).

4. A request for a subpoena *duces tecum* must identify each document or category of documents to be produced.

5. Requests for subpoenas shall be signed by the requesting party or their counsel.

6. The Hearing Officer shall issue subpoenas without discrimination, as set forth in section 24-4-105(5), C.R.S. If the reviewing Hearing Officer denies the issuance of a subpoena, or alters a subpoena in any material way, specific findings and reasons for such denial or alteration must be made on the record, or by written order incorporated into the record.

C. Service of Subpoenas

1. Service of any subpoena is the duty of the party requesting the subpoena.

2. All subpoenas must be served at least two business days prior to the hearing.

D. Subpoena Enforcement

1. Any subpoenaed witness, entity, or custodian of documents may move to quash the subpoena with the Hearing Officer.

2. A Hearing Officer may quash a subpoena if he or she finds on the record that compliance would be unduly burdensome or impracticable, unreasonably expensive, or is unnecessary.

Basis and Purpose – M 1306

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(c), 12-43.3-202(2)(a)(V), 12-43.3-202(a)(XIX), and 12-43.3-202(2)(a)(XX), and section 24-4-105, C.R.S. The purpose of this rule is to establish how parties may appeal a hearing officer's Initial Decision pursuant to the Administrative Procedure Act.

M 1306 – Administrative Hearing Appeals/Exceptions to Initial Decision

A. Exception(s) Process. Any party may appeal an Initial Decision to the State Licensing Authority pursuant to the Colorado Administrative Procedure Act by filing written exception(s) within 30 days after the date of mailing of the Initial Decision to the Denied Applicant/ or Respondent and the Division. The written exception(s) shall include a statement giving the basis and grounds for the exception(s). Any party who fails to properly file written exception(s) within the time provided in these Rules shall be deemed to have waived the right to an appeal. A copy of the exception(s) shall be served on all parties.

B. Designation of Record. Any party that seeks to reverse or modify the Initial Decision of the Hearing Officer shall file with the State Licensing Authority, within 20 days from the mailing of the Initial Decision, a designation of the relevant parts of the record and of the parts of the hearing transcript which shall be

prepared, and advance the costs therefore. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party or the Division may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefore. No transcript is required if the review is limited to a pure question of law. A copy of this designation of record shall be served on all parties.

C. Deadline Modifications. The State Licensing Authority may modify deadlines and procedures related to the filing of exceptions to the Initial Decision upon motion by either party for good cause shown.

D. No Oral Argument Allowed. Requests for oral argument will not be considered.

Basis and Purpose – M 1307

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I), 12-43.3-202(1)(c), 12-43.3-202(2)(a)(V), 12-43.3-202(a)(XIX), and 12-43.3-202(2)(a)(XX), C.R.S. The purpose of this rule is to establish guidelines for enforcement and penalties that will be imposed by the State Licensing Authority for non-compliance with Medical Code, section 18-18-406.3(7), C.R.S., or any other applicable rule. The State Licensing Authority considered the type of violation and the threat of harm to the public versus purely administrative harm when setting the penalty structure.

M 1307 – Penalties

A. Penalty Schedule. The State Licensing Authority will make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:

1. License Violations Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, Medical Marijuana sales to non-patients or non-primary caregivers, consuming marijuana on the Licensed Premises, Medical Marijuana sales in excess of the relevant transaction limit, permitting the diversion of Medical Marijuana outside the regulated distribution system, not adhering to inventory tracking procedures, failure to maintain books and records to fully account for all transactions of the business, or packaging or Labeling violations that directly impact patient safety. Violations of this nature generally have an immediate impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to $100,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

2. License Violations. This category of violation is more severe than a license infraction but generally does not have an immediate impact on the health, safety and welfare of the public at large. License violations may include but are not limited to, advertising and/or marketing violations, packaging or Labeling violations that do not directly impact patient safety, failure to maintain minimum security requirements, failure to keep and maintain adequate business books and records, minor or clerical errors in the inventory tracking procedures. The range of penalties for this category of violation may include a written warning, license suspension, a fine per individual violation, a fine in lieu of suspension of up to $50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

3. License Infractions. This category of violation is the least severe and may include, but is not

limited to, failure to display required badges, unauthorized modifications of the premises of a minor nature, or failure to notify the State Licensing Authority of a minor change in ownership. The range of penalties for this category of violation may include a verbal or written warning, license suspension, a fine per individual violation, and/or a fine in lieu of suspension of up to $10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

B. Other Factors

1. The State Licensing Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.

2. The penalty structure is a framework providing guidance as to the range of violations, suspension description, fines, and mitigating and aggravating factors. The penalty structure is intended for reference purposes only. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis.

3. For all administrative offenses, a Licensee may petition the State Licensing Authority for permission to pay a monetary fine, within the provisions of section 12-43.3-601, C.R.S., in lieu of having its license suspended for all or part of the suspension.

C. Mitigating and Aggravating Factors. The State Licensing Authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:

1. Action taken by the Licensee to prevent the violation (*e.g.*, training provided to employees).

2. Licensee's past history of success or failure with compliance checks.

3. Corrective action(s) taken by the Licensee.

4. Prior violations/prior corrective action(s) and their effectiveness.

5. Willfulness and deliberateness of the violation.

6. Likelihood of reoccurrence of the violation.

7. Circumstances surrounding the violation, which may include, but are not limited to:

    a. Prior notification letter to the Licensee that an underage compliance check would be forthcoming.

    b. Whether an undercover operative said he or she did not have a registry card during a sales compliance check.

8. Owner or manager is the violator or has directed an employee or other individual to violate the law.

9. Participation in state-approved educational programs related to the operation of a Medical

Marijuana Business.

M 1400 Series – Division, Local Licensing Authority, and Law Enforcement Procedures

Basis and Purpose – M 1401

The statutory authority for this rule is found at subsections 12-43.3-202(1)(b)(I) and 12-43.3-202(2)(a)(XX), C.R.S. This rule gives general instructions regarding Medical Marijuana Businesses administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law enforcement's authority to investigate and take any necessary action with regard to Medical Marijuana Businesses remains unaffected by the Medical Code or any rules promulgated thereunder.

M 1401 – Instructions for Local Licensing Authorities and Law Enforcement Officers

A. Division Protocol for Medical Marijuana Businesses

1. The Division shall forward a copy of all new Medical Marijuana Business applications to the relevant local licensing authority.

2. The Division shall notify the relevant local licensing authority when an application for a Medical Marijuana Business is either approved or denied.

3. Any license issued or renewed by the Division for a Medical Marijuana Business shall be conditioned upon relevant local licensing authority approval of the application.

B. Local Licensing Authority Protocol for Medical Marijuana Businesses

1. As soon as practicable, a local licensing authority that has prohibited the operation of Medical Marijuana Businesses shall inform the Division, in writing, of such prohibition and shall include a copy of the applicable ordinance or resolution.

2. If a local licensing authority will authorize the operation of marijuana establishments, it shall inform the Division of the local point-of-contact on Medical Marijuana regulatory matters. The local jurisdiction shall include, at minimum, the name of the Division or branch of local government, the mailing address of that entity, and telephone number.

3. Local licensing authorities may impose separate local licensing requirements related to the time, place, and manner of Medical Marijuana Businesses, and shall otherwise determine if an application meets those local requirements.

4. The relevant local licensing authority shall notify the Division, in writing, of whether an application for a Medical Marijuana Business complies with local restrictions and requirements, and whether the application is approved or denied based on that review. Local licensing authorities shall include their written findings of fact.

C. Local Licensing Authority Inspections. The relevant local licensing authorities and their investigators may inspect Medical Marijuana Businesses during all business hours and other times of apparent activity, for the

purpose of inspection or investigation.

D. Local Licensing Authority Powers. Nothing in these rules shall be construed to limit the authority of local licensing authorities as established by the Medical Code or otherwise by law.

E. Local Law Enforcement's Authority Not Impaired by Medical Code. Nothing in the Medical Code or regulations promulgated thereunder shall be construed to limit the ability of local police departments, sheriffs, or other state or local law enforcement agencies' ~~ability~~ to investigate unlawful activity in relation to a Medical Marijuana Business and such agencies shall have the ability to run a Colorado Crime Information Center criminal history check of an Applicant or Licensee or employee of an Applicant or Licensee during an investigation of unlawful activity related to Medical Marijuana or a Medical Marijuana Business. This includes, but is not limited to, inspecting and investigating Medical Marijuana Businesses to ensure they are in compliance with all local licensing authority regulations related to time, place, and manner.