



March 22, 2020

INDUSTRY-WIDE BULLETIN: 20-03

RE: Guidance Regarding Emergency Rules in Response to COVID-19

Dear Marijuana Industry Stakeholders:

On March 20, 2020, the State Licensing Authority adopted Emergency Rules applicable to Regulated Marijuana Businesses to provide Licensees options to implement social-distancing measures to limit exposure to COVID-19.

- [Emergency Adoption Order in Response to COVID-19](#), March 20, 2020
- [Emergency Rules in Response to COVID-19](#), March 20, 2020

Summary of Emergency Rules

- **Online Ordering & “Curbside” Pickup: New Rule 3-345** provides an allowance for online and telephone ordering, and “curbside” pick-up for Medical and Retail Marijuana Stores. Because [Executive Order D 2020 011, “Ordering the Temporary Suspension of Certain Regulatory Statutes Due to the Presence of COVID-19”](#), suspends the prohibition on Retail Marijuana Store online sales transactions, **both Medical and Retail Marijuana Stores may conduct online sales transactions of Regulated Marijuana for patient/customer pickup at the Medical or Retail Marijuana Store.**
- **Public Health Orders & Executive Orders: Amended Rule 1-105** requires all licensees to comply with applicable state public health orders and executive orders issued by the Colorado Governor.
 - This includes [Executive Order D 2020 013, Ordering Colorado Employees to Reduce In-Person Workforce by Fifty-Percent Due to the Presence of COVID-19 in the State](#),” which provides effective **March 24, 2020, Medical Marijuana Stores can offer both sales in the Licensed Premises and “curbside” pickup, but which limits Retail Marijuana Stores to only “curbside” pickup.** See also the [Governor’s Office Press Release, dated March 22, 2020](#), listing “critical workplaces.”
- **Temporary Modifications of Licensed Premises: Amended Rule 2-260** allows temporary modifications to Licensed Premises without application and approval requirements, if such modifications are for the purpose of complying with social-distancing guidelines.
- **Suspension of Owner License Renewal Fingerprint Requirements: Amended Rule 2-265** suspends requirements for Owner Licensees to submit fingerprints at least once every two years before renewing an Owner License.

- **Transfer of Samples for Testing: Amended Rule 3-605** permits transfers of Samples for testing to occur on property immediately adjacent to the premises for purposes of complying with social-distancing guidelines.

Frequently Asked Questions Emergency Rules in Response to COVID-19

Is approval required from my local jurisdiction before I can offer online or telephone sales transactions or “curbside” pick-up of Regulated Marijuana?

No, the Emergency Rules do not require a Licensee to obtain prior approval from its local licensing authority/local jurisdiction before implementing online or telephone orders for sales transactions or “curbside” service. However, local jurisdictions may enact ordinances or regulations governing time, place, and manner of Regulated Marijuana Business operations. Therefore, if a local jurisdiction restricts or prohibits online or telephone sales transactions or “curbside” service, such restrictions or prohibitions remain applicable to Licensee operations.

Can both Medical and Retail Marijuana Stores accept orders and complete sales transactions over the Internet and telephone?

Yes, because [Executive Order D 2020 011, "Ordering the Temporary Suspension of Certain Regulatory Statutes Due to the Presence of COVID-19"](#), suspends the prohibition on Retail Marijuana Stores selling Retail Marijuana over the Internet, both Medical and Retail Stores may accept and complete online and telephone sales transactions.

The allowance for online and telephone orders applies to all consumers 21 years of age or older, all patients 18 years of age or older, and the parents, guardians or caregivers of patients under the age of 18. Where an online or telephone order is made by a parent, guardian or caregiver for a patient under the age of 18, the Medical Marijuana Store must document and verify the parent, guardian or caregiver’s identification and registry card, if any, along with the patient’s registry card at the time of Transfer to the parent, guardian or caregiver.

Retail Marijuana Stores will be required to discontinue sales over the Internet when Executive Order D 2020 011 expires or is terminated, unless continued by the Governor.

Can both Medical and Retail Marijuana Stores take Regulated Marijuana outside the Store to a patient or consumer “curbside,” including to a patient or consumer parked “curbside” in their car?

Yes, subject to certain restrictions. Emergency Rules allow Medical and Retail Marijuana Stores to take Regulated Marijuana to a patient or consumer at a location (a) immediately adjacent to the Medical or Retail Store (for example, the Medical or Retail Store’s private parking lot or private sidewalk); (b) under control of the Licensee; and (c) under surveillance pursuant to the Emergency Rules.

Note that pursuant to [Executive Order D 2020 013, Ordering Colorado Employees to Reduce In-Person Workforce by Fifty-Percent Due to the Presence of COVID-19 in the State](#),” Medical Marijuana Stores may offer both sales in the Licensed Premises and “curbside” services. However, beginning Tuesday, March 24, 2020, Retail Marijuana

Stores may only provide “curbside” services. See also the [Governor’s Office Press Release, dated March 22, 2020](#), listing “critical workplaces.”

Does “curbside” include a private parking lot or a private sidewalk that is adjacent to the Medical or Retail Store?

Yes, unless otherwise prohibited by local ordinance, law or rule, Medical and Retail Marijuana Stores can provide “curbside” service to patients and consumers in a private parking lot or on a private sidewalk (a) immediately adjacent to the Medical or Retail Marijuana Store; (b) under control of the Licensee; and (c) under surveillance pursuant to the Emergency Rules. Licensees should consider whether any private property they seek to use for “curbside” service requires consent of the property owner.

Medical and Retail Stores providing “curbside” service cannot be provided in a manner that obstructs any vehicle or pedestrian traffic or creates any other risk to public safety.

If a Medical or Retail Marijuana Store does not have a parking lot or private sidewalk, can it perform “curbside” delivery on public property such as the sidewalk or street immediately adjacent to the Licensed Premises?

No, the Emergency Rules require that the property utilized for “curbside” service be under the control of the Licensee. Since a Licensee cannot control the public street or sidewalk adjacent to its Licensed Premises, it cannot use public property for “curbside” service. But see the discussion below regarding modifications of the Licensed Premises.

Can Medical or Retail Marijuana Stores accept “curbside” payment (cash, debit card, credit card or otherwise)?

Yes. However, to limit the volume of “curbside” payment transactions, and expedite the duration of each transaction, the Division encourages Licensees to maximize the development and utilization of Internet or telephone payment systems.

What video surveillance requirements apply to “curbside” service?

Licensees must have the ability to record the patient or consumer at the point of Transfer of Regulated Marijuana to the patient or consumer. If the Licensee is taking Regulated Marijuana to a patient or consumer who is in a car, the Licensee must have the ability to record the patient or consumer’s car.

Licensees can either utilize and adjust existing video surveillance or add video surveillance to the exterior of the Licensed Premises to comply with the surveillance requirement in the Emergency Rules. See the discussion below regarding modifications of the Licensed Premises.

The Medical or Retail Marijuana Store’s surveillance must comply with the video surveillance requirements in Rules 3-255(A)-(B) and (D)-(F), which includes requirements for video surveillance equipment, location and maintenance of surveillance equipment, video recording and retention, and record requirements.

If a Medical or Retail Marijuana Store is providing “curbside” service to a patient or consumer who is in a car with individuals who are or may be under the age of 21, or who are not registered patients, may the Medical or Retail Store Transfer Regulated Marijuana to the patient or consumer?

Yes, if the Licensee verifies the identification and age of the patient or consumer receiving Regulated Marijuana, and if applicable, the Licensee verifies the patient registry status of the patient.

The Division advises against a Medical or Retail Marijuana Business providing “curbside” service to any patient or consumer in a car with individuals who are or may be under the age of 21. However, in light of the intent of the Emergency Rules to support social-distancing measures in response to public health risks associated with COVID-19, the presence of individuals in the vehicle who are or may be under the age of 21 or who are not registered patients does not preclude the Licensee’s Transfer of Regulated Marijuana to a patient or consumer pursuant to the Emergency Rules.

Is all Regulated Marijuana provided “curbside” required to be in an Exit Package prior to leaving the Medical or Retail Marijuana Store?

Yes, all packaging and labeling rules in the 3-1000 Series rules continue to apply to “curbside” delivery. If the Licensee is using an Exit Package, the Regulated Marijuana must be placed into the Exit Package prior to leaving the Medical or Retail Marijuana Store. However, the rules permit, but do not require, the use of Exit Packages for Containers that are Child-Resistant.

What types of modifications can a Licensee make to its Licensed Premises pursuant to the Emergency Rules?

The Emergency Rules exempt Regulated Marijuana Businesses from state application and approval requirements for modifications to their Licensed Premises if such modifications are (a) temporary; and (b) for the purpose of effectuating social-distancing measures pursuant to state and federal guidelines in response to COVID-19. For example, a Medical Marijuana Store could temporarily extend its Restricted Access Area to the lobby/waiting room or other area immediately inside the entry door of the Store to facilitate payment for pickup orders immediately inside the public entry door.

Please note a Licensee’s modification to its Licensed Premises remain subject to all applicable local requirements.

If after the expiration of the Emergency Rules a Licensee demonstrates an intent to maintain any modification made pursuant to the Emergency Rules, the Licensee must submit any required applications and fees and obtain any required approvals.

Does the Licensee need to physically touch a patient or consumer’s identification documents, such as a driver’s license and patient registry card?

No, while the rules require that Licensees “physically view and inspect” the patient or caregiver’s registry card and proof of identification, this does not require physically handling those documents so long as the Licensee can verify the authenticity of the

documents presented and that the documents identify the patient or consumer presenting them.

Other Important Considerations for Medical and Retail Stores Providing “Curbside” Service

- Do Not Obstruct Traffic: Medical and Retail Stores must not provide “curbside” service in a manner that obstructs any vehicle or pedestrian traffic or creates any other risk to public safety.
- Emergency Rules Do Not Modify Or Suspend Any Applicable Criminal Law: The Emergency Rules do not modify or suspend any applicable state or local criminal law which may still prohibit conduct authorized by the Emergency Rules.
- Provide Clear Instructions for “Curbside” Pickup: Medical and Retail Stores providing “curbside” service must ensure their website and other communication mediums provide clear instructions for patients and consumers. For example, a Medical or Retail Marijuana Store’s website advertising “curbside” pick-up services should include the following information:
 - Patients and consumers can provide payment at “curbside”; however, the Division strongly encourages Licensees to limit “curbside” payments as much as possible by accepting payment over the Internet or telephone for “curbside” pick-up.
 - Provide a clear description of the location the Medical or Retail Store is utilizing for “curbside” pick-up.
 - Inform patients and consumers of the manner by which they will be notified when their order is ready for pick-up.
 - Any other instructions necessary to ensure “curbside” service does not obstruct any vehicle or pedestrian traffic or create any other risk to public safety.
- Security Measures: Medical and Retail Marijuana Stores offering “curbside” service may consider implementing additional security measures, including but not limited to installation of security cameras, employment of security personnel, and addition of security lighting.

The Division will monitor (a) any Executive Orders that could modify, limit, or prevent activities consistent with the Emergency Rules; and (b) the effectiveness of the Emergency Rules, to evaluate the extent to which any of the Emergency Rules should be amended or repealed and to evaluate any necessity for enforcement action. Licensees should ensure any measures taken pursuant to the Emergency Rules demonstrate prudent behavior and a commitment to protecting the health and safety of their staff, surrounding community, and the general public.

The Division will continue to provide guidance as needed. The Division may amend this Industry Bulletin and/or provide additional guidance in follow-up Bulletins or Compliance Tips to assist stakeholders seeking to operate pursuant to these Emergency Rules. As always, we strongly encourage you to continue following [CDPHE's guidance about COVID-19](#).

Sincerely,
The Marijuana Enforcement Division