

June 9, 2017

INDUSTRY-WIDE BULLETIN: 17-03

RE: House Bill 17-1034

Dear Marijuana Industry Stakeholders:

On March 16, 2017, Governor Hickenlooper signed into law House Bill 17-1034, concerning licensing changes to the Colorado Medical Marijuana Code, 12-43.3-101, *et seq.*, (“Medical Code”) to conform with the Colorado Retail Marijuana Code, 12-43.4-101, *et seq.* (“Retail Code”). House Bill 17-1034 passed with a Safety Clause ensuring the legislation became effective upon the Governor’s signature. The signed act may be located at the following link:

https://leg.colorado.gov/sites/default/files/documents/2017A/bills/2017A_1034_signed.pdf

Medical Marijuana Business Operator

House Bill 17-1034 establishes a Medical Marijuana Business Operator license.

Current rules promulgated pursuant to the Medical Code provide a Medical Marijuana Business Operator Registration. Such rules were promulgated following 2016 legislation (House Bill 16-1261) which created a Retail Marijuana Establishment Operator license. Subsequent rulemaking for the Retail Marijuana Establishment Operator license also included rules to establish a Medical Marijuana Business Operator Registration, creating consistent business structures across the industry and addressing dual Medical Marijuana Business and Retail Marijuana Establishment operations at one location.

The Marijuana Enforcement Division (“Division”) plans to continue issuing Medical Marijuana Business Operator **registrations** under rules M 1700, *et seq.*, through December 31, 2017. The Division will begin issuing Medical Marijuana Business Operator **licenses** on or after January 1, 2018.

Those who hold a Medical Marijuana Business Operator registration will continue as a registrant until renewal. At renewal (on or after January 1, 2018), all Medical Marijuana Business Operator registrations will be renewed as Medical Marijuana Business Operator licenses.

Opportunity for Remediation for Microbial Contaminant Results

House Bill 17-1034 provides medical marijuana licensees with an opportunity to remediate product prior to destruction if test results indicate the presence of a microbial contaminant.

Transfers between Medical Marijuana-Infused Product Manufacturers¹

House Bill 17-1034 amends section 12-43.3-404 of the Medical Code, providing that a Medical Marijuana-Infused Product Manufacturer licensee (“MIP”) may purchase medical marijuana from another MIP. Such transfers of medical marijuana are subject to the requirements in subsection 12-43.3-404(3), C.R.S., including requirements for a contract and limiting the number of MIPs from which medical marijuana may be used in the production of one medical marijuana-infused product. Finally, House Bill 17-1034 provides that a MIP may sell its medical marijuana-infused products to another MIP.

Note that the medical marijuana a MIP may transfer to another MIP does not include medical marijuana cultivated at a MIP’s associated Medical Marijuana Optional Premises Cultivation (“OPC”). House Bill 17-1034 maintained subsection 12-43.3-404(8) of the Medical Code which expressly provides that “[a] medical marijuana-infused products manufacturer that has an optional premises cultivation license shall not sell any of the medical marijuana that it cultivates except for the medical marijuana that is contained in medical marijuana-infused products.” As a result, a MIP may only purchase and sell medical marijuana acquired from Medical Marijuana Centers, and other MIPs. For example, pursuant to House Bill 17-1034, the following transfer of medical marijuana is permitted:

- Permitted Transfer: Medical Marijuana Center → MIP #1 → MIP #2

Further, pursuant to House Bill 17-1034, the following transfer of medical marijuana is prohibited:

- Prohibited Transfer: MIP #1’s Associated OPC → MIP #1 → MIP #2

Medical Marijuana Business Change of Location

House Bill 17-1034 amends section 12-43.3-310 of the Medical Code to allow Medical Marijuana Businesses to move their permanent location to any other place in Colorado, subject to State and local jurisdiction approval. Under previous law, Medical Marijuana licensees were limited to changing location within the same municipality, city, or county for which the license was originally granted.

As HB17-1034 became effective upon the Governor’s signature, Medical Marijuana licensees may begin to exercise the privileges of their licenses pursuant to the signed act. The Division will undertake the permanent rulemaking process in 2017. During that process, the Division will propose amendments to the Medical Rules to conform to House Bill 17-1034. The rulemaking process will be noticed to the public pursuant to the requirements of the Colorado Administrative Procedure Act.



James Burack
Director
Marijuana Enforcement Division

¹ A Division Position Statement, dated April 29, 2016, concludes that pursuant to the Medical Marijuana Code, MIPs are prohibited from transferring medical marijuana or medical marijuana-infused products to other MIPs. See https://www.colorado.gov/pacific/sites/default/files/Response%20to%20Request%20for%20Position%20Stmnt%20-%20Reimann%20with%20Staycon_Approved%2004292016_Redacted_2.pdf. To the extent the Division’s previously issued position conflicts with HB 17-1034, the position shall be considered repealed.