



COLORADO
Department of Revenue
Marijuana Enforcement Division

DRAFT RULE REVISIONS

Colorado Marijuana Rules 1 CCR 212-3

Part 1 – General Applicability

Basis and Purpose – 1-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(j), and 44-10-103, C.R.S., and all of the Marijuana Code. The purpose of this rule is to provide necessary definitions of terms used throughout the rules. Defined terms are capitalized where they appear in the rules, to let the reader know to refer back to these definitions. When a term is used in a conventional sense, and is not intended to be a defined term, it is not capitalized. This Rule 1-115 was previously Rules M and R 103, 1 CCR 212-1 and 1 CCR 212-2.

Please Note: *The following proposed definitions are intended to implement HB 23-1021's provisions related to the State Licensing Authority's and Marijuana Enforcement Division's authority to issue embargos.*

1-115 – Definitions

Definitions. The following definitions of terms, in addition to those set forth in section 44-10-103, C.R.S., apply to all rules promulgated pursuant to the Marijuana Code, unless the context requires otherwise:

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

“Notice of Destruction” means a written statement from the State Licensing Authority, articulating the objective and reasonable grounds that the health, safety, or welfare of the public requires the destruction of embargoed Regulated Marijuana.

“Notice of Embargo” means a written statement from a Division investigator who has objective and reasonable grounds to believe identified Regulated Marijuana poses a threat to the health, safety, or welfare of the public and that cannot be Transferred, transported, or destroyed unless otherwise allowed under these Rules.

“Opaque” means that the packaging does not allow the product to be seen without opening the packaging material.

Part 2 – Applications and Licenses

2-200 Series – Applications and Licenses Rules

Basis and Purpose – 2-220

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-301, 44-10-305, 44-10-307, 44-10-308, 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-313, and 44-10-316, C.R.S. The purpose of this rule is to establish the general requirements

and processes for submission of an initial application for a Regulated Marijuana Business to the State Licensing Authority.

Please Note: *The State Licensing Authority adopted the following proposed revisions on an emergency basis on August 8, 2023 to implement SB 23-199 and no substantive changes to the emergency rules have been incorporated into this draft.*

2-220 – Initial Application Requirements for Regulated Marijuana Businesses

- A. Documents and Information Requested. Every initial application for a Regulated Marijuana Business License must include all required documents and information including, but not limited to:
1. A copy of the local license application, if required, for a Regulated Marijuana Business.
 2. Certificate of Good Standing from the jurisdiction in which the Entity was formed, which must be one of the states of the United States, territories of the United States, District of Columbia, or another country that authorizes the sale of marijuana.
 3. If the Applicant is an Entity, the identity and physical address of its registered agent in the state of Colorado.
 4. Organizational Documents. Articles of Incorporation, by-laws, and any shareholder agreement for a corporation; articles of organization and operating agreement for a limited liability company; or partnership agreement for a partnership.
 5. Corporate Governance Documents.
 - a. A Regulated Marijuana Business that is a Publicly Traded Corporation must maintain corporate governance documents as required by the securities exchange on which its securities are listed and traded, and section 44-10-103(50), C.R.S., and must provide those corporate governance documents with each initial application.
 - b. A Regulated Marijuana Business that is not a Publicly Traded Corporation is not required to maintain any corporate governance documents. However, if the Regulated Marijuana Business that is not a Publicly Traded Corporation voluntarily maintains corporate governance documents, the Division encourages inclusion of such documents with each initial application.
 6. The deed, lease, sublease, rental agreement, contract, or any other document(s) establishing the Applicant is, or will be, entitled to possession of the premises for which the application is made.
 7. Legible and accurate diagram for the facility. The diagram must include a plan for the Licensed Premises and a separate plan for the security/surveillance plan including camera location, number and direction of coverage. If the diagram is larger than 8.5 x 11 inches, the Applicant must also provide a copy of the diagram in a portable document format (.pdf).
 8. All required findings of suitability issued by the Division.
 9. If the Applicant is a Publicly Traded Corporation:

- a. Documents establishing the Publicly Traded Corporation qualifies to hold a Regulated Marijuana Business ~~License~~ license including but not limited to disclosure of securities exchange(s) on which its Securities are listed and traded, the stock symbol(s), the identity of all regulators with regulatory oversight over its Securities; and
 - b. Divestiture plan for any Controlling Beneficial Owner that is a Person prohibited by the Marijuana Code, has had her or his Owner License revoked, or has been found unsuitable.
 10. Financial Statements. Consolidated financial statements (which may be prepared on either a calendar or fiscal year basis) that were prepared in the preceding 365 days, and which must include a balance sheet, an income statement, and a cash flow statement. If the Applicant or Regulated Marijuana Business is required to have audited financial statements by another regulator (e.g. United States Securities and Exchange Commission or the Canadian Securities Administrators) the financial statements provided to the Division must be audited and must also include all footnotes, schedules, auditors' report(s), and auditor's opinion(s). If the financial statements are publicly available on a website (e.g. EDGAR or SEDAR), the Applicant or Regulated Marijuana Business may provide notification of the website link where the financial statements can be accessed in lieu of hardcopy submission.
 11. Tax Documents. While duplicate tax documentation is not required to be provided with the application, the Applicant shall cooperate with the Division to establish proof of compliant return filing and payment of taxes related to any Regulated Marijuana Business in which the Person is, or was, required to file and pay taxes.
- B. Local Licensing/Approval Required.
1. Regulated Marijuana Business Local Licensing Authority Approval Required.
 - a. If the Division grants a license to a Regulated Marijuana Business before the Local Licensing Authority or Local Jurisdiction approves the application or grants a local license, the state license will be conditioned upon local approval. If the Local Licensing Authority denies the application, the state license will be revoked.
 - b. An Applicant is prohibited from operating a Regulated Marijuana Business prior to obtaining all necessary licenses, registrations, permits, or approvals from both the State Licensing Authority and the Local Licensing Authority or Local Jurisdiction.
 2. Retail Marijuana Business One Year to Obtain Local Jurisdiction Approval Required.
 - a. The Applicant has one year from the date of licensing by the State Licensing Authority to obtain approval or licensing from the Local Jurisdiction.
 - b. If the Applicant fails to obtain Local Jurisdiction approval or licensing within one year from grant of the state license, the state license ~~may expire and may not~~ be renewed in accordance with Rule 2-225(G)(2).
- C. Social Equity License Qualification.
1. A natural person who can establish he or she qualifies as a Social Equity Licensee may apply for either a Regulated Marijuana Business License or an Accelerator License.

2. Qualifications. To qualify as a Social Equity Licensee, the Applicant must be found suitable for licensure pursuant to Rule 2-235, unless otherwise exempted by these Rules, and must meet the following minimum eligibility requirements:
 - a. The Applicant is a Colorado Resident and has established Colorado residency by providing the items required by Rule 2-265(H).
 - b. The Applicant has not been the Beneficial Owner of a License subject to administrative action issued by the State Licensing Authority resulting in the revocation of a license issued pursuant to the Marijuana Code;
 - c. The Applicant has demonstrated at least one of the following:
 - i. The Applicant has resided for at least fifteen years between the years 1980 and 2010 in a census tract designated by the office of economic development and international trade as an opportunity zone or a census tract designated as a Disproportionate Impacted Area;
 - ii. The Applicant or the Applicant's parent, legal guardian, sibling, spouse, child, or minor in their guardianship was arrested for a marijuana offense, convicted of a marijuana offense, or was subject to civil asset forfeiture related to a marijuana investigation; or
 - iii. The Applicant's household income in the year prior to application did not exceed 50% of the state median income as measured by the number of people who reside in the Applicant's household.
 - d. The Social Equity Licensee, or collectively one or more Social Equity Licensees, holds at least fifty-one percent of the Beneficial Ownership of the Regulated Marijuana Business License.
3. Information Required to Establish Qualification as a Social Equity Licensee.
 - a. To demonstrate qualification as a Social Equity Licensee based on residence during the relevant time period, the Applicant must demonstrate the Applicant's residency which may include either:
 - i. Providing information or documents including but not limited to a copy of school records, rental agreements, lease agreements, utility bills, mortgage statements, loan documents, bank records, tax returns, or any other document which proves the Applicant's place of residence; or
 - ii. Affirming, under penalty of perjury, the Applicant's place of residence and provide the name(s) and contact information for at least one individual who can verify the Applicant's place of residence during the time period at issue.
 - b. To demonstrate that an Applicant qualifies as a Social Equity Licensee based on a prior marijuana conviction of a family member, the Applicant must provide affirmation of the familial relationship and court or other documents demonstrating the family member's arrest or conviction for a marijuana offense or that the family member was subject to a civil asset forfeiture related to a marijuana investigation.

- c. To demonstrate that an Applicant qualifies as a Social Equity Licensee based on the Applicant's income, the Applicant must provide the Applicant's tax return for the prior year. If an Applicant applies between January 1 and April 15 but has not yet filed a tax return, the application may be delayed or denied until the tax return is filed and provided to the Division. The Division cannot accept tax returns for previous years.
 4. Denial of an Application on the Basis of a Marijuana Conviction. The State Licensing Authority will not deny an application for a Social Equity License or a related request for a finding of suitability on the sole basis of a marijuana conviction.
- D. Accelerator License Application and Qualification.
 1. License Issuance.
 - a. Beginning January 1, 2021, a Social Equity Licensee may apply for an Accelerator License. The application shall be made on Division forms and in accordance with the 2-200 Series Rules.
 - b. An Accelerator Licensee may exercise the privileges of a Retail Marijuana Cultivation Facility License, Retail Marijuana Products Manufacturer License, or Retail Marijuana Store License on the Licensed Premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store that has been approved as an Accelerator-Endorsed Licensee or on a Licensed Premises under the control of the Accelerator-Endorsed Licensee.
 2. Qualifications. To qualify for an Accelerator License, an Applicant must:
 - a. Be found suitable for licensure pursuant to Rule 2-235, unless otherwise exempted by these Rules; and
 - b. Be approved as a Social Equity Licensee pursuant to this Rule.
 3. Information Required to Establish Qualification as an Accelerator Licensee. To establish that an Applicant qualifies as an Accelerator Licensee, he or she must establish:
 - a. Qualification as a Social Equity Licensee; and
 - b. An affirmation that the Applicant has not been the Beneficial Owner of a Regulated Marijuana Business License issued pursuant to the Marijuana Code.

Basis and Purpose – 2-225

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(2)(a), 44-10-203(2)(c), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-305(2)(b)(I)(C), 44-10-307, 44-10-308, 44-10-309, 44-10-313, 44-10-314, and 44-10-316 C.R.S. The purpose of this rule is to establish the requirements and procedures for the license renewal process, including the circumstances under which an expired license may be reinstated.

Please Note: The State Licensing Authority adopted the following proposed revisions on an emergency basis on August 8, 2023 to implement SB 23-199 and no substantive changes to the emergency rules have been incorporated into this draft.

2-225 – Renewal Application Requirements for All Licensees

-
- A. License Periods.
1. Regulated Marijuana Business and Owner Licenses are valid for one year from the date of issuance.
 2. Medical Marijuana Transporters, Retail Marijuana Transporters, and Employee Licenses are valid for two years from the date of issuance.
- B. Division Notification Prior to Expiration.
1. The Division will send a notice of license renewal 90 days prior to the expiration of an existing Regulated Marijuana Business or Owner License by first class mail to the Licensee's physical address of record.
 2. Failure to receive the Division notification does not relieve the Licensee of the obligation to timely renew the license.
- C. Renewal Deadline.
1. A Licensee must apply for the renewal of an existing license prior to the Licensee's expiration date.
 2. A renewal application submitted to the Division prior to the license's expiration date shall be deemed timely pursuant to subsection 24-4-104(7), C.R.S., and the Licensee may continue to operate until Final Agency Order on the renewal application.
- D. If License Not Renewed Before Expiration. A license is immediately invalid upon expiration if the Licensee has not filed a renewal application and remitted all of the required application and license fees prior to the license expiration date. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date must not operate unless it first obtains a new state license and any required local license.
1. Reinstatement of Expired Regulated Marijuana Business License. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date may request that the Division reinstate an expired license only in accordance to the following:
 - a. The Regulated Marijuana Business License expired within the previous 30 days;
 - b. The Regulated Marijuana Business License has submitted an initial application pursuant to Rule 2-220. The initial application must be submitted prior to, or concurrently with, the request for reinstatement;
 - c. The Regulated Marijuana Business has paid the reinstatement fee in Rule 2-205; and
 - d. Any license or approval from the Local Licensing Authority or Local Jurisdiction is still valid or has been obtained.
 2. Reinstatement Not Available for Surrendered or Revoked Licenses. A request for reinstatement cannot be submitted and will not be approved for a Regulated Marijuana Business License that was surrendered or revoked.
-

3. Reinstatement Not Available for Owner Licenses or Employee Licenses. A request for reinstatement cannot be submitted and will not be approved for expired, surrendered, or revoked Owner Licenses or Employee Licenses.
4. Denial of Request for Reinstatement or Administrative Action. If the Licensee requesting reinstatement of a Regulated Marijuana Business License operated during a period that the license was expired, the request may be subject to denial and the Licensee may be subject to administrative action as authorized by the Marijuana Code or these Rules.
5. Approval of Request for Reinstatement. Upon approval of any request for reinstatement of an expired Regulated Marijuana Business License, the Licensee may resume operations until the final agency action on the Licensee's initial application for a Regulated Marijuana Business license.
 - a. Approval of a request for reinstatement of an expired Regulated Marijuana Business License does not guarantee approval of the Regulated Marijuana Business Licensee's initial application; and
 - b. Approval of a request for reinstatement of an expired License does not waive the State Licensing Authority's authority to pursue administrative action on the expired License or initial application for a Regulated Marijuana Business License.
6. Final Agency Order on Initial Application for Regulated Marijuana Business.
 - a. If the initial application for a Regulated Marijuana Business License submitted pursuant to this Rule is approved, the new Regulated Marijuana Business License will replace the reinstated license.
 - b. If the initial application for a Regulated Marijuana Business License submitted pursuant to this Rule is denied, the Licensee must immediately cease all operations including but not limited to, Transfer of Regulated Marijuana. See Rule 2-270 – Application Denial and Voluntary Withdrawal; 8-115 – Disposition of Unauthorized Regulated Marijuana; 8-130 – Administrative Warrants.
- E. Voluntarily Surrendered or Revoked Licenses Not Eligible for Renewal. Any License that was voluntarily surrendered or that was revoked by a Final Agency Order is not eligible for renewal. Any Licensee who voluntarily surrendered its license or has had its License revoked by a Final Agency Order may only submit an initial application. The State Licensing Authority will consider the voluntary surrender or the Final Agency Order and all related facts and circumstances in determining approval of any subsequent initial application.
- F. Licenses Subject to Ongoing Administrative Action. Licenses subject to an administrative action are subject to the requirements of this Rule. Licenses that are not timely renewed expire and cannot be renewed.
- G. Documents Required at Renewal. A Regulated Marijuana Business and all Controlling Beneficial Owner-Entities must provide the following documents with every renewal application:
 1. Any document required by Rule 2-220(A)(1) through (9) that has changed since the document was last submitted to the Division. It is a license violation affecting public safety to fail to submit any document that changed since the last submission for the purpose of circumventing the requirements of the Marijuana Code, or these Rules;

2. A copy of the Local Licensing Authority or Local Jurisdiction approval, licensure, and/or documentation demonstrating timely submission of and pending local license renewal application;
 - a. For initial renewal applications submitted after August 8, 2023, the State Licensing Authority may renew a License that has not yet received Local Licensing Authority approval prior to the expiration of the state-issued License if:
 - i. The Applicant submits a renewal application in accordance with this Rule; and
 - ii. The Applicant submits written documentation verified by the Local Jurisdiction or Local Licensing Authority that demonstrates why local approval has not yet been obtained or a local license issued.
 3. A list of any sanctions, penalties, assessments, or cease and desist orders imposed by any securities regulatory agency, including but not limited to the United States Securities and Exchange Commission or the Canadian Securities Administrators;
 4. A Regulated Marijuana Business operating under a single Entity name with more than one License may submit the following documents only once each calendar year on the first license renewal in lieu of submission with every license renewal in the same calendar year:
 - a. Financial statements required by Rule 2-220(A)(10);
 - b. If the Regulated Marijuana Business is a Publicly Traded Corporation, the most recent list of Non-Objecting Beneficial Owners possessed by the Regulated Marijuana Business;
 - c. A copy of all management agreement(s) the Regulated Marijuana Business has entered into regardless of whether the Person is licensed or unlicensed; and
 - d. Contracts, agreements, royalty agreements, equipment leases, financing agreement, or security contract for any Indirect Financial Interest Holder that is required to be disclosed by Rule 2-230(A)(3).
- H. Controlling Beneficial Owner Signature. At least one Controlling Beneficial Owner shall sign the renewal application. However, other Controlling Beneficial Owners may be required to sign authorizations and/or requests to release information.
- I. Accelerator Program Renewal Application Requirements.
1. Accelerator License Renewal. Accelerator Cultivator, Accelerator Manufacturer, and Accelerator Store Licenses are required to be renewed annually. In addition to the documents and information required to be submitted with a renewal application, an Accelerator Licensee must also disclose to the Division copies of any agreements between the Accelerator Licensee and the Accelerator-Endorsed Licensee under which it operated during the previous year.
 2. Accelerator-Endorsed Licensee Additional Renewal Requirements.
 - a. An endorsement issued to an Accelerator-Endorsed Licensee is required to be renewed annually.

- b. At the time of submitting a renewal application for the endorsement, an Accelerator-Endorsed Licensee must submit the following:
 - i. The name and License number of any Accelerator Licensee for which it served as an Accelerator-Endorsed Licensee during the previous year;
 - ii. The equity assistance proposal if there have been any updates or amendments since the proposal was last submitted to the Division;
 - iii. Copies of any agreements between the Accelerator-Endorsed Licensee and the Accelerator Licensee(s), including the equity partnership agreement; and
 - iv. Any required Local Jurisdiction approvals.
- c. In addition to any other basis for denial of a renewal application, the State Licensing Authority may also consider the following facts and circumstances as additional bases for denial of an endorsement renewal application:
 - i. The Accelerator-Endorsed Licensee violated the terms of any equity partnership agreement it entered into with an Accelerator Licensee;
 - ii. The Accelerator-Endorsed Licensee ended the equity partnership agreement with an Accelerator Licensee prematurely; and
 - iii. The Accelerator-Endorsed Licensee provided false or misleading statements, records, or information to an Accelerator Licensee.

Part 5 – Medical Marijuana Business License Types

5-100 Series – Medical Marijuana Stores

Basis and Purpose – 5-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(7), 44-10-313(4), 44-10-313(14), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, C.R.S. The purpose of this rule is to establish a Medical Marijuana Store's license privileges. This Rule 5-105 was previously Rule M 401, 1 CCR 212-1.

Please Note: The following proposed revisions seek to align Medical Marijuana Store license privileges with revised Retail Marijuana Store and Accelerator Store license privileges as amended in HB 23-1279.

5-105 – Medical Marijuana Store: License Privileges

- A. Licensed Premises. To the extent authorized by Rule 3-215 – Medical Marijuana Business and Retail Marijuana Business – Shared Licensed Premises and Operational Separation, a Medical Marijuana Store may share a Licensed Premises with a commonly-owned Retail Marijuana Store. However, a separate license is required for each specific business or business entity, regardless of geographical location.
- B. Authorized Sources of Medical Marijuana. A Medical Marijuana Store may only Transfer Medical Marijuana that was obtained from a Medical Marijuana Business.

-
- C. Authorized Transfers. A Medical Marijuana Store may only Transfer Medical Marijuana to a patient, a primary caregiver, another Medical Marijuana Store, a Medical Marijuana Cultivation Facility, a Medical Marijuana Products Manufacturer, or a Medical Marijuana Testing Facility.
- D. Samples Provided for Testing. A Medical Marijuana Store may provide Samples of its products to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Store shall maintain the testing results as part of its business books and records. See Rule 3-905 – Business Records Required.
- E. Authorized On-Premises Storage. A Medical Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.
- F. Authorized Marijuana Transport. A Medical Marijuana Store is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana so long as the place where transportation orders are taken and delivered is a licensed Medical Marijuana Business. Nothing in this Rule prevents a Medical Marijuana Store from transporting its own Medical Marijuana.
- G. Performance-Based Incentives. A Medical Marijuana Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.
- H. Authorized Transfers of Industrial Hemp Products. This rule is effective July 1, 2020. A Medical Marijuana Store may Transfer Industrial Hemp Product to a patient only after it has verified:
1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Medical Marijuana Testing Facility; and
 2. That the Person Transferring the Industrial Hemp Product to the Medical Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.
- I. Medical Marijuana Store Delivery Permit. A Medical Marijuana Store with a valid delivery permit may accept delivery orders and deliver Medical Marijuana to a patient who is 21 years of age or older, or the patient’s parent or guardian who is also the patient’s primary caregiver pursuant to Rule 3-615. A Medical Marijuana Store that does not possess a valid delivery permit cannot deliver Medical Marijuana to a patient, parent, or guardian.
- J. Automated Dispensing Machines. A Medical Marijuana Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to patients without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:
1. Health and safety standards,
 2. Testing,
 3. Packaging and labeling requirements,
 4. Inventory tracking,
 5. Identification requirements, and

6. Transfer limits to patients.
- K. Walk-up or Drive-Up Window. A Medical Marijuana Store may serve patients through a walk-up window or drive-up window pursuant to the requirements of this rule.
1. Modification of Premises Required. Before accepting orders for sales of Medical Marijuana to a patient through either a walk-up window or a drive-up window, a Medical Marijuana Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or a drive-up window.
 2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.
 3. Order and Identification Requirements.
 - a. Prior to accepting an order or Transferring Medical Marijuana to a patient, the Employee Licensee or Owner Licensee must physically view and inspect the patient's identification and the patient's registry identification card.
 - b. The Medical Marijuana Store may accept internet or telephone orders or may accept orders from the patient at the walk-up or drive-up window.
 - c. All orders received through a walk-up window or drive-up window must be placed by the patient from a menu. The Medical Marijuana Store may not display Medical Marijuana at the walk-up window or drive-up window.
 4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payment for Medical Marijuana at the walk-up window or drive-up window.
 5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Medical Marijuana Store's video surveillance must enable the recording of the patient's identity (and patient's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the patient's identification, registry identification card, and completion of the transaction through the Transfer of Regulated Marijuana.
 6. Packaging and Labeling Requirements. A Medical Marijuana Store utilizing a walk-up or drive-up window must ensure that all Medical Marijuana is packaged and labeled in accordance with Rules 3-1010 and Rule 3-1015 prior to Transfer to the patient.
 7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Licensing Authority.
- J. Sales over the Internet. A Medical Marijuana Store may accept orders and payment for Medical Marijuana over the internet.
1. Online Order Requirements.
 - a. Online orders must include the customer's name and date of birth.
 - b. Prior to accepting the order, the store must provide and the customer must acknowledge receipt of:

- i. A digital copy of the pregnancy warning required in Rule 5-120; and
- ii. If accepting an order for Medical Marijuana Concentrate, the Medical Marijuana Store must also provide the educational resources required in Rule 5-115(C.5).

2. Transfer of Medical Marijuana to the Patient.

- a. The patient or primary caregiver must be physically present on the Licensed Premises to take possession of Medical Marijuana.
- b. The Medical Marijuana Store must verify the patient's or primary caregiver's physical identification matches the name and date of birth the patient or primary caregiver provided at the time of the order.

Part 6 – Retail Marijuana Business License Types

6-100 Series – Retail Marijuana Stores

Basis and Purpose – 6-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(dd), 44-10-313(14), 44-10-401(2)(b)(I), 44-10-601, and 44-10-605, C.R.S. The purpose of this rule is to the license privileges of a Retail Marijuana Store licensee. This Rule 6-105 was previously Rule R 401.

Please Note: *The State Licensing Authority adopted the following proposed revisions on an emergency basis on August 8, 2023 to implement HB 23-1279 and no substantive changes to the emergency rules have been incorporated into this draft.*

6-105 – Retail Marijuana Store: License Privileges

- A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Business– Shared Licensed Premises and Operational Separation, a Retail Marijuana Store may share, and operate at, the same Licensed Premises with a commonly-owned Medical Marijuana Store. However, a separate License is required for each specific business or business entity, regardless of geographical location.
- B. Authorized Sources of Retail Marijuana. A Retail Marijuana Store may only Transfer Retail Marijuana that was obtained from another Retail Marijuana Business.
- C. Samples Provided for Testing. A Retail Marijuana Store may provide Samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Store shall maintain the testing results as part of its business books and records. See Rule 3-905 – Business Records Required.
- D. Authorized On-Premises Storage. A Retail Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.
- E. Authorized Marijuana Transport. A Retail Marijuana Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Store from transporting its own Retail Marijuana.

-
- F. Performance-Based Incentives. A Retail Marijuana Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.
- G. Authorized Transfers of Industrial Hemp Products. This rule is effective July 1, 2020. A Retail Marijuana Store may Transfer Industrial Hemp Product to a consumer only after it has confirmed:
1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and
 2. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.
- H. Retail Marijuana Store Delivery Permit.
1. Prior to January 2, 2021, all Retail Marijuana Stores are prohibited from delivering Regulated Marijuana to consumers.
 2. After January 2, 2021, a Retail Marijuana Store with a valid delivery permit may accept delivery orders deliver Retail Marijuana to consumers pursuant to Rule 3-615.
 3. A Retail Marijuana Store that does not possess a valid delivery permit cannot deliver Retail Marijuana.
- I. Automated Dispensing Machines: A Retail Marijuana Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to consumers without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:
1. Health and safety standards,
 2. Testing,
 3. Packaging and labeling requirements,
 4. Inventory tracking,
 5. Identification requirements, and
 6. Transfer limits to consumers.
- J. Walk-up Window or Drive-up Window. A Retail Marijuana Store may serve customers through a walk-up window or drive-up window pursuant to the requirements of this [Rule](#).
1. Modification of Premises Required. Before accepting orders for sales of Retail Marijuana to a customer through either a walk-up window or drive-up window, a Retail Marijuana Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or drive-up window.
 2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.
 3. Order and Identification Requirements.

- a. Prior to accepting an order or Transferring Retail Marijuana to a customer, the Employee Licensee or Owner Licensee must physically view and inspect the consumer's identification and ensure that the consumer is 21 years of age or older.
 - b. The Retail Marijuana Store may accept telephone or internet orders or may accept orders from the customer at the walk-up window or drive-up window. ~~Retail Marijuana Stores may not accept payment for Retail Marijuana over the internet.~~
 - c. All orders received through a walk-up window or a drive-up window must be placed by the customer from a menu. The Retail Marijuana Store may not display Retail Marijuana at the walk-up or drive-up window.
4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods, including online payments are permitted ~~for payments~~ for Retail Marijuana at the walk-up window or drive-up window.
 5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Retail Marijuana Store's video surveillance must enable the recording of the consumer's identity (and consumer's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the consumer's identification and completion of the transaction through the Transfer of Regulated Marijuana.
 6. Packaging and Labeling Requirements. A Retail Marijuana Store utilizing a walk-up window or drive-up window must ensure that all Retail Marijuana is packaged and labeled in accordance with Rule 3-1010 and Rule 3-1015 prior to Transfer to the consumer.
 7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Jurisdiction.
- K. Sales over the Internet. A Retail Marijuana Store may accept orders and payment for Retail Marijuana over the internet.
1. Online Order Requirements.
 - a. Online orders must include the customer's name and date of birth.
 - b. Prior to accepting the order, the store must provide and the customer must acknowledge receipt of:
 - i. A digital copy of the pregnancy warning required in Rule 6-115; and
 - ii. If accepting an order for Retail Marijuana Concentrate, the Retail Marijuana Store must also provide the educational resources required in Rule 6-110(C.5).
 2. Transfer of Retail Marijuana to a Customer.
 - a. A Customer must be physically present on the Licensed Premises to take possession of Retail Marijuana.

- b. The Retail Marijuana Store must verify the customer's physical identification matches the name and date of birth the customer provided at the time of the order, and verify that the customer is twenty-one years of age or older, in accordance with these Rules.

Basis and Purpose – 6-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(4)(b), 44-10-203(1)(k), 44-10-401(2)(b)(l), 44-10-701(1)(a), 44-10-701(3)(d) and (f), and 44-10-601, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Store.

Regarding quantity limitations on sales, equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower have been included in this rule pursuant to the mandate of House Bill 14-1361. The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Retail Marijuana Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

This Rule 6-110 was previously Rule R 402, 1 CCR 212-2.

Please Note: *The State Licensing Authority adopted the following proposed revisions on an emergency basis on August 8, 2023 to implement HB 23-1279 and no substantive changes to the emergency rules have been incorporated into this draft*

6-110 – Retail Marijuana Sales: General Limitations or Prohibited Acts

- A. Sales to Persons Under 21 Years. Licensees are prohibited from Transferring, giving, or distributing Retail Marijuana to persons under 21 years of age. Licensees are prohibited from permitting a person under the age of 21 years of age from entering the Restricted Access Area.
- B. Age Verification. Licensees must verify on two separate occasions that a Person is 21 years of age or older. First, prior to permitting a Person to enter the Restricted Access Area, a Licensee must verify that the Person has a valid government-issued photo identification showing that the Person is 21 years of age or older. Second, prior to initiating the Transfer of Retail Marijuana, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.
- C. Quantity Limitations On Sales.
1. A Retail Marijuana Store and its employees are prohibited from Transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product to a consumer in a single transaction. A Retail Marijuana Store may also Transfer up to six (6) seeds in addition to the one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product to a consumer in a single transaction. A single transaction includes multiple Transfers to the same consumer during the same business day where the Retail Marijuana Store employee knows or reasonably should know that such Transfer would result in that consumer possessing more than one ounce of marijuana. In determining the imposition of any penalty for violation of this Rule 6-110(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

2. Equivalency. Non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limit on Transfers. For all other Retail Marijuana Products or Retail Marijuana Concentrate, the following equivalency applies for the one ounce quantity Transfer limit:
 - a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.
 - b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.
- C.5. Educational Resource. When completing a sale of Retail Marijuana Concentrate, a Retail Marijuana Store shall provide the consumer with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.
- D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana to a consumer.
- E. ~~Sales over the Internet. Only a Retail Marijuana Store holding a valid delivery permit taking orders for delivery may make sales over the internet. Only a Retail Marijuana Store holding a valid delivery permit and/or a Retail Marijuana Transporter holding a valid delivery permit may deliver Retail Marijuana to a private residence. All other Retail Marijuana Store and Retail Marijuana Transporter Licensees are prohibited from selling Retail Marijuana over the internet. Repealed.~~
- F. Delivery Outside Colorado Prohibited. A Retail Marijuana Store holding a valid delivery permit shall not deliver Retail Marijuana to an address that is outside the state of Colorado.
- G. Prohibited Items. A Retail Marijuana Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product or an ~~Industrial~~ Hemp Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.
- H. Free Product Prohibited. A Retail Marijuana Store may not give away Retail Marijuana to a consumer for any reason.
- I. Nicotine or Alcohol Prohibited. A Retail Marijuana Store is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles 3, 4, or 5 of Title 44, C.R.S.
- J. Storage and Display Limitations.
 1. A Retail Marijuana Store shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.
 2. Any Retail Marijuana Concentrate displayed in a Retail Marijuana Store must include the potency of the concentrate on a sign next to the name of the product.
 - a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.
 - b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.

-
- K. Transfer of Expired Product Prohibited. A Retail Marijuana Store shall not Transfer any expired Retail Marijuana Product to a consumer.
- L. Transfer Restriction.
1. Sampling Units. A Retail Marijuana Store may not possess or Transfer Sampling Units.
 2. Research Transfers Prohibited. A Retail Marijuana Store shall not Transfer any Retail Marijuana to a Pesticide Manufacturer, or a Marijuana Research and Development Facility.
- L.5. Standard Operating Procedures. A Retail Marijuana Store must establish written standard operating procedures for the management and storage of Retail Marijuana inventory and the sale of Retail Marijuana to consumers. A written copy of the standard operating procedures must be maintained on the Licensed Premises.
1. A Retail Marijuana Store must provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.
- M. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.
1. The sale of Edible Retail Marijuana Products in the following shapes is prohibited:
 - a. The distinct shape of a human, animal, or fruit; or
 - b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.
 2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Business. Nothing in this subparagraph (M)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.
 3. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and
 4. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.
- N. Adverse Health Event Reporting. A Retail Marijuana Store must report Adverse Health Events pursuant to Rule 3-920.
- O. Corrective and Preventive Action. This paragraph O shall be effective January 1, 2021. A Retail Marijuana Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. See Rule 3-905. The written procedures shall include requirements, as appropriate, for:
1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;
 3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;
 4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;
 5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;
 6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;
 7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and
 8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.
- P. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

6-900 Series – Licensed Hospitality Businesses

Basis and Purpose – 6-905

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general provisions for Licensed Hospitality Businesses.

6-905 – Licensed Hospitality Businesses: General Provisions

- A. Privileges Granted. A Licensed Hospitality Business shall only exercise those privileges granted pursuant to the Marijuana Code and these Rules.
- B. Local Approval Required. No Licensed Hospitality Business may operate in a Local Jurisdiction that does not have an ordinance or resolution authorizing the operation of that type of Licensed Hospitality Business within the Local Jurisdiction. A Licensed Hospitality Business must comply with any requirements or restrictions on its operations imposed by the Local Jurisdiction's ordinance or resolution.
- C. Liability Insurance Required. Licensed Hospitality Businesses are required to carry general liability insurance. If a Licensed Hospitality Business has not obtained general liability insurance at the time of its initial license application, it must obtain general liability insurance prior to submitting the Licensee's first renewal application.
- D. Responsible Vendor Training Required. All Controlling Beneficial Owners and employees of a Licensed Hospitality Business shall have a valid responsible vendor designation as required in section 44-10-609, C.R.S., and described in the 3-500 Series Rules.

- E. No Visible Consumption of Regulated Marijuana. A Licensed Hospitality Business shall ensure that the display and consumption of any marijuana is not visible from outside of its Licensed Premises. The requirement in this paragraph (E) also applies to Licensed Hospitality Businesses that operate in an isolated portion of a Retail Food Establishment. See Rule 6-915 – Licensed Hospitality Businesses: Operation Within A Retail Food Establishment.
1. Outdoor Consumption Areas Permitted. A Licensed Hospitality Business may have a Consumption Area outdoors under the following conditions:
 - a. The Licensed Hospitality Business shall ensure that all marijuana is kept out of plain sight and is not visible from a public place without the use of optical aids, such as telescopes or binoculars, or aircraft; and
 - b. The Licensed Hospitality Business shall ensure that the Consumption Area is surrounded by a sight-obscuring wall, fence, hedge, or other opaque or translucent barrier.
- F. Required Signage.
1. Identification of Consumption Area. A Licensed Hospitality Business shall ensure all areas ingress and egress to the Consumption Area(s) be clearly identified by the posting of a sign which shall not be less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, “Consumption Area – No One Under 21 Years of Age Allowed.”
 2. Required Warning. Licensed Hospitality Businesses must post, at all times and in a prominent place inside the Consumption Area, a warning that is at minimum twelve inches high and twelve inches wide that reads as follows:

“Must be 21 or older to enter

Marijuana may only be consumed in designated areas out of public view

No consumption of alcohol or tobacco products on site

We reserve the right to refuse entry or service for reasons including visible intoxication

It is against the law to drive while impaired by marijuana”
- G. Entry By A Person Under 21 Years Prohibited. A Licensed Hospitality Business shall not allow any individual under 21 years of age to enter its Licensed Premises. A Licensed Hospitality Business shall verify that every individual entering the Licensed Premises has a valid government-issued photo identification showing that the individual is 21 years of age or older. See Rule 3-405 – Acceptable Forms of Identification.
- H. Customers in Consumption Area. The Consumption Area must be **reasonably monitored supervised** by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. A Licensed Hospitality Business shall reasonably monitor consumers in the Consumption Area to ensure compliance with these 6-900 Series Rules.
- I. Conduct on the Licensed Premises.

1. Consumption By Intoxicated Patrons Prohibited. A Licensed Hospitality Business shall not permit the use or consumption of marijuana by any person displaying any visible signs of intoxication.
 2. Alcohol Consumption Prohibited. No consumption of alcohol is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the consumption of alcohol within its Licensed Premises.
 3. Tobacco Consumption Prohibited. No smoking of tobacco or tobacco products is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the smoking of tobacco and tobacco products within its Licensed Premises.
 4. Employee Consumption Prohibited. No employee of a Licensed Hospitality Business who is on duty may use or consume marijuana. A Licensed Hospitality Business is responsible for preventing the use or consumption of marijuana by on-duty employees within its Licensed Premises.
 5. Flammable Instrument Restrictions. A Licensed Hospitality Business shall not allow the use of the following devices in the Licensed Premises if prohibited by a local ordinance or resolution:
 - a. Any device using liquid petroleum gas;
 - b. A butane torch;
 - c. A butane lighter; or
 - d. Matches.
 6. Orderliness. A Licensed Hospitality Business shall operate the business in a decent, orderly, and respectable manner. A Licensed Hospitality Business shall not knowingly permit any activity or acts of disorderly conduct as defined by and provided for in section 18-9-106, C.R.S., nor shall a Licensed Hospitality Business permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the Licensed Hospitality Business is located.
- J. Free Marijuana Prohibited. A Licensed Hospitality Business may not give away marijuana to a consumer for any reason.
- K. Food Products Permitted. A Licensed Hospitality Business is permitted to sell or give away consumable products that do not contain marijuana under the following circumstances:
1. The Licensed Hospitality Business operates in an isolated portion of a Retail Food Establishment;
 2. A Licensed Hospitality Business that is not a Retail Food Establishment may prepare and serve hot coffee, hot tea, instant hot beverages, and nonpotentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling; or
 3. A Licensed Hospitality Business that is not a Retail Food Establishment may sell or give away nonpotentially hazardous prepackaged food and commercially prepared,

prepackaged foods requiring no preparation other than the heating of food within its original container or package.

- L. Emergency Entry by Public Safety Personnel. If an emergency requires law enforcement, firefighters, emergency medical service providers, or other public safety personnel to enter the Licensed Premises of a Licensed Hospitality Business, the Licensed Hospitality Business is responsible for ensuring that all consumption and other activities, including sales, if applicable, cease until such personnel have completed their investigation or services and have left the Licensed Premises.
- M. Criminal Activity Reporting Requirements. In addition to other reporting requirements set forth in these Rules, a Licensed Hospitality Business must report directly to the Division any criminal activity requiring an in-person response from law enforcement. Any report required under this Rule must be submitted within 48 hours after an Owner Licensee or Employee Licensee of the Licensed Hospitality Business learns of the event.
- N. Removal of Persons from the Licensed Premises. A Licensed Hospitality Business may remove a person from the Licensed Premises for any reason, including but not limited to, any consumer showing any visible signs of intoxication. Licensees should ensure the consumer has access to safe transportation.
- O. Control and Disposal of Marijuana Left by a Consumer. A Licensed Hospitality Business is responsible for the collection and disposal of any marijuana left on the Licensed Premises by a consumer. When a consumer leaves any marijuana on the Licensed Premises, a Licensed Hospitality Business must promptly collect and remove the marijuana from the Restricted Access Area or Consumption Area and either immediately destroy or store and secure the marijuana in a Limited Access Area or an area inaccessible to consumers in accordance with Rule 6-920(A).
1. Marijuana Consumer Waste. In conjunction with the collecting and securing of any remaining marijuana, a Licensed Hospitality Business may segregate any Marijuana Consumer Waste in order to Transfer the Marijuana Consumer Waste for purposes of recycling in accordance with Rule 3-240 – Collection of Marijuana Consumer Waste.
 2. Destruction Required. At, or before, the end of each business day, a Licensed Hospitality Business shall destroy any marijuana left on its Licensed Premises by a consumer in conformance with Rule 3-230 – Waste Disposal. The Licensed Hospitality Business shall document any destruction of Regulated Marijuana in a waste log. See Rule 3-905 – Business Records Required.
- P. Consumer Education Materials. A Licensed Hospitality Business must provide Consumer Education Materials regarding the safe consumption of marijuana. Consumer Education Materials may be made available in print or digital form, may never make claims regarding health or physical benefits of marijuana, and must be prominently displayed. Consumer Education Materials shall at a minimum include the following statement:

“WARNING: Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

Create a transportation plan ahead of time. Don't operate a vehicle impaired.

Impairing effects of marijuana may be delayed.”

Basis and Purpose – 6-925

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-203(1)(k), 44-10-203(2)(v), 44-10-203(2)(z), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to clarify additional license privileges and restrictions for Retail Marijuana Hospitality and Sales Businesses that do not apply to Marijuana Hospitality Businesses.

Please Note: The following proposed rule revisions are in response to feedback from applicants, licensees, and other interested parties who see barriers in the existing rules that create challenges for Licensed Hospitality Businesses to establish or maintain operations. These revisions are intended to adjust certain restrictions on Licensed Hospitality Businesses with an eye towards operability and transparency. The Division is continuing to consider how these potential revisions would impact public health and safety. We are seeking thoughtful feedback on any risks that may be introduced, as well as perceived benefits to fully understand the potential impacts of these changes. The below proposed revisions include considerations regarding sales limitations and automated dispensing machines.

6-925 – Retail Marijuana Hospitality and Sales Businesses: Additional License Privileges and Restrictions

- A. Authorized Sources of Retail Marijuana. A Retail Marijuana Hospitality and Sales Business may only Transfer Retail Marijuana that it obtained from another Retail Marijuana Business.
- B. Restriction on Transfers to Consumers. A Retail Marijuana Hospitality and Sales Business and its employees are prohibited from Transferring Retail Marijuana to a consumer if the Retail Marijuana Hospitality and Sales Business' employee knows or reasonably should know that the consumer does not intend to consume at least a portion of the Transferred Retail Marijuana on the Licensed Premises of the Retail Marijuana Hospitality and Sales Business or previously during the same business day the consumer already received the relevant quantity limitation in this Rule. In determining the imposition of any penalty for violation of this Rule 6-925, the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235.
- C. Inventory Tracking System Requirements. A Retail Marijuana Hospitality and Sales Business must use the Inventory Tracking System in accordance with the requirements of the 3-800 Series Rules.
- D. Samples Provided for Testing. A Retail Marijuana Hospitality and Sales Business may provide Samples of Retail Marijuana for testing purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Hospitality and Sales Business shall maintain the testing results as part of its business books and records. See Rule 3-905 – Business Records Required.
- E. Authorized On-Premises Storage. A Retail Marijuana Hospitality and Sales Business may store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules. See Rule 3-800 Series Rules – Regulated Marijuana Business: Inventory Tracking System.
- F. Authorized Marijuana Transport. A Retail Marijuana Hospitality and Sales Business is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where the transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Hospitality and Sales Business from transporting its own Retail Marijuana to the Licensed Premises of its Retail Marijuana Hospitality and Sales Business.
- G. Quantity Limitations on Sales.
 - 1. All Transfers of Retail Marijuana by a Retail Marijuana Hospitality and Sales Business to a consumer shall not exceed the following sales limits in a single day:

- ~~4a.~~ More than ~~two grams~~one ounce of Retail Marijuana flower;
- ~~2b.~~ More than ~~one-half of one-eight~~grams of Retail Marijuana Concentrate; ~~or~~
- ~~3c.~~ A Retail Marijuana Product intended for oral consumption containing more than 2100 milligrams of active THC. For any Transfer of Retail Marijuana Product containing more than 10 milligrams of active THC, the Retail Marijuana Product must be Transferred to a consumer in separate serving sizes containing no more than 10 milligrams of active THC per serving; or
- d. A Retail Marijuana Product that is a non-edible and non-psychoactive, such as a skin and body product, is exempt from the daily sales limit in subparagraph (G)(1)(c) of this Rule.
2. Consumers are limited to one transaction per day of no more than the sales limit set forth in subparagraph (G)(1). A transaction may consist of multiple Transfers of Retail Marijuana within a single visit to a Retail Marijuana Hospitality and Sales Business. The transaction occurs when the consumer completes their purchase and remits payment to the Retail Marijuana Hospitality and Sales Business.
- a. Retail Marijuana Hospitality and Sales Business may not make multiple Transfers of Retail Marijuana to the same consumer during separate visits in the same day.
- b. Each Transfer must be entered in the Inventory Tracking System pursuant Rule 3-805(E)(1).
3. Sales limits shall apply on an individual basis per consumer.
- a. A Retail Marijuana Hospitality and Sales Business establishment shall identify an individual consumer for each Transfer and apply the amount of Retail Marijuana ordered and Transferred to that individual's sales limit.
- b. A Retail Hospitality and Sales Business shall include in their Standard Operating Procedures how Employee Licensees will monitor daily sales limits, and ensure all consumers have a transportation plan to leave the Licensed Premises safely.

H. Measurement Procedures and Equipment.

1. A Retail Marijuana Hospitality and Sales Business shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure any Retail Marijuana Product Transferred to a consumer does not exceed the quantity sales limitation and provisions for sharing of Retail Marijuana set forth in subparagraph (G)(3).
2. A Retail Marijuana Hospitality and Sales Business Transferring Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product to a consumer shall provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

I. Packaging and Labeling.

1. Packaging and Labeling Not Required at Time of Transfer. A Retail Marijuana Hospitality and Sales Business may Transfer Retail Marijuana to a consumer without packaging and labeling so long as the Retail Marijuana Hospitality and Sales Business complies with the

requirements of Rule 3-1020. See Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.

2. Packaging and Labeling Required Before Retail Marijuana Removed from Licensed Premises. A Retail Marijuana Hospitality and Sales Business shall not permit a consumer to leave the Licensed Premises with any unconsumed marijuana unless the Retail Marijuana Hospitality and Sales Business has ensured unconsumed marijuana is packaged and labeled in accordance with the requirements of Rule 3-1020. See Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.
- J. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product to a consumer.

Please Note: *The following proposed revision is based on a stakeholder comment. The Division is evaluating whether the Marijuana Code authorizes the State Licensing Authority to allow a Retail Marijuana Hospitality & Sales Business to utilize a vending machine in the Restricted Access Area. The Division appreciates any feedback related to this proposed revision and the proposed requirements.*

- I. Automated Dispensing Machines. A Retail Marijuana Hospitality and Sales Business may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to consumers without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:
 1. Health and safety standards,
 2. Testing,
 3. Packaging and labeling requirements,
 4. Inventory tracking,
 5. Identification requirements, and
 6. Transfer limits to consumers.

Basis and Purpose – 6-926

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to clarify additional license privileges and restrictions for Retail Marijuana Hospitality and Sales Businesses that are specific to Spa Business types.

Please Note: *The following proposed new rule is in response to feedback from applicants, licensees, and other interested parties who see barriers in the existing rules that create challenges for Licensed Hospitality Businesses to establish or maintain operations. These revisions are intended to adjust certain restrictions on Licensed Hospitality Businesses with an eye towards operability and transparency. The Division is continuing to consider how these potential revisions would impact public health and safety. We are seeking thoughtful feedback on any risks that may be introduced, as well as perceived benefits to fully understand the potential impacts of these changes.*

6-926 – Licensed Marijuana Hospitality Businesses: Spa Businesses

- A. All privileges, restrictions on, and requirements of Licensed Marijuana Hospitality Businesses apply in addition to the requirements in this Rule.
- B. Massage Therapist. A massage therapist employed by a Licensed Hospitality Business must also be licensed pursuant to section 12-235-101 et seq., C.R.S., and any rules promulgated thereunder, including 3 CCR 722-1.
- C. Employee Consumption Prohibited. A Licensed Marijuana Hospitality Business must have standard operating procedures that include protocols Employee Licensees must follow when providing massage services to prevent against employees consuming Regulated Marijuana on the Licensed Premises.
- D. Consumption Area for Massage Services. The massage therapist may only apply topical Retail Marijuana Product in a Consumption Area of a Licensed Hospitality Business. No other consumption of Regulated Marijuana is permitted in a Consumption Area for massage services, other than the application of topical Regulated Marijuana Product by the massage therapist to the consumer. The Consumption Area of a spa business where a consumer receives massage services shall not overlap with the Restricted Access Area and is not required to be under video surveillance, except all points of ingress and egress into the Consumption Area must be under video surveillance.
- E. Misconduct Reporting. A Licensed Hospitality Business must notify the Division of any misconduct conducted by its employees, including reports of misconduct to the Colorado Department of Regulatory Agencies.
- F. Daily Sales Limits. A Retail Marijuana Hospitality and Sales Business must comply with sales limits in 6-925 (G).

Basis and Purpose – 6-930

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general limitations and prohibited acts for Retail Marijuana Hospitality and Sales Businesses.

6-930 – Retail Marijuana Hospitality and Sales Businesses: General Limitations and Prohibited Acts

- A. Age Verification. Prior to Initiating the Transfer of Retail Marijuana a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older. See Rule 3-405 – Acceptable Forms of Identification.
- B. Purchases Only Within Restricted Access Area. A consumer must be physically present within the Restricted Access Area of the Retail Marijuana Hospitality and Sales Business's Licensed Premises to purchase Retail Marijuana. ~~The consumer must consume or use the Retail Marijuana purchased in the Retail Marijuana Hospitality and Sales Business in that Businesses' Restricted Access Area.~~
 - 1. Application to Retail Marijuana Hospitality and Sales Businesses Operating in a Retail Food Establishment. The requirement of paragraph (B) also applies to all Retail Marijuana Hospitality and Sales Businesses operating in an isolated portion of the Retail Food Establishment. All Transfers of Retail Marijuana may occur only in the Retail Marijuana Hospitality and Sales Business' Restricted Access Area, and not in any other area of the Retail Food Establishment.

2. Application to Retail Marijuana Hospitality and Sales Businesses operating as Spa Business. A Licensed Massage Therapist may apply Retail Marijuana Product in a Consumption Area of the Retail Marijuana Hospitality and Sales Business.

C. Prohibited Sales and Activity.

1. Sales to Persons Under 21 Years. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring, giving, or distributing Regulated Marijuana to persons under 21 years of age.
2. Alternative Use Products. A Retail Marijuana Hospitality and Sales Business shall not Transfer, or permit the use or consumption of, any Alternative Use Product.
3. Marijuana Not Transferred by the Retail Marijuana Hospitality and Sales Business. A Retail Marijuana Hospitality and Sales Business shall not permit the purchase, use or consumption of any marijuana other than the Retail Marijuana it Transfers pursuant to these rules.
4. Nicotine or Alcohol. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of alcohol would require a license pursuant to articles 3, 4, or 5 of Title 44, C.R.S.
5. Transfer of Expired Product. A Retail Marijuana Hospitality and Sales Business shall not Transfer any expired Retail Marijuana Product to a consumer.
6. Transporter Transfer Restrictions. A Retail Marijuana Hospitality and Sales Business shall not Transfer Retail Marijuana to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana from a Retail Marijuana Transporter.
7. Possession and Transfer of Sampling Units. A Retail Marijuana Hospitality and Sales Business may not possess or Transfer Sampling Units.
8. Research Transfers. A Retail Marijuana Hospitality and Sales Business shall not Transfer any Retail Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

D. Storage and Display Limitations.

1. A Retail Marijuana Hospitality and Sales Business shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Area or Restricted Access Area.
2. Any product displays that are readily accessible to the customer must be supervised by the Owner Licensee or Employee Licensee at all times when consumers are present.

E. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

F. Adverse Health Event Reporting. A Retail Hospitality and Sales Business must report Adverse Health Events pursuant to Rule 3-920.

6-1100 Series – Accelerator Store Licenses

Basis and Purpose – 6-1105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(aa), 44-10-203(2)(dd), 44-10-401(2)(b)(l), 44-10-601, 44-10-605, and 44-10-611, C.R.S. The purpose of this rule is to establish the license privileges of an Accelerator Store.

Please Note: *The State Licensing Authority adopted the following proposed revisions on an emergency basis on August 8, 2023 to implement HB 23-1279 and no substantive changes to the emergency rules have been incorporated into this draft.*

6-1105 – Accelerator Store: License Privileges

- A. Licensed Premises.
1. Shared Licensed Premises. An Accelerator Store may operate on the same Licensed Premises as a Retail Marijuana Store that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.
 2. Separate Licensed Premises. An Accelerator Store may operate on a separate premises in the possession of a Retail Marijuana Store that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.
 3. To the extent authorized by Rule 3-215 – Regulated Marijuana Business– Shared Licensed Premises and Operational Separation, an Accelerator Store may share, and operate at, the same Licensed Premises as an Accelerator-Endorsed Licensee’s Retail Marijuana Store that shares a Licensed Premises with a Medical Marijuana Store.
- B. Authorized Sources of Retail Marijuana. An Accelerator Store may only Transfer Retail Marijuana that was obtained from another Retail Marijuana Business.
- C. Samples Provided for Testing. An Accelerator Store may provide Samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Accelerator Store shall maintain the testing results as part of its business books and records. See Rule 3-905 – Business Records Required.
- D. Authorized On-Premises Storage. An Accelerator Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.
- E. Authorized Marijuana Transport. An Accelerator Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents an Accelerator Store from transporting its own Retail Marijuana.
- F. Performance-Based Incentives. An Accelerator Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.
- G. Authorized Transfers of Industrial Hemp Products. An Accelerator Store may Transfer Industrial Hemp Product to a consumer only after it has confirmed:
1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and
 2. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

- H. Automated Vending Machine. An Accelerator Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to consumers without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:
1. Health and safety standards,
 2. Testing,
 3. Packaging and labeling requirements,
 4. Inventory tracking,
 5. Identification requirements, and
 6. Transfer limits to consumers.
- I. Walk-up Window or Drive-up Window. An Accelerator Store may serve customers through a walk-up window or drive-up window pursuant to the requirements of this rule.
1. Modification of Premises Required. Before accepting orders for sales of Retail Marijuana to a customer through either a walk-up window or drive-up window, an Accelerator Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or drive-up window.
 2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.
 3. Order and Identification Requirements.
 - a. Prior to accepting an order or Transferring Retail Marijuana to a customer, the Employee Licensee or Owner Licensee must physically view and inspect the consumer's identification and ensure that the consumer is 21 years of age or older.
 - b. The Accelerator Store may accept telephone orders or may accept orders from the customer at the walk-up window or drive-up window. ~~Accelerator Stores may not accept orders or payment for Retail Marijuana over the internet.~~
 - c. All orders received through a walk-up window or a drive-up window must be placed by the customer from a menu. The Accelerator Store may not display Retail Marijuana at the walk-up or drive-up window.
 4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods, including online payments, are permitted ~~for payments~~ for Retail Marijuana at the walk-up window or drive-up window.
 5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Accelerator Store's video surveillance must enable the recording of the consumer's identity (and consumer's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the consumer's identification and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. An Accelerator Store utilizing a walk-up window or drive-up window must ensure that all Retail Marijuana is packaged and labeled in accordance with Rule 3-1010 and Rule 3-1015 prior to Transfer to the consumer.
7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Jurisdiction.

J. Sales over the Internet. An Accelerator Store may accept orders and payment for Retail Marijuana over the internet.

1. Online Order Requirements.

- a. Online orders must include the customer's name and date of birth.
- b. Prior to accepting the order, the store must provide and the customer must acknowledge receipt of:
 - i. A digital copy of the pregnancy warning required in Rule 6-1115; and
 - ii. If accepting an order for Retail Marijuana Concentrate, the Accelerator Store must also provide the educational resource required in Rule 6-1110(C.5).

2. Transfer of Retail Marijuana to a Customer.

- a. A customer must be physically present on the Licensed Premises to take possession of Retail Marijuana.
- b. The Accelerator Store must verify the customer's physical identification matches the name and date of birth the customer provided at the time of the order, and verify that the customer is twenty-one years of age or older, in accordance with these Rules.

Basis and Purpose – 6-1110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(4)(b), 44-10-203(1)(k), 44-10-203(2)(aa), 44-10-401(2)(b)(l), 44-10-601, 44-10-611, 44-10-701(1)(a), and 44-10-701(3)(d) and (f), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by an Accelerator Store. Such limitations include, but are not limited to, quantity limitations on sales and equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower. The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Accelerator Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

Please Note: The State Licensing Authority adopted the following proposed revisions on an emergency basis on August 8, 2023 to implement HB 23-1279 and no substantive changes to the emergency rules have been incorporated into this draft.

6-1110 – Accelerator Store: General Limitations or Prohibited Acts

- A. Sales to Persons Under 21 Years. Licensees are prohibited from Transferring, giving, or distributing Retail Marijuana to persons under 21 years of age. Licensees are prohibited from permitting a person under the age of 21 years of age from entering the Restricted Access Area.
- B. Age Verification. Prior to initiating the Transfer of Retail Marijuana, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.
- C. Quantity Limitations On Sales.
1. An Accelerator Store and its employees are prohibited from Transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product or more than six Retail Marijuana seeds in a single transaction to a consumer. A single transaction includes multiple Transfers to the same consumer during the same business day where the Accelerator Store employee knows or reasonably should know that such Transfer would result in that consumer possessing more than one ounce of marijuana. In determining the imposition of any penalty for violation of this Rule 6-1110(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).
 2. Equivalency. Non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limit on Transfers. For all other Retail Marijuana Products or Retail Marijuana Concentrate, the following equivalency applies for the one ounce quantity Transfer limit:
 - a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.
 - b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.
- C.5. Educational Resource. When completing a sale of Retail Marijuana Concentrate, an Accelerator Store shall provide the consumer with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.
- D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana to a consumer.
- E. ~~Sales over the Internet. Only an Accelerator Store holding a valid delivery permit taking orders for delivery may make sales over the internet. Only a Retail Marijuana Store holding a valid delivery permit and/or a Retail Marijuana Transporter holding a valid delivery permit may deliver Retail Marijuana to a private residence. All other Retail Marijuana Store and Retail Marijuana Transporter Licensees are prohibited from selling Retail Marijuana over the internet. Repealed.~~
- F. Delivery Outside Colorado Prohibited. An Accelerator Store holding a valid delivery permit shall not deliver Retail Marijuana to an address that is outside the state of Colorado.
- G. Prohibited Items. An Accelerator Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product or an ~~Industrial~~ Hemp Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.
- H. Free Product Prohibited. An Accelerator Store may not give away Retail Marijuana to a consumer for any reason.

-
- I. Nicotine or Alcohol Prohibited. An Accelerator Store is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles 3, 4, or 5 of Title 44, C.R.S.
- J. Storage and Display Limitations.
1. An Accelerator Store shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.
 2. Any Retail Marijuana Concentrate displayed in an Accelerator Store must include the potency of the concentrate on a sign next to the name of the product.
 - a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.
 - b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.
- K. Transfer of Expired Product Prohibited. An Accelerator Store shall not Transfer any expired Retail Marijuana Product to a consumer.
- L. Transfer Restriction.
1. Sampling Units. An Accelerator Store may not possess or Transfer Sampling Units.
 2. Research Transfers Prohibited. An Accelerator Store shall not Transfer any Retail Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.
- L.5. Standard Operating Procedures. An Accelerator Store must establish written standard operating procedures for the management and storage of Retail Marijuana inventory and the sale of Retail Marijuana to consumers. A written copy of the standard operating procedures must be maintained on the Licensed Premises.
1. An Accelerator Store must provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.
- M. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.
1. The sale of Edible Retail Marijuana Products in the following shapes is prohibited:
 - a. The distinct shape of a human, animal, or fruit; or
 - b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.
 2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Business. Nothing in this subparagraph (M)(2) alters or
-

- eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.
3. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and
 4. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.
- N. Adverse Health Event Reporting. An Accelerator Store must report Adverse Health Events pursuant to Rule 3-920.
- O. Corrective and Preventive Action. An Accelerator Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. See Rule 3-905. The written procedures shall include requirements, as appropriate, for:
1. What constitutes a Nonconformance in the Licensee's business operation;
 2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;
 3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;
 4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;
 5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;
 6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;
 7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and
 8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.
- P. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Part 8 – Enforcement and Discipline

8-100 Series - Enforcement

Basis and Purpose – 8-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(f), 44-10-202(1)(g), [44-10-203\(2\)\(g\)](#), [44-10-203\(2\)\(h\)](#), [44-10-207](#), 44-10-203(1)(k), and 44-

10-902, 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, the handling of inventory subject to administrative hold and under investigation and the process for voluntary surrender of Regulated Marijuana. This Rule 8-110 was previously Rules M and R 1202, 1 CCR 212-1 and 1 CCR 212-2.

Please Note: The following proposed rule revisions are intended to implement HB 23-1021.

8-110 – Requirement for Inspections and Investigations, Searches, Administrative Holds, Embargos, Voluntary Surrenders 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 of the Division who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to the Marijuana Code.
2. No Applicant or Licensee shall by any means interfere with, obstruct, or impede the State Licensing Authority or any employee of the Division from exercising their duties pursuant to the provisions of the Marijuana Code and all rules promulgated pursuant to it. 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 investigator 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 investigators of the Division access to premises where the Licensee’s Regulated Marijuana are grown, stored, cultivated, manufactured, tested, distributed, or Transferred 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.
3. License Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

B. Administrative Hold.

1. Notice of Administrative Hold. To prevent destruction of evidence, diversion, or other threats to public safety, while permitting a Licensee to retain its inventory pending further investigation of an alleged violation of the Marijuana Code or Marijuana Rules, a Division investigator may order an administrative hold of Regulated Marijuana pursuant to the following procedure:

- a. If during an investigation or inspection of a Licensee, a Division investigator develops objective and reasonable grounds to believe certain Regulated Marijuana constitute evidence of acts in violation of the Marijuana Code or rules promulgated pursuant to it, or constitute a threat to the public safety, the Division investigator may issue a notice of administrative hold of any such Regulated Marijuana pending further investigation of an alleged violation of the Marijuana Code or Marijuana Rules. The notice of administrative hold shall provide a documented-description of the Regulated Marijuana to be subject to the administrative hold ~~and a concise statement that is promptly issued and approved by the Director, or his or her designee, regarding the reasons for issuing the administrative hold. Following the issuance of a notice of administrative hold, the Division will identify the Regulated Marijuana subject to the administrative hold in the Inventory Tracking System. The Licensee shall continue to comply with all tracking requirements. See Rule 3-805 – Regulated Marijuana Businesses: Inventory Tracking System.~~
- b. ~~Following the issuance of a notice of administrative hold, the Division will identify the Regulated Marijuana subject to the administrative hold in the Inventory Tracking System. The Licensee shall continue to comply with all tracking requirements. See Rule 3-805 Regulated Marijuana Businesses: Inventory Tracking System. The Senior Director, or their designee, shall promptly approve and issue a concise statement regarding the reasons for issuing the administrative hold and outlining the estimated time required to complete the investigation. The estimated time required to complete the investigation is not binding and may be adjusted at any time with or without prior notice to the Licensee.~~
- 2e. Effect of Administrative Hold. The Licensee shall completely and physically segregate the Regulated Marijuana subject to the administrative hold in a Limited Access Area of the Licensed Premises under investigation, where it shall be safeguarded by the Licensee.
- ad. While the administrative hold is in effect, the Licensee is prohibited from, giving away, Transferring, transporting, or destroying the Regulated Marijuana subject to the administrative hold, except as otherwise authorized by these rules.
- be. While the administrative hold is in effect, the Licensee must safeguard the Regulated Marijuana subject to the administrative hold, must maintain the Licensed Premises in reasonable condition according to health, safety, and sanitary standards, and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements as set forth in the Marijuana Code and the Marijuana Rrules ~~of the State Licensing Authority~~.
- cf. Nothing herein shall prevent a Licensee from voluntarily surrendering Regulated Marijuana that is subject to an administrative hold, except that the Licensee must follow the procedures set forth in paragraph (C) for voluntary surrender of Regulated Marijuana.
- dg. Nothing herein shall prevent a Licensee from the continued possession, cultivation or harvesting of the Regulated Marijuana subject to the administrative hold. All Regulated Marijuana subject to an administrative hold must be put into separate Harvest Batches.
- 3h. Lift, Expiration, or Extension of Administrative Hold.
- a. ~~At any time after the initiation of the administrative hold, the a~~ Division investigator may lift the administrative hold, ~~order the continuation of the~~

administrative hold pending the administrative process, or seek other appropriate relief. If a Division Investigator determines to lift the administrative hold, the investigator will send the Licensee written notification of the reason the administrative hold is being lifted.

- b. At any time after the initiation of the administrative hold, the State Licensing Authority may lift, revise, or extend the administrative hold by agreement between the State Licensing Authority and the Licensee subject to the administrative hold.
- c. If the Division determines that the need to preserve evidence has subsided, the Licensee may destroy the Regulated Marijuana subject to an administrative hold at its expense, with advance approval from and in coordination with the Division, and in accordance with Rule 3-230 – Waste Disposal.
- d. An administrative hold expires after 120 days unless an administrative action has been initiated concerning the Regulated Marijuana subject to the administrative hold, or the State Licensing Authority extends the administrative hold.
- e. The State Licensing Authority's order to extend the administrative hold will identify the reasons for extending the administrative hold. The State Licensing Authority will consider the following factors when deciding whether to extend an administrative hold:
 - i. The Licensee's failure to cooperate with Division investigators;
 - ii. The Licensee's compliance history;
 - iii. Whether the Licensee complied with all record keeping and inventory tracking requirements, including the usage of required RFID tags;
 - iv. Whether the Licensee complied with video surveillance, Security Alarm System, and lock requirements;
 - v. Whether the Licensee obtained or maintained all required state or local licenses;
 - vi. The Licensee's tax compliance history; and
 - vii. The preservation of evidence for a pending administrative action.

B.5. Embargo.

1. Notice of Embargo.

- a. The Division may embargo Regulated Marijuana when there are objective and reasonable grounds to believe that the health, safety, or welfare of the public imperatively requires emergency action.
- b. A Division investigator will issue a Notice of Embargo including a description of the Regulated Marijuana and identifying any permitted activities regarding the Regulated Marijuana subject to the embargo. Following the issuance of a Notice of Embargo, the Division will identify the Regulated Marijuana subject to embargo in the Inventory Tracking System. The Licensee shall continue to comply with all

tracking requirements. See Rule 3-805 – Regulated Marijuana Businesses: Inventory Tracking System.

- c. The Senior Director, or their designee, shall promptly approve and issue a concise statement regarding the reasons for issuing the embargo.

2. Effect of Embargo.

- a. The Licensee shall completely and physically segregate the Regulated Marijuana subject to the embargo in a Limited Access Area of the Licensed Premises.
- b. The Licensee is prohibited from Transferring, or transporting the Regulated Marijuana subject to the embargo, except as otherwise authorized by these Rules. The Licensee can choose to destroy the Regulated Marijuana that is the subject of the embargo at its expense, with advance approval from and in coordination with the Division and in accordance with Rule 3-230 – Waste Disposal.
- c. The Licensee must safeguard the Regulated Marijuana subject to the embargo, must maintain the Licensed Premises in reasonable condition according to health, safety, and sanitary standards, and must fully comply with all security requirements including but not limited to surveillance, lock, and alarm requirements as set forth in the Marijuana Rules.

3. Release, Destruction and Opportunity for Hearing.

- a. At any time after service of a Notice of Embargo, the Division or the State Licensing Authority may lift, revise, or extend the embargo by agreement between the Division or the State Licensing Authority and the Licensee subject to the embargo.
- b. If a Notice of Destruction has not been issued after 120 days of the Notice of Embargo, the Licensee may submit a written request for a hearing before a Department of Revenue Hearing Officer. The issue at the hearing will be whether there are reasonable grounds to support that the Regulated Marijuana poses a risk to public health or safety and should be subject to destruction, should be subject to continued embargo, or does not pose a risk public health and safety and should be released from the embargo.
- c. Within 60 days of receiving a Notice of Destruction, a Licensee may request a hearing pursuant to Rule 8-220(B). Failure to request a hearing within the 60-day time period automatically results in the Notice of Destruction becoming an order of destruction.
- d. If a Licensee requests a hearing, the hearing will be conducted by a Department of Revenue Hearing Officer pursuant to section 24-4-105, C.R.S. The sole issue at the hearing will be whether the Regulated Marijuana subject to the embargo poses a threat to the health, safety, or welfare of the public and therefore should be destroyed. Following the hearing, the Hearing Officer will issue an Initial Decision that may be subject to exceptions and judicial review.
- e. A Licensee ordered to destroy embargoed Regulated Marijuana pursuant to this Rule 8-110(B.5)(3) is responsible for completing the destruction in coordination with the Division and in accordance with the Marijuana Rules. The Licensee is

also responsible for all expenses related to the embargo and destruction of Regulated Marijuana.

4. The Division may seek the assistance of the Department of Public Health and Environment in connection with an embargo or a hearing seeking destruction of Regulated Marijuana.

C. Voluntary Surrender of Regulated Marijuana.

1. A Licensee, prior to a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any Regulated Marijuana to the Division.
 - a. Such voluntary surrender may require destruction of any Regulated Marijuana in the presence of a Division investigator and at the Licensee's expense.
 - b. The individual signing the Division's voluntary surrender form on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.
2. The voluntary surrender form may be utilized in connection with a stipulated agency order through which the Licensee waives the right to hearing and any associated rights.
3. The voluntary surrender form may be utilized even if the Licensee does not waive the right to hearing and any associated rights, with the understanding that the outcome of the hearing does not impact the validity of the voluntary surrender.
4. A Licensee, after a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any Regulated Marijuana to the Division.
 - 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.
 - b. Such voluntary surrender may require destruction of any Regulated Marijuana in the presence of a Division investigator and at the Licensee's expense.
 - c. The individual signing the Division's voluntary surrender form on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

8-200 Series – Discipline and Administrative Hearings

Basis and Purpose – 8-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(g), 44-10-203(2)(l), 44-10-204(1)(a), 44-10-701, 44-10-901, 24-4-104, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(l). The purpose of this rule is to establish what entity conducts the administrative hearings, the procedures governing administrative hearings, and other general hearings issues. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause, and to clarify that an answer is required only for two types of administrative notices: an Order to Show Cause and a Notice of Grounds for Denial. This Rule 8-220 was previously Rules M and R 1304, 1 CCR 212-1 and 1 CCR 212-2.

Please Note: The following proposed rule revisions are intended to implement HB 23-1021.

8-220 – Administrative Hearings

A. General Procedures.

1. Hearing Location. Hearings will generally be conducted by the Department's Hearings Division. Hearings will be held virtually unless otherwise ordered by the hearing officer for good cause. "Good cause" for an in-person hearing means that there are unusual circumstances where justice, judicial economy, and convenience of the parties would be served by holding a hearing in person. The Division, Respondent or Denied Applicant may request a hearing officer order an in-person hearing upon a showing of good cause. If the hearing officer orders an in-person hearing, the hearing will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer.
2. Scope of Hearing Rules. This Rule 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. Unless a Denied Applicant or Respondent that is an entity satisfies the exception in section 13-1-127(2), C.R.S., the Denied Applicant or Respondent must be represented by an attorney admitted to practice law in the state of Colorado.
4. Service. An Order to Show Cause, a Notice of Destruction, or a Notice of Denial must be served on a Respondent or Denied Applicant personally or by first-class mail. Service of pleadings or other papers on a Denied Applicant, Respondent, or any attorney representing a party, may be made by hand delivery, by mail to the party's last known address, or by electronic mail. Service of pleadings or other papers on the Division in an administrative hearing may be made to the attorney(s) of record, as identified on the Certificate of Service to the Order to Show Cause, Order of Summary Suspension, Notice of Destruction, or Notice of Denial, by electronic mail or first-class mail.

B. Requesting a Hearing.

1. A Denied Applicant that has been served with a Notice of Denial 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 the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address. The written request for a hearing must be received by the Division within the time stated in the Notice of Denial. An untimely request for hearing will not be considered.
2. A Denied Applicant that timely requests a hearing following issuance of a Notice of Denial shall be served with a Notice of Grounds for Denial, and shall be entitled to a hearing regarding the matters addressed therein.
3. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.
4. A Licensee served with a Notice of Embargo may request a hearing by making a written request for a hearing to the Division if the Division has not served a Notice of Destruction after 120 days from the date of the Notice of Embargo, or within 60 days of service of the Notice of Destruction.

- a. 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 the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address. The written request for a hearing must be received by the Division within the time stated in the Notice of Destruction. An untimely request for hearing will not be considered.
- b. If a Licensee requests a hearing on a Notice of Destruction or a Notice of Embargo and is also a Respondent in an administrative action a single hearing shall be held for the efficiency of the Hearings Division and the parties.

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 Order to Show Cause. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. 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. A Denied Applicant shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Notice of Grounds for Denial. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a Denied Applicant 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.

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 electronic mail or by first-class mail to the last mailing address of record if an electronic mail address is unknown.
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, order of destruction, 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. If an Order of Summary Suspension has issued, the hearing on the Order to Show Cause 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. "Good cause" for a continuance 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.
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. 30 controls. Hearings will not be continued because a deposition is allowed unless (a) both parties stipulate to a continuance and the hearing officer grants the continuance, or (b) the hearing officer grants a continuance over the objection of any party in accordance with subsections (D)(2)(b) and (c) of this Rule.
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.
4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on 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.

5. 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 be offered into evidence at the hearing to the hearing officer when the prehearing statement is filed. Electronic filings will be accepted at: dor_regulatoryhearings@state.co.us.
3. The hearing officer shall administer oaths or affirmations to all witnesses at hearing. The hearing officer may question any witness.
4. The hearing, including testimony and exhibits, shall be open to the public unless otherwise ordered by the hearing officer in accordance with a specific provision of law.
 - a. Reports and other information that would otherwise be confidential pursuant to subsection 44-10-204(1)(a), C.R.S., may be introduced as exhibits at hearing.
 - b. Any party may move the hearing officer to seal an exhibit or order other appropriate relief if necessary to safeguard the confidentiality of evidence.

5. 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.

6. 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.

7. 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 8-230 – Administrative Hearing Appeals/Exceptions to Initial Decision.
- H. No Ex Parte Communication. Ex parte communication shall not be allowed at any point following the formal initiation of the hearing process. A party or counsel for a party shall not initiate any communication with a hearing officer or the State Licensing Authority, or with conflicts counsel representing the hearing officer or State Licensing Authority, 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. Parties shall provide all other parties with copies of any pleading or other paper submitted to the hearing officer or the State Licensing Authority in connection with a hearing or with the exceptions process.
- I. Marijuana Enforcement Division representation. The Division shall be represented by the Colorado Department of Law.