

August 10, 2020

DRAFT - A Bill Protect Medical Marijuana Patients from Exposure to Infectious Disease / COVID-19

Marijuana (Cannabis) has been allowed for medical use in Colorado since 2001. Use of medical marijuana was made legal by state constitutional amendment, and as such, medical marijuana is regulated by rules, laws, and cannabis-specific additions to the Colorado Code of Regulations over and above normal regulations for herbs, supplements, and pharmaceutical medicines. Therefore, much of the current guidance in place for prevention of exposure to infectious disease implemented recently through normal channels does not apply to medical marijuana. This bill is necessary to ensure medical marijuana patients are not inadvertently put in harm's way by cannabis-specific regulations that did not anticipate the COVID-19 pandemic.

This bill has three aims:

1. Reduce the potential for infectious disease exposure for Colorado's 85,000 plus registered medical marijuana patients and the medical professionals who care for them by allowing physicians and clinicians to conduct medical marijuana evaluations by remote means including telemedicine.
2. Reduce the potential for transporting infectious diseases between communities while simultaneously increasing medical marijuana availability by allowing medical marijuana patients in areas with few or no medical marijuana dispensaries to purchase marijuana from a recreational marijuana store without the burden of taxes and at medical potencies and quantities.
3. Allow medical marijuana for patients who are unable to use the Internet to obtain a digital medical marijuana card, to purchase marijuana with their new patient or renewal paperwork and proof of mailing for an extended period of time, in the event of another quarantine.

Arguments for each of the Aims:

1. The Colorado Medical Practice Act allows the use of remote means including telemedicine for non-emergency medical visits that include physical exams. But, not for medical marijuana. CDPHE Code of Colorado Regulations 5-CCR-1006-2 regulation 8.A.2.c specifically excludes the use of remote means, including telemedicine, for medical marijuana evaluations, and Colorado Revised Statute § 25-1.5-106(2)(a.5)(I) requires an appropriate in-person physical examination for the issuance of medical marijuana cards. We ask that both statutes be amended to reduce the potential for infectious disease exposure, and that medical marijuana evaluations be allowed by remote means, including telemedicine, **with the provision the doctor, dentist or advanced practitioner performing the evaluation have a physical clinic location within the state available for personal follow-up care, and in case of adverse reactions.**
2. One of the unfortunate consequences of recreational marijuana is an attitude that medical patients can "just go buy rec" and no longer need medical dispensaries. There are three major differences between medical and recreational cannabis: first, the potency of edibles, which many medical patients rely on to control their conditions; second, the quantities that can be purchased in a single transaction; and third, the taxes, which can add 30-50% to the cost of the products. The additional tax revenue from recreational cannabis has caused many communities and counties to ban commercial sales of medical marijuana in favor of recreational.

The dual licensing and grow facilities requirements for med/rec dispensaries have caused many to drop the medical side and become rec-only stores. This has drastically reduced the number of medical dispensaries in our state, and has forced medical marijuana patients, all of whom by their very nature have debilitating and/or disabling medical conditions, to travel outside their local areas for medical marijuana. The situation is even more dire for 18-20 year old patients. Our dearest wish is that our underage cannabis patients will overcome the scourge of childhood disease and grow up to lead full lives. Unfortunately, when our underage patients live long enough to turn 18 and become young adults, they find they can no longer access the medical marijuana that has helped them this far. 18-20 year-olds can't "just go buy rec". They aren't allowed through the door. **By allowing registered medical marijuana patients age 18 and over to purchase cannabis products at recreational dispensaries without the burden of taxes, and at the quantities and potencies they need, we can both increase access to medical cannabis for all patients and reduce the potential spread of infectious disease between disparate areas for vulnerable and medically fragile persons.**

3. Page 85 of Senate Bill 19-224 restricts purchases of medical marijuana for by-mail applications to new patients only and only for 35 days past the date of postmark. There is simply no medical reason we can think of for these arbitrary restrictions. During the March-May work from home order, the state did not process – or even open - ANY by-mail medical marijuana applications for over 60 days. As a result, we had a list of 36 patients from my clinic alone, who did not have Internet access and so applied by mail, who could not obtain medical marijuana for months. Cases included a 90 year-old patient in Fruita (no med dispensaries and no rec within 30 minutes) unable to obtain medicines for nearly 90 days. **We ask that patients applying by mail - both new patients and renewals - be allowed to use their application paperwork and proof of mailing to purchase medical marijuana for up to 90 days or longer. This should cover our patients in the event of another work-from-home order.**

Sincerely,

Martha Montemayor, CNC

Director, Cannabis Clinicians Colorado