

# STATE OF COLORADO

DEPARTMENT OF REVENUE  
Enforcement Line of Business

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**To:** All Local Governments and All  
Colorado Medical Marijuana Applicants

**From:** *MDC*  
Matt D. Cook  
Department of Revenue  
Senior Director of Enforcement

**Date:** July 15, 2010

**Re:** Requirements to lawfully operate a medical marijuana business

The purpose of this memorandum is to clarify the requirements to lawfully operate a business pursuant to the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S. ("Code") pending full implementation and license issuance by the state licensing authority on July 1, 2011.

## 1. Requirements to be lawfully operating your business now

As of July 1, 2010, only the following people may lawfully operate a medical marijuana business pursuant to the Code:

- a. A person who was operating an established, locally approved business as of July 1, 2010; or
- b. A person who applied to a local government to operate a locally approved business on or before July 1, 2010. (C.R.S. § 12-43.3-103(1)(a)).

**NOTE:** If you do not fall into one of the above-mentioned categories, then you are not lawfully operating a medical marijuana-related business. Unlawful operation of a business is a violation of the Code and is "prima-facie evidence of unsatisfactory character, records, and reputation for any future application for license." C.R.S. § 12-43.3-103(1)(b). You are also subject to criminal penalties. *Id.*

## 2. Consequences of not lawfully operating as of July 1, 2010

If you were not lawfully operating a business pursuant to the Code as of July 1, 2010, then you cannot operate such a business until you receive both a local license and a state license. No state licenses will be issued before July 1, 2011.

**NOTE:** If you are operating a medical marijuana-related business but were not lawfully operating as of July 1, 2010, then you are operating unlawfully in violation of the Code, which is "prima-facie evidence of unsatisfactory character, records, and reputation for any future application for license." C.R.S. § 12-43.3-103(1)(b). You are also subject to criminal penalties. *Id.*

## 3. Requirements to continue lawful operation of a business

For owners who are lawfully operating a business pursuant to the Code as of July 1, 2010, the following must be done by **August 1, 2010** in order to continue lawful operations:

- a. The owner must complete and file the appropriate forms as provided by the Department of Revenue; and
- b. **The owner must pay the appropriate fee to the Department of Revenue. (C.R.S. § 12-43.3-103(1)(b)).**

#### **4. Consequences of not performing required tasks by August 1, 2010**

If you are an owner of a lawfully operating business and you do not complete the aforementioned tasks regarding filing forms with the Department of Revenue and **paying the fee by August 1, 2010**, then as of August 2, 2010, you are not lawfully operating a business. *See* C.R.S. § 12-43.3-103(1)(b). Such unlawful operation of a business is a violation of the Code and is “prima-facie evidence of unsatisfactory character, records, and reputation for any future application for license.” C.R.S. § 12-43.3-103(1)(b). You will also be subject to criminal penalties. *Id.*

**It does not matter whether your local license is approved by August 1, 2010. Further, local approval alone does not mean you are operating lawfully. You must meet the requirements of the Code in order to continue to operate lawfully. These requirements include paying the required fee to the Department of Revenue by August 1, 2010.**

#### **5. Consequences of unlawful business operation**

Failure to follow the requirements of the Code may have any of the following consequences:

- a. You may be subject to criminal penalties for selling marijuana without a license; and
- b. You may be denied future licenses issued pursuant to the Code; and
- c. You may be subject to any other remedies authorized by law.