

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption of) NOTICE OF ADOPTION OF
Emergency Rules I through III) EMERGENCY RULES
pertaining to the Montana Medical)
Marijuana Program)

TO: All Concerned Persons

1. The Department of Public Health and Human Services is adopting the following emergency rules due to the passage of Senate Bill 333 by the 65th Montana Legislature. This action is in conjunction with other relevant authorities including Initiative 182 (I-182) that resulted in understandable confusion especially as it relates to effective dates and implementation. The adoption of comprehensive rules are in progress with the main deadline of April 30, 2018. In the meantime, the department specifies its interpretation of important items to promote compliance until permanent rules are adopted. Emergency rules are necessary to address key items to promote public health and safety and the welfare of cardholders and all participants involved with the Montana medical marijuana program.

The intent of Rule I is to track the allowable amounts language from I-182 and SB333. These allowable amounts are already familiar to stakeholders, cardholders, providers, and law enforcement and will remain consistent and in effect until permanent rules address this topic in terms of canopy allotment.

Rule II is to facilitate a smooth transition of testing procedures, standards, and guidelines in furtherance of public health and safety. The rule will temporarily license testing laboratories. This will allow the testing labs to exist and legally handle medical marijuana samples. Issuance of a temporary license does not guarantee that a facility will meet the requirements that will be established through the normal rulemaking process.

Rule III provides the means to issue a temporary chemical manufacturing endorsement to medical marijuana providers and medical marijuana-infused products providers. Due to the volatile nature of some chemical manufacturing, it is imperative for public safety for the department to know the registered premise location and by what means chemical manufacturing will occur. Issuance of a temporary chemical manufacturing endorsement does not guarantee that a facility will meet the requirements that will be established through the normal rulemaking process.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human

Services no later than 5:00 p.m. on August 2, 2017, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. These emergency rules are effective June 30, 2017.

4. The text of the emergency rules provides as follows:

NEW RULE I LEGAL PROTECTIONS -- ALLOWABLE AMOUNTS (1) A registered cardholder who has named a provider may possess up to 1 ounce of useable marijuana.

(2) A registered cardholder who has not named a provider may possess up to 4 mature plants, 12 seedlings, and 1 ounce of useable marijuana.

(3) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider.

AUTH: 50-46-344, MCA

IMP: 50-46-303, 50-46-319, 50-46-344, MCA

NEW RULE II TESTING LABORATORIES (1) Until such time as permanent rules for licensure are adopted the department shall determine if a temporary license will be issued to a laboratory after consideration of the application.

AUTH: 50-46-344, MCA

IMP: 50-46-303, 50-46-311, 50-46-312, 50-46-328, 50-46-329, 50-46-344, MCA

NEW RULE III CHEMICAL MANUFACTURING ENDORSEMENTS (1) Until such time as permanent rules for chemical manufacturing endorsements are adopted the department shall determine if a temporary endorsement will be issued to a marijuana provider or marijuana-infused products provider after consideration of the application.

AUTH: 50-46-344, MCA

IMP: 50-46-303, 50-46-312, 50-46-319, 50-46-328, 50-46-329, 50-46-344, MCA

5. The rationale for the emergency rules is as set forth in paragraph 1.

6. A standard rulemaking procedure will be undertaken prior to the expiration of these emergency rules.

7. Concerned persons are encouraged to submit their comments during the upcoming standard rulemaking process. If concerned persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to Kenneth Mordan at the address in 2 above.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified by electronic mail (e-mail) on June 21, 2017.

/s/ Flint Murfitt
Flint Murfitt, Attorney
Rule Reviewer

/s/ Laura Smith acting for
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State June 26, 2017.