

OFFICE OF THE GOVERNOR STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



MIKE COONEY
LT. GOVERNOR

TO: Montanans; all officers and agencies of the State of Montana
FROM: Governor Steve Bullock
DATE: June 18, 2020
RE: Directive implementing Executive Orders 2-2020 and 3-2020, modifying certain measures related to the provision and regulation of medical marijuana and updating Appendix B related to pools.

Executive Orders 2-2020 and 3-2020 declare that a state of emergency exists in Montana due to the global outbreak of COVID-19 Novel Coronavirus.

During a declared state of emergency, the Governor has authority to "suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster." Section 10-3-104(2)(a), MCA. Moreover, the Department of Public Health and Human Services ("Department" or "DPHHS") may "issue written orders for correction, destruction, or removal" of "conditions of public health importance." Section 50-1-202(1)(b), MCA. A condition of public health importance includes any "disease . . . that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community." Section 50-1-101(2), MCA.

On April 1, 2020, I issued a Directive implementing various measures for reducing the risk of COVID-19 exposure for Montana Medical Marijuana Program cardholders, including a moratorium on issuing new provider licenses and limiting DPHHS inspections to complaints of violations that would immediately impact public health, welfare, or safety. These measures were also consistent with the March 26, 2020 Stay At Home Directive then in effect.

Since those Directives were issued, Montana's success in improving and maintaining testing capability, preventing the healthcare system from being overwhelmed, and maintaining one of the lowest infection rates in the United States has allowed Montana to progress on a phased reopening. Per the May 19, 2020 Directive, Montana is now in Phase II of the reopening. Just as restrictions have been lessened for travel and other businesses, it is now appropriate to eliminate most of the restrictions contained in the April 1, 2020 Directive. The provision permitting curbside delivery of medical marijuana, however, remains necessary to respond to the emergency by allowing medically-vulnerable patients to minimize close contact with others and reduce their risk of infection.

Additionally, Senate Bill 265, signed May 3, 2019, requires the Department to "untether" patients and providers on or before July 1, 2020. To comply with this deadline, the Department needs additional discretion to approve new provider licenses and to conduct inspections.

As Montana has progressed through Phase II of the reopening plan, it has also become necessary to modify some of the guidelines for businesses that have now reopened. Accordingly, attached to this Directive is a superseding Appendix B that updates the May 19, 2020 Phase II Directive.