



Colorado Department
of Public Health
and Environment

OFFICE OF THE STATE REGISTRAR OF VITAL STATISTICS

MMR Policy Number 2012-07

Policy Title: Medical Marijuana Registry Procedure Regarding Subpoenas

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Purpose

This policy sets forth the procedures for responding to subpoenas related to the Medical Marijuana Registry.

Authority

Colorado Constitution, Article XVIII, Section 14 (3); C.R.S. § 25-1.5-106 (10, (15)); 5 C.C.R. 1006-2, Regulations 7 and 13; CDPHE Policy Manual, Part 9.4

Background

C.R.S. § 25-1.5-106, Paragraphs (3), (8) and (9), and Article XVIII, Section 14 (3) stipulate that the Medical Marijuana Registry is a confidential registry. 5 C.C.R. 1006-2, Regulation 13 also addresses subpoenas.

Policy

- I. Service and Distribution of Subpoenas.
 - A. Subpoenas are to be officially served on the Medical Marijuana Registry (MMR), and require personal service to the Department's Human Resources office in accordance with CDPHE EDO Policy Manual, Section 2, Part 9.4, Subpoenas.
 - a. There shall be no Waiver of Personal Service unless authorized by the MMR Director.
 - b. Faxed, mailed, or e-mailed subpoenas are not officially served.

- B. Upon receipt of a subpoena for the MMR, the Human Resources Office will scan the subpoena and distribute electronically to the:
 - a. MMR Director
 - b. MMR Fraud Prevention Office
 - c. CDPHE Legal and Regulatory Affairs
 - d. CO Attorney General's Office
 - e. Selected MMR Staff
- C. The MMR Fraud Prevention Office will review the served subpoena, assemble any required documentation, determine whether any fees are applicable under Paragraph III (below), and assign the most appropriate staff member to represent the MMR and/or testify in the court appearance.

II. Content of Subpoenas

- A. For an appropriate and timely response, the subpoena should contain the following information:
 - a. Name of the Defendant
 - b. Date of Birth
 - c. Last four digits of his/her Social Security Number
 - d. Date of Offense
 - e. If the subpoena seeks information pertaining to individuals for whom the Defendant was allegedly a Caregiver, a list of applicable Patients, their dates of birth, and the last four digits of their Social Security Number is required.
 - f. If the Defendant was allegedly the Caregiver for more than five Patients, or was the owner (etc.) of a Medical Marijuana Care Center, additional time may be required to respond to the subpoena. Coordination with the MMR Fraud Prevention office would be advisable prior to the issuance of the subpoena.
- B. For subpoenas from defense counsel, MMR staff will provide an invoice to defense counsel in accord with the charges described in Section III of this Policy within 48 hours. Responsive documents will be provided upon receipt of payment.

C. Testimony Pursuant to a Subpoena or Subpoena Duces Tecum.

- a. An MMR staff representative will provide courtroom testimony and/or responsive documents in accord with the subpoena or subpoena duces tecum when required, conditioned upon payment of the Subpoena fees, where applicable, as described in Section III of this Policy.

III. Subpoena Fees

A. In the case of a subpoena from Defense counsel, a copy of the scanned subpoena should also be transmitted to Department accounting for billing purposes

- a. The department shall require that a fee be paid to the department for any subpoena served
 - i. The initial subpoena fee of \$200 shall be paid at the time of service of any subpoena upon the department.
 1. The initial subpoena fee covers the first (4) hours of appearance or on-call or travel time to court.
 2. Beyond the first (4) hours, the subpoena fee shall be the actual hourly rate of the responding MMR Staff member/witness employee.
 - ii. Additional subpoena fees include charges for mileage, meals and lodging which shall be paid at state employee per diem rates.
 1. The fee for meals and mileage are charged at the rate prescribed for state officers and employees in Section 24-9-104, C.R.S. for each mile actually and necessarily traveled in going to and returning from the place named in the subpoena.
 2. If the responding MMR Staff member/witness employee is required to attend the place named in the subpoena for more than one day, or if the time of required attendance necessitates an overnight stay, State standard per diem room rates for the city visited will apply.
 3. An additional fee of \$0.25 will be assessed for each sheet of documentation required for production.

- a. The MMR will provide one copy of the required documentation to the court.
 - i. Additional copies may be made by the Clerk of Court, or another party at the discretion of the court.
 - b. MMR staff will review the served subpoena, and determine the extent of required documentation, and other billable factors, and provide an invoice for the Defense Counsel within 48 hours
 - i. MMR staff will transmit an invoice to the Defense Counsel by e-mail, fax, or mail as requested by Defense Counsel.
 - ii. Payment must be received by the Department at least 48 hours prior to the date and time of appearance.
 - iii. Responsive documents will be provided upon receipt of payment.
 - c. Payment is to be remitted to: Colorado Department of Public Health and Environment, HSVRD-HS-A125, Attn: Fiscal Officer, 4300 Cherry Creek Drive South, Denver, CO 80246-1530.
 - d. In the event the case is continued, subpoena fees will be continued to the new court date with the exception of any forfeited Department expenses, such as hotel reservation/cancellation fees.
 - e. In the event hotel reservation/cancellation fees are incurred, additional fees will be applied by the Department.
 - i. In the event the case is dismissed, or otherwise removed from the court docket due to entry or change of a plea, etc., subpoena fees will be refunded with the exception of expenses, such as hotel reservation/cancellation fees or, document reproduction fees incurred by the Department.
 - f. In the event MMR staff respond to the subpoena and are notified upon arrival that the case has been continued, dismissed, etc., all charges will still apply and no refunds will be issued.
- B. The subpoena fee shall not be applicable to any federal, state or local governmental agency, or to a patient who has been determined to be indigent under the department.