



COLORADO
Department of Revenue
Enforcement Division - Marijuana
1707 Cole Blvd., Suite 300
Lakewood, CO 80401

March 19, 2019

Sent via email

Pat Duddy
GPS transportation LLC
2186 S. Jason St.
Denver, CO 80223

Dear Mr. Duddy:

This letter is in response to your request for a Statement of Position pursuant to Rule M 104(A), 1 CCR 212-1, and Rule R 104(A), 1 CCR 212-2, submitted to the Marijuana Enforcement Division (“Division”) on January 19, 2019. Your request asked the following questions:

“1. The Colorado Medical Marijuana Code, subsection 44-11-406(1)(a) C.R.S., specifies that “a medical marijuana transporter license may be issued to a person to provide logistics, distribution, and storage of medical marijuana and medical marijuana-infused products.” As part of providing logistics and distribution of medical marijuana and medical marijuana-infused products pursuant to subsection 44-11-406(1)(a) C.R.S, can a licensed medical marijuana transporter collect a service fee for facilitating or brokering wholesale transactions of medical marijuana and/or medical marijuana-infused products between licensees, so long as the medical marijuana and/or medical marijuana-infused products subject to such wholesale transactions are then transported by the medical marijuana transporter between the transacting licensees?”

2. The Colorado Retail Marijuana Code, subsection 44-12-406(1)(a) C.R.S., specifies that “a retail marijuana transporter license may be issued to a person to provide logistics, distribution, and storage of retail marijuana and retail marijuana products.” As part of providing logistics and distribution of retail marijuana and retail marijuana products pursuant to subsection 44-12-406(1)(a) C.R.S., can a licensed retail marijuana transporter collect a service fee for facilitating or brokering wholesale transactions of retail marijuana and/or retail marijuana products between licensees, so long as the retail marijuana and/or retail marijuana products subject to such wholesale transactions are then transported by the retail marijuana transporter between the transacting licensees?”

Division Response:

A Medical or Retail Marijuana Transporter (“Licensed Transporter”) may charge a fee for the discrete service of transporting or storing marijuana, marijuana concentrate and marijuana products pursuant to the Medical Marijuana Code, 44-11-101 *et seq.*, C.R.S. (“Medical Code”), and the Retail Marijuana Code, sections 44-12-101 *et seq.*, C.R.S. (“Retail Code”). However, a Licensed Transporter is prohibited from facilitating or brokering sales of marijuana, marijuana concentrate and marijuana products.

A Licensed Transporter shall “only exercise those privileges granted to it by the state licensing authority.” Rule M 1601(A), 1 CCR 212-1, and Rule R 1601(A), 1 CCR 212-2. The Medical Code and Retail Code permit Licensed Transporters “to provide logistics, distribution, and storage of” marijuana

and marijuana products. §§ 44-11-406(1)(a) and 44-12-406(1)(a), C.R.S. Licensed Transporters may also “take transportation and delivery orders, receive, transport, temporarily store, and deliver” marijuana, marijuana concentrate and marijuana products. *See* Rules M 103 and 1601(C), 1 CCR 212-1, and Rules R 103 and R 1601(C), 1 CCR 212-2. Nothing in either the Medical Code, the Retail Code, or the rules promulgated thereto, prohibits a Licensed Transporter from charging a fee for the distinct services of transporting or storing marijuana, marijuana concentrate and marijuana products.

To the contrary, Rule M 1602(A), 1 CCR 212-1, and Rule R 1602(A), 1 CCR 212-2, expressly prohibit a Licensed Transporter from selling, giving away, buying, or receiving complimentary marijuana, marijuana concentrate, and marijuana products under any circumstance. *See also* Rule M 103, 1 CCR 212-1, and Rule R 103, 1 CCR 212-2.¹ Facilitating or brokering a sale falls within the meaning of “selling” marijuana, which is prohibited by a Licensed Transporter. Facilitating or brokering a sale, therefore, is not one of the privileges granted to Licensed Transporters by the State Licensing Authority.

Finally, only a person that is expressly authorized by the Medical Code, the Retail Code, and State Licensing Authority rules to sell marijuana, either directly to a consumer or patient or by transferring to another licensee, is permitted to do so.² Further, a licensee who exercises privileges that are not granted by the State Licensing Authority for that license, may be suspended, fined or revoked for acting outside the scope of their licensed privileges. *See* §§ 44-11-601 and -901, and 44-12-601 and -901, C.R.S.

Thank you for your inquiry.

Sincerely,



James Burack
Director
Marijuana Enforcement Division

¹ The Retail Code broadly defines the terms sale or sell:

"Sale" or "sell" includes to exchange, barter, or traffic in, to solicit or receive and order except through a licensee licensed under this article 12, to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any consideration promised or obtained directly or indirectly

§ 44-12-104(31), C.R.S. Although the Medical Code does not define “sale” or “sell,” the definition in the Retail Code should be instructive given the parallel types of licenses issued under the Medical Code and the Retail Code. *See also* § 2-4-203(d), C.R.S.

² The following licensing types are expressly authorized by the Medical Code, the Retail Code, and State Licensing Authority rules to sell marijuana, either directly to a consumer or patient or by transferring to another licensee: Medical Marijuana Center, Retail Marijuana Store, Optional Premise Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana-Infused Products Manufacturer, and Retail Marijuana Products Manufacturing Facility. *See, e.g.,* §§ 44-11-402(1)(a), -402(2)(b), -402(3)(a), 44-11-403(1), 44-12-402(1)(a), -402(1)(b), -402(2)(b), -403(1), -404(1)(b), Rules M and R 103, 1 CCR 212-1 and 2, and Rules M and R 401, 1 CCR 212-1 and 2, Rules M and R 501, 1 CCR 212-1 and 2, and Rules M and R 601, 1 CCR 212-1 and 2.