



# ADVISORY BULLETIN

September 4, 2020

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## Licensed Marijuana Operations Under COVID-19 Executive Orders

On May 18, 2020, Governor Whitmer issued [Executive Directive 2020-6](#) that directs each state agency to enforce workplace health and safety standards and take enforcement actions to ensure compliance. On July 17, 2020, Governor Whitmer issued [Executive Order 2020-153](#) setting forth additional requirements regarding masks. On August 4, 2020, Governor Whitmer signed [Executive Directive No. 2020-8](#) that directs state departments and agencies to prioritize enforcement of all COVID-19 Executive Orders. On September 3, 2020, the Governor signed [Executive Order 2020-175](#) that established safeguards to protect Michigan's workers from COVID-19, and [Executive Order 2020-176](#) that amended the [Michigan Safe Start Plan](#).

In accordance with Governor Whitmer's Executive Orders and Executive Directive, the Marijuana Regulatory Agency (MRA) is taking proactive steps to ensure marijuana businesses implement infection-control practices to protect their employees, medical marijuana patients, caregivers, and adult-use customers.

The following is effective immediately and is a continuation of previous COVID-19 related authorizations and restrictions the MRA has issued and will remain in effect until the Executive Orders and ED 2020-6 are terminated.

### Enforcement

The MRA will prioritize enforcement of the COVID-19 Executive Orders for health and safety purposes. The MRA also, will oversee compliance with the mask/face covering requirements and workplace health-and-safety standards established in the Executive Orders cited in this bulletin. Noncompliance with the COVID-19 Executive Orders is presumptive evidence of a public health hazard or imminent and substantial hazard to the public health and may subject the marijuana licensee to disciplinary actions/proceedings, including summary suspension.

This bulletin is intended to provide guidance and should not be interpreted as law as other issues may apply. Licensees are to familiarize themselves with all applicable emergency orders.

### All marijuana licensees are required to, at a minimum:

(a) Develop a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Health and Safety Administration ("OSHA") and available [here](#). Within two weeks of resuming in-person activities, a business's or operation's plan must be made readily available to employees, labor unions, and customers, whether via website, internal network, or by hard copy.



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(b) Designate one or more worksite supervisors to implement, monitor, and report on the COVID-19 control strategies developed under subsection (a). The supervisor must remain onsite at all times when employees are present on site. An on-site employee may be designated to perform the supervisory role.

(c) Provide COVID-19 training to employees that covers, at a minimum:

- Workplace infection-control practices.
- The proper use of personal protective equipment.
- Steps the employee must take to notify the business or operation of any symptoms of COVID-19 or a suspected or confirmed diagnosis of COVID-19.
- How to report unsafe working conditions.

(d) Provide any communication and training on COVID-19 infection control practices in the primary languages common in the employee population.

(e) Place posters in the languages common in the employee population that encourage staying home when sick, cough and sneeze etiquette, and proper hand hygiene practices.

(f) Conduct a daily entry self-screening protocol for all employees or contractors entering the workplace, including, at a minimum, a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19.

(g) Keep everyone on the worksite premises at least six feet from one another to the maximum extent possible, including through the use of ground markings, signs, and physical barriers, as appropriate to the worksite.

(h) Provide non-medical grade face coverings to their employees, with supplies of N95 masks and surgical masks reserved, for now, for health care professionals, first responders (e.g., police officers, fire fighters, paramedics), and other critical workers.

(i) Require face coverings to be worn when employees cannot consistently maintain six feet of separation from other individuals in the workplace, and consider face shields when employees cannot consistently maintain three feet of separation from other individuals in the workplace.

(j) Require face coverings in shared spaces, including during in-person meetings and in restrooms and hallways.

(k) Increase facility cleaning and disinfection to limit exposure to COVID-19, especially on high-touch surfaces (e.g., door handles), paying special attention to parts, products, and shared equipment (e.g., tools, machinery, vehicles).



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(l) Adopt protocols to clean and disinfect the facility in the event of a positive COVID-19 case in the workplace.

(m) Make cleaning supplies available to employees upon entry and at the worksite and provide time for employees to wash hands frequently or to use hand sanitizer.

(n) When an employee is identified with a confirmed case of COVID-19:

- Immediately notify the local public health department, and,
- Within 24 hours, notify any co-workers, contractors, or suppliers who may have come into contact with the person with a confirmed case of COVID-19.

(o) An employer will allow employees with a confirmed or suspected case of COVID-19 to return to the workplace only after they are no longer infectious according to the latest guidelines from the Centers for Disease Control and Prevention (“CDC”) and they are released from any quarantine or isolation by the local public health department.

(p) Follow Executive Order 2020-36, and any executive orders that follow it, that prohibit discharging, disciplining, or otherwise retaliating against employees who stay home or who leave work when they are at particular risk of infecting others with COVID-19.

(q) Establish a response plan for dealing with a confirmed infection in the workplace, including protocols for sending employees home and for temporary closures of all or part of the workplace to allow for deep cleaning.

(r) Restrict business-related travel for employees to essential travel only.

(s) Encourage employees to use personal protective equipment and hand sanitizer on public transportation.

(t) Promote remote work to the fullest extent possible.

(u) Adopt any additional infection-control measures that are reasonable in light of the work performed at the worksite and the rate of infection in the surrounding community.

Employers must maintain a record of the requirements set forth in Sections (c), (f), and (n) and provide the records to the MRA upon request.

**Note: Marijuana businesses should follow their** standard operating procedures for cleaning and sanitizing surfaces, including product work surfaces, utensils and equipment. There is a list of EPA-registered “disinfectant” products for COVID-19 on the Disinfectants for Use Against SARS-CoV-2 [list](#) that have qualified under EPA’s emerging viral pathogen program for use against SARS-CoV-2, the coronavirus that causes COVID-19. Consider increasing the frequency of surface cleaning. More preventative measures from the CDC can be found [here](#).



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## **Additional Requirements:**

The following rules about face coverings must be followed:

1) Any individual who leaves their home or place of residence must wear a face covering over their nose and mouth:

- (a) When in any indoor public space;
- (b) When outdoors and unable to consistently maintain a distance of six feet or more from individuals who are not members of their household; and
- (c) When waiting for or riding on public transportation, while in a taxi or ride-sharing vehicle, or when using a private car service as a means of hired transportation.

2) Although a face covering is strongly encouraged even for individuals not required to wear one, the requirement to wear a face covering does not apply to individuals who:

- (a) Are younger than five years old (and, per guidance from the Centers for Disease Control and Prevention (“CDC”), children under the age of two should not wear a mask);
- (b) Cannot medically tolerate a face covering;
- (c) Are eating or drinking while seated at a food service establishment;
- (d) Are exercising when wearing a face covering would interfere with the activity;
- (e) Are receiving a service for which temporary removal of the face covering is necessary;
- (f) Are entering a business or are receiving a service and are asked to temporarily remove a face covering for identification purposes;
- (g) Are communicating with someone who is deaf, deafblind, or hard of hearing and where the ability to see the mouth is essential to communication;
- (h) Are actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel, and where wearing a mask would seriously interfere in the performance of their public safety responsibilities;
- (i) Are at a polling place for purposes of voting in an election;



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(j) Are officiating at a religious service; or

(k) Are giving a speech for broadcast or to an audience, provided that the audience is at least six feet away from the speaker.

3) To protect workers, shoppers, and the community, no business, government office, or operation that is open to the public may provide service to a customer or allow a customer to enter its premises, unless the customer is wearing a face covering as required by this order.

(a) Businesses that are open to the public must post signs at entrance(s) instructing customers of their legal obligation to wear a face covering while inside. The Michigan Department of Labor and Economic Opportunity may, in its discretion, require such businesses to post signs developed and made available by the Department, or conforming to requirements established by the Department.

(b) A department or agency that learns that a licensee is in violation of this section will consider whether the public health, safety or welfare requires summary, temporary suspension of the business's license to operate (including but not limited to a liquor license) under section 92 of the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.292(2).

(c) A business may not assume that someone who enters the business without a face covering falls in one of the exceptions specified in section 2 of this order, including the exception for individuals who cannot medically tolerate a face covering. A business may, however, accept a customer's verbal representation that they are not wearing a face covering because they fall within a specified exception.

The protections against discrimination in the Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 et seq. and any other protections against discrimination in Michigan law, apply in full force to individuals who wear a face covering under the executive orders.

Nothing in this bulletin shall be taken to abridge protections guaranteed by the state or federal constitution under these emergency circumstances,

## **Requirements for Growers/Marijuana Growers**

In addition to the requirements listed above, Growers/Marijuana Growers must:

- Stop all non-essential in-person visits, including tours.
- Reduce congestion in common spaces wherever practicable.



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- Reduce number of employees in the facility at the same time by rotating shift schedules.
- Stagger meal and break times, as well as start times at each entrance.
- Develop and implement procedures to reduce personal contact during deliveries.
- Develop and implement procedures to limit the sharing of tools and equipment.

In addition to the requirements listed above, outdoor Growers/Marijuana Growers must:

- Prohibit gatherings of any size in which people cannot maintain six feet of distance from one another.
- Provide and require the use of personal protective equipment such as gloves, goggles, face shields, and face coverings as appropriate for the activity being performed.
- Adopt protocols to limit the sharing of tools and equipment to the maximum extent possible and to ensure frequent and thorough cleaning and disinfection of tools, equipment, and frequently touched surfaces.

## **Requirements for Processors/Marijuana Processors**

In addition to the requirements listed above, Processors/Marijuana Processors must:

- Create dedicated entry point(s) for the daily screening as outlined above.
- Ensure physical barriers are in place to prevent anyone from bypassing the screening.
- Suspend all non-essential in-person visits, including tours.
- Train employees on, at minimum:
  - Routes by which the virus causing COVID-19 is transmitted from person to person.
  - Distance by which the virus can travel in the air, as well as the time it remains viable in the air and on environmental surfaces.
  - The use of personal protective equipment, including the proper steps for putting it on and taking it off.
- Reduce congestion in common spaces wherever practicable.



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- Implement rotational shift schedules where possible (e.g., increasing the number of shifts, alternating days or weeks) to reduce the number of employees in the facility at the same time.
- Stagger meal and break times, as well as start times at each entrance, where possible.
- Install temporary physical barriers, where practicable, between workstations and cafeteria tables.
- Create protocols for minimizing personal contact during deliveries.
- Adopt protocols to limit the sharing of tools and equipment.
- Ensure there are sufficient hand-washing or hand-sanitizing stations at the worksite to enable easy access by employees, and discontinue use of hand dryers.
- Notify processor/marijuana processor supervisors and potentially exposed individuals upon identification of a positive case of COVID-19 in the facility/establishment, as well as maintain a central log for symptomatic employees or employees who received a positive test for COVID-19.
- Send potentially exposed individuals home upon identification of a positive case of COVID-19 in the facility/establishment.
- Require employees to self-report to processor/marijuana processor supervisors as soon as possible after developing symptoms of COVID-19.
- Shut areas of the processing facility/establishment for cleaning and disinfection, as necessary, if an employee goes home because he or she is displaying symptoms of COVID-19.

## **Requirements for Provisioning Centers/Retailers**

As outlined in the Executive Orders, Provisioning Centers/Retailers in all regions can engage in retail activities with social distancing/facial covering restrictions.

In addition to the requirements listed above, Provisioning Centers/Retailers must:

- Create communications materials for customers (e.g. signs or pamphlets) to inform them of changes to Provisioning Center/Retailer practices and explain precautions being



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taken to prevent infection. At a minimum, material(s) should substantially conform to the information provided [here](#).

- Establish lines with markings for patrons to enable them to stand at least six feet apart from one another while waiting. Stores should also explore alternatives to lines, including by allowing customers to wait in their cars for a text message or phone call, to enable social distancing and to accommodate seniors and those with disabilities. Entry is to be regulated in accordance with the following restrictions:
  - Except in Regions 6 and 8, adhere to the following restrictions:
    - Stores of less than 50,000 square feet of customer floor space, Provisioning Centers/Retailers must limit the number of people in the store (including employees) to 25% of the total occupancy limits established by the State Fire Marshal or a local fire marshal.
    - Stores of more than 50,000 square feet of customer floor space, Provisioning Centers/Retailers must limit the number of customers in the store at one time (excluding employees) to 4 people per 1,000 square feet of customer floor space. Additionally, they must designate at least two hours per week of dedicated shopping time for vulnerable populations, which for purposes of this order are people over 60, pregnant women, and those with chronic conditions such as heart disease, diabetes, and lung disease.
- Post signs at store entrance(s) instructing customers of their legal obligation to wear a face covering when inside the store. At a minimum, signs should substantially conform to the information provided [here](#).
- Post signs at store entrance(s) informing customers not to enter if they are or have recently been sick. At a minimum, signs should substantially conform to the information provided [here](#).
- Design spaces and store activities in a manner that encourages employees and customers to maintain six feet of distance from one another.
- Install physical barriers at checkout or other service points that require interaction, including plexiglass barriers, tape markings, or tables, as appropriate.
- Establish an enhanced cleaning and sanitizing protocol for high-touch areas like restrooms, credit-card machines, keypads, counters, shopping carts, and other surfaces.
- Train employees on the following topics:





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- Appropriate cleaning procedures, including training cashiers on cleaning between customers
- How to manage symptomatic customers upon entry or in the store.
- Notify employees if the employer learns that an individual (including a customer or supplier) with a confirmed case of COVID-19 has visited the store.
- Limit staffing to the minimum number necessary to operate.

Licensed provisioning centers and retailers may continue to engage in sales through curbside service or home delivery and are encouraged to do so. For curbside service, customers may remain in their parked vehicle, in the parking lot of a licensed provisioning center or retailer. Customers may complete an order including payment for their product via the internet or they may place their order once parked at the provisioning center or retailer.

An employee from the licensed provisioning center or retailer is permitted to complete the sales transaction by interacting with the customer in the parking lot and recording the necessary information into the statewide monitoring system (Metrc). The employee must validate all customer information as required by the MMFLA, MRTMA, and Administrative Rules. Please note that curbside delivery is not currently prohibited by statute or administrative rule, so the MRA considers this an authorized activity for these licensees.

For home delivery, the MRA must approve the delivery procedure used by the designated licensed facility or adult-use establishment. For more information about home delivery requirements, please refer to this [bulletin](#).

## **Requirements for Secure Transporters/Marijuana Secure Transporters**

In addition to the above requirements a Secure Transporter/Marijuana Secure Transporter should consider:

- Avoid using the recirculated air option for the vehicle's ventilation during transport; use the vehicle's vents to bring in fresh outside air and/or lower the vehicle windows.

More preventative measures can be found at [FDA Best Practices for Pick-Up/Delivery Services During the COVID-19 Pandemic](#).

## **Requirements for Safety Compliance Facilities/Marijuana Safety Compliance Facilities**

In addition to the requirements listed above, Safety Compliance Facilities/Marijuana Safety Compliance Facilities (SCF) must:

- Assign dedicated entry point(s) into laboratory buildings.



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- Conduct a daily entry screening protocol for employees, contractors, suppliers, and any other individuals entering a worksite, including a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with, if possible, a temperature screening.
- Create protocols and/or checklists as necessary to conform to the facility's COVID-19 preparedness and response plan.
- Suspend all non-essential in-person visits, including tours.
- Establish and implement a plan for distributing face coverings.
- Limit the number of people per square feet of floor space permitted in a laboratory at one time.
- Close open workspaces, cafeterias, and conference rooms.
- As necessary, use tape on the floor to demarcate socially distanced workspaces and to create one-way traffic flow.
- Require all office and dry lab work to be conducted remotely.
- Minimize the use of shared laboratory equipment and shared laboratory tools and create protocols for disinfecting lab equipment and lab tools.
- Provide disinfecting supplies and require employees to wipe down their workstations at least twice daily.
- Implement an audit and compliance procedure to ensure that cleaning criteria are followed.
- Establish a clear reporting process for any symptomatic individual or any individual with a confirmed case of COVID-19, including the notification of laboratory leaders and the maintenance of a central log.
- Clean and disinfect the work site when an employee is sent home with symptoms or with a confirmed case of COVID-19.



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- Send any potentially exposed co-workers home if there is a positive case in the facility.
- Restrict all non-essential work travel, including in-person conference events.

In addition to the above requirements, SCF Field Samplers must:

- Avoid using the recirculated air option for the vehicle's ventilation during transport; use the vehicle's vents to bring in fresh outside air and/or lower the vehicle windows.
- Employ the use of personal protective equipment such as masks and gloves and Tyvek suits where applicable when on site at a facility. Samplers should also use sanitary technique when removing, storing, and disposing of these items.
- Limit the total number of daily sampling events by a given field sampling team. Consider staggering sampling teams or having teams dedicated to certain facilities to avoid potential cross-contamination.
- All field samplers should wash their hands thoroughly between facilities OR have alcohol-based hand-sanitizer readily available for use in the vehicle designated for sampling purposes.
- All vehicles designated for travel to and from sampling events should be thoroughly cleaned and disinfected at the end of each day or prior to next use.
- Be familiar with the COVID-19 precautionary measures implemented at each of the facility-types where sampling will take place.

## **Requirements for Designated Consumption Establishments (DCE)**

The MRA is currently accepting applications for Designated Consumption Establishments; please refer to the bulletin located [here](#).

## **Requirements for Temporary Marijuana Events**

The MRA is currently accepting applications for Temporary Marijuana Events; please refer to the bulletin located [here](#).



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More information on the MRA can be found at the agency website: [www.michigan.gov/MRA](http://www.michigan.gov/MRA). A complete copy of the Rules promulgated by the MRA can be found [here](#). Executive Orders issued by Governor Whitmer can be found [here](#).