STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-26

Ensuring Continuing Operations of the Medical Cannabis Program during the COVID-19 Peacetime Emergency

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. In Executive Order 20-01, I directed all state agencies to submit proposed orders and rules to protect and preserve public health and safety.

In Minnesota Statutes 2019, section 12.02, subdivision 1, the Minnesota Legislature recognized the "existing and increasing possibility of the occurrence of natural and other disasters of major size and destructiveness" and conferred upon the Governor the emergency and disaster powers provided in Chapter 12 to "ensure the preparations of this state will be adequate to deal with disasters," to "generally protect the public peace, health, and safety," and to "preserve the lives and property of the people of the state." Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 1, the Governor has general authority to control the State's emergency management as well as carry out the provisions of Minnesota's Emergency Management Act. Pursuant to subdivision 3 of that same section, the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of Minnesota Statutes 2019, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the pendency of a peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the State are suspended during the pendency of the emergency.

Medical cannabis provides therapeutic and palliative relief to many of Minnesota's most severely ill residents. Medical cannabis distribution facilities will continue to operate during this peacetime emergency. There are measures that will reduce the risks associated with COVID-19 to these people and to the staff who work in medical cannabis distribution facilities.

COVID-19 is particularly dangerous for people with serious underlying health conditions. To participate in Minnesota's Medical Cannabis Program, a patient must have at least one of the qualifying medical conditions identified by the Legislature and Commissioner of Health in Minnesota Statutes 2019, section 152.22, subdivision 14, and section 152.27, subdivision 2(b). These serious medical conditions put these patients at greater risk for serious health events, including serious health events related to COVID-19. Minnesota laws, however, require these patients or their caregivers to leave their homes to pick up their medical cannabis in person at a distribution facility. Additionally, under Minnesota law, before a caregiver can pick up medical cannabis on behalf of a patient, a patient's health care practitioner must certify that the patient has a disability and requires assistance in obtaining medical cannabis from a distribution facility. During the COVID-19 emergency, it is important for individuals with underlying health conditions to avoid leaving home as much as possible to lessen the likelihood of contracting or spreading COVID-19.

Under Minnesota Statutes 2019, section 152.27, subdivision 3, and section 152.30(b), patients in the Medical Cannabis Program are required to maintain regular appointments and recertification appointments with their health care practitioners. Recommended pandemic mitigation measures include delaying visits to medical providers for routine or administrative purposes to avoid contact with infected individuals and to lessen the burden on health care providers.

For these reasons, I order as follows:

1. In order to keep immunocompromised individuals at home and to lessen the burden on busy healthcare providers during the COVID-19 pandemic, medical cannabis patient enrollments that are scheduled to expire beginning March 31, 2020 through seven days after the end of the peacetime emergency declared in Executive Order 20-01 are extended to expire on August 1, 2020 or 60 days after the end of the peacetime emergency, whichever date is later. Patients are strongly encouraged to work with their providers to accomplish reenrollment sooner than the expiration date set forth in this Executive Order.

2. During the peacetime emergency declared in Executive Order 20-01, the Commissioner of Health may permit a health care practitioner to certify a patient's qualifying medical condition after a visit through videoconference, telephone, or other remote means, and the requirement that the certification be made only after an in-person visit under Minnesota Rules 2019, part 4770.4014, subpart 2.B.1, is waived and suspended. Certifying health care practitioners must still meet the applicable professional standards of care when certifying a patient's qualifying medical condition.

3. The Office of Medical Cannabis is authorized to register emergency temporary caregivers to assist registered patients in accessing medical cannabis for the duration of the peacetime emergency declared in Executive Order 20-01. For purposes of this Executive Order:

    a. A patient's diagnosis with a qualifying medical condition to obtain medical cannabis is presumed to satisfy the requirement in Minnesota Statutes 2019,

section 152.27, subdivision 4(a), that a patient's health care practitioner certify the need for assistance from a caregiver in obtaining medical cannabis due to a disability.

b. An emergency temporary caregiver's participation must be voluntary.

c. The criminal background check requirement in Minnesota Statutes 2019, section 152.27, subdivision 4(b), is suspended for emergency temporary caregivers.

d. The requirement under Minnesota Statutes 2019, section 152.27, subdivision 4(a)(3), that caregivers serve only one patient is suspended.

4. For the duration of the peacetime emergency declared in Executive Order 20-01, medical cannabis manufacturers registered with the State under Minnesota Statutes 2019, Section 152.25, subdivision 1, may use curbside pick up to dispense to patients or their registered caregivers. For the purposes of this Executive Order, and notwithstanding the requirements in Minnesota Rules 2019, part 4770.0700, subpart 2, these manufacturers may dispense medical cannabis outside of restricted access areas after verifying a patient's identity and enrollment in the State's Medical Cannabis Registry, provided that:

   a. The manufacturer and the patient or patient's caregiver exchange the cash and medical cannabis in a designated zone that is as close to the facility's front door as feasible.

   b. The manufacturer does not store medical cannabis outside the facility's restricted access areas. Distribution site staff may transport medical cannabis from the restricted access areas only when they have confirmed that the patient or patient's registered caregiver is in the designated zone for curbside pickup.

   c. For purposes of this Executive Order, the requirement under Minnesota Rules 2019, part 4770.1750, subpart 2, and Minnesota Statutes 2019, section 152.29, subdivision 3(c)(4), that the dispensing pharmacist consult with the patient or caregiver before the transaction, may be satisfied and occur by videoconference, telephone, or other remote means, and in a manner that protects patient privacy.

   d. The manufacturer must immediately enter the transaction into the State's Medical Cannabis Registry IT Database.

   e. Staff who dispense the medical cannabis to a patient or patient's caregiver outside the distribution facility must take the cash into the facility immediately after each transaction.

f. Security must be present for all curbside transactions. Security must include a closed-circuit television ("CCTV") surveillance camera that is able to visually record transactions in the designated curbside zone.

5. Because compliance with Minnesota Statutes 2019, Chapter 152, and Minnesota Rules 2019, part 4770, will prevent, hinder, or delay necessary action under this Executive Order, those provisions, and any other provisions in Minnesota Statutes or Rules that are inconsistent with this Executive Order, are waived and suspended during the peacetime emergency declared in Executive Order 20-01.

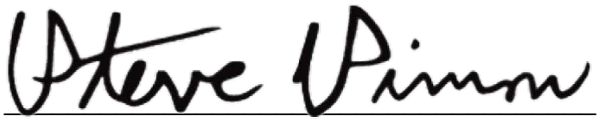
Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on March 31, 2020.

Tim Walz
Governor

Filed According to Law:



Steve Simon
Secretary of State

Approved by the Executive Council on March 31, 2020:

Alice Roberts-Davis
Secretary, Executive Council

Filed March 31, 2020
Office of the Minnesota
Secretary of State,
Steve Simon