



Pennsylvania Compensation Rating Bureau

30 South 17th Street • Suite 1500
Philadelphia, PA 19103-4007
(215)568-2371 • FAX (215)564-4328 • www.pcrb.com

March 19, 2020

PCRB CIRCULAR NO. P1736

To All Members of the PCRB:

Re: **APPROVAL OF PCRB FILING NO. 307**
CLASSIFICATION PROCEDURAL REVISION:
CLASSIFICATION APPLICABLE TO MEDICAL MARIJUANA DISPENSARIES
BASIC MANUAL – SECTION 2
EFFECTIVE APRIL 1, 2020

The Pennsylvania Insurance Commissioner has approved the PCRB's proposal to revise the classification procedure for medical marijuana dispensaries for policies effective on or after 12:01 a.m., April 1, 2020. The effective date of this change is concurrent with the effective date of the PCRB's annual comprehensive loss cost revision, which was approved by the Commissioner effective for April 1, 2020, refer to PCRB Circular 1733. This coordination will consolidate necessary changes that our members and other constituents must make to policies, forms and systems.

The Pennsylvania Workers' Compensation Manual of Rules, Classifications and Rating Values for Workers' Compensation and for Employers Liability Insurance (Basic Manual) presently classifies payroll developed in the operation of a medical marijuana dispensary to Code 928, Retail Store, N.O.C. Payroll developed in the operation of a marijuana growing facility is classified to Code 0011, Flower Raising. Filing No. 307 proposed that medical marijuana dispensaries be reclassified from Code 928 to Code 927, Pharmacy, for policies with effective dates on or after April 1, 2020.

The Pennsylvania Medical Marijuana Act (2016 Act 16, P.L. 84, No. 16) was signed into law by Pennsylvania Governor Tom Wolf on April 17, 2016 and established Pennsylvania's medical marijuana program. In 2017, following analysis at that time, the PCRB's classification staff began advising constituents that the classification assignment of payroll developed in dispensaries would be Code 928 that Code 0011 would apply to payroll developed in the operation of growing facilities. Recognizing that this was a nascent industry with no statistical data for the PCRB to analyze or evaluate in determination of this assignment, it would likely be subject to further PCRB review, as warranted and as additional information and data emerged regarding these business operations.

The PCRB began additional analysis in December, 2019 on this matter. Further precipitating this was recent correspondence received from the Pennsylvania Department of Labor and Industry (L & I) which questioned the assignment of Code 928 for medical marijuana dispensaries. The request for review by L & I, led to important insights into the dispensary operations and processes. PCRB was provided with detailed information from PA's Department of Health (DOH), clarifying the dispensary operations. The DOH representative advised that the DOH considers medical marijuana dispensaries to be dispensing pharmacies. The DOH representative also expanded upon the role of the pharmacist (or other medical professional) that all Pennsylvania dispensaries are required by statute to have on-site during operating hours. The pharmacist will perform an extensive patient evaluation review for all first time customers. This includes but is not necessarily limited to: asking the patient about their

symptoms, what medications they are currently taking, and what manner of relief they are seeking. The pharmacist may then make recommendations to the patient on which product to buy and advise them on how that product may interact with medications they are already taking. The pharmacist has access to the patient's medical records during this process.

With the benefit of these additional details and clarification provided by the DOH, staff reconsidered the classification assignment of medical marijuana dispensaries. Staff recognizes that many of the operational characteristics of these businesses – particularly the degree of DOH regulation and oversight along with the presence and duties of on-site pharmacists (or other medical professionals) - are not typical to employers classified to Code 928. DOH's view of these businesses as dispensing pharmacies was also compelling. Accordingly, staff concluded that these businesses are reasonably analogous to "traditional" pharmacies and therefore should be appropriately classified to Code 927.

There are eight identified medical marijuana dispensary employer files in the PCRB's database. Of the eight files, two dispensaries are presently classified to Code 927 and six are presently classified to Code 928. The reclassification of those dispensaries presently classified to Code 928, moving from Code 928 to Code 927, will result in a rating value decrease of 52.1% on the basis of the approved April 1, 2020 PCRB loss costs (\$0.57 for Code 927 and \$1.19 for Code 928). Staff notes that Code 927 is designated 'all employees, including office' and as such does not permit a division of payroll with either standard exception classification (i.e., Code 953, Office, and Code 951, Salesperson – Outside). The PCRB will notify employers impacted by this change and those employers' workers' compensation insurers by individual notice letter.

There is no revision to the current procedure of classifying medical marijuana growing facilities to Code 0011.

Please refer to Filing No. 307, available on the PCRB's website (<http://www.pcrb.com>) under the "Filings" tab, for additional details and information on this revision. Please contact Robert Ferrante, Senior Classification Analyst – Technical Services, at (215) 320-4584 or at rferrante@pcrb.com for any questions regarding this Circular. The changes associated with this Circular are noted on the Basic Manual pages provided below, the Basic Manual will be updated on the PCRB's website at a later date.

William V. Taylor
President

**PENNSYLVANIA WORKERS COMPENSATION MANUAL OF RULES, CLASSIFICATIONS AND
RATING VALUES FOR WORKERS COMPENSATION AND FOR EMPLOYERS LIABILITY
INSURANCE**

Approved Effective April 1, 2020

INFORMATION PAGE *remains unchanged.*

PREFACE *remains unchanged.*

SECTION 1 *remains unchanged.*

SECTION 2

CLASSIFICATIONS

927 PHARMACY – ALL EMPLOYEES INCLUDING OFFICE

UNDERWRITING GUIDE

Mail Order Pharmacy

[Medical Marijuana Dispensary](#)

Pharmacy - Retail Or Internet Or Mail Order

ACTION: Revision to add verbiage for Medical Marijuana Dispensaries to code 927

RATIONALE: The operations contemplated by an employer operating a Medical Marijuana Dispensary are more closely aligned with the operations of a Pharmacy.

928 RETAIL STORE, N.O.C.

UNDERWRITING GUIDE

Antique Store, Other Than Furniture - Retail

Army/Navy Store - Retail

Art Gallery

Arts And Crafts Store - Retail

Barber Or Beauty Parlor Supply House – That Operates In A Retail Manner

Bookstore

Camera Or Photographic Supply Store - Retail

Candy Store

Clothing Store (Used) - Retail

Computer Store - Retail

Cosmetics Store

Dog Groomer - No Kennel Facilities

Dry Cleaning - Self-Service Only

Film Exchange

Fireworks Store - Retail

Garden Center - Retail

Garden Supplies Store - Retail

Golf Course - Pro Shop - Operated By Specialist Contractor

Goodwill Stores

Greeting Card Shop

Gun Shop - Retail

Habitat For Humanity ReStores

Handbag (Women's) Store

Hobby Shop - Retail

Ice Cream, Store Or Street Vending - Retail

Kitchenware (e.g., Utensils, Cutlery and Dinnerware) Store – Retail

Laundry - Coin-Operated - Self-Service

Laundry Collector Without Laundry (Excluding Contract Hauler)

Luggage Store – Retail

Mailing And Shipping Store – By Independent Contractor

~~Medical Marijuana Dispensary~~

Medical Supply Store - Retail
Motion Pictures, Development Of Films, No Other Operations
Musical Instrument Rental - Except Pianos And Organs
News Agent Or Magazine Distributor - Retail
Office Machine Store - Retail
Office Supply Store - Retail
Orthopedic, Prosthetic, And Surgical Appliances And Supply Store - Retail
Pawn Shop
Personal Computer Store - Retail
Pet Grooming - By Specialist Contractor
Pet Shop - Retail
Record Dealer, Vinyl- Retail
Photographer
Photographic Equipment And Supplies Store - Retail
Photographic Studio, Not Producing Motion Pictures, And Outside Work
Pro Shop - Golf Course - Operated By Specialist Contractor
Receiving Station - Dry Cleaner - No Dry Cleaning At Same Or Contiguous Location
Retail Store, N.O.C.
Sporting Goods Store - Retail
Stationery Store - Retail
Store, Retail, N.O.C.
Telephone (Including Cell or Mobile) Store – Retail
Thrift Store (Used Clothing, Furniture, Household Items) - Retail
Tobacco Products Store - Retail
Trophy Store (Including Assembly And Nameplate Inscribing)
Used Clothing Store - Retail
Video Tape Or DVD Store - Rental Or Sale
Vitamin Store - Retail
Wallpaper Store - Retail
Water Ice Store
Wine Store - Retail - Operated By A Winery
Women's Handbag Store

ACTION:

Revision to remove verbiage for Medical Marijuana Dispensaries from code 928

RATIONALE:

The operations contemplated by an employer operating a Medical Marijuana Dispensary are more closely aligned with the operations of a Pharmacy.

SECTION 3 *remains unchanged.*

SECTION 4 *remains unchanged.*

SECTION 5 *remains unchanged.*

SECTION 6 *remains unchanged.*

PENNSYLVANIA WORKERS COMPENSATION MANUAL

Approved Effective: April 1, 2020

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RATING VALUES *through DEFINITIONS* *remains unchanged.*

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