



## Delivery Licensing: Reconciling MCRSA and Prop 64

### Background

Chief among the discrepancies between these regimes, the Medical Cannabis Regulation and Safety Act (MCRSA) allows local governments to ban delivery within their jurisdiction while Proposition 64 does not. Meanwhile, after significant industry input in 2016 the Bureau of Medical Cannabis Regulation (BMCR) is considering adding a medical delivery licensing category. This lack of harmony between systems leaves local governments in a murky situation.

#### **MCRSA Delivery Rules:**

- Provides that delivery can only be made by a licensed dispensary in a jurisdiction that does not prohibit delivery.
- Allows local governments to tax delivery transactions.
- Allows local governments to prevent carriage of medical cannabis or medical cannabis products on public roads.

#### **Prop 64 Delivery Rules:**

- Allows licensed retailers, microbusinesses, or nonprofits to make deliveries.
- Prohibits local governments from preventing delivery of marijuana or marijuana products.

### Policy Issues Arising from Discrepancies Between MSRCA and Prop 64

**Complicates Enforcement.** Different rules for medical and recreational marijuana delivery will make enforcement for difficult for state and local agencies and complicate compliance for the industry. The majority of medical and recreational marijuana and marijuana products will be identical or substantially similar, particularly during the first few years of licensing. Prohibiting medical delivery, when voters approved delivery of identical products, does not enhance public safety goals and will be a major disincentive for the industry to offer medical products in jurisdictions with medical delivery bans.

**Hurts Patients.** Delivery services are key for bridging access shortfalls in jurisdictions with few dispensaries. Additionally, delivery services can be necessary for ensuring access for medical marijuana patients, of whom over 15 percent of which are estimated to have a condition which either limits their mobility or their ability to drive or leave the house.

**Encourages the Illegal Market.** One of the primary drivers of the illegal marijuana market is insufficient access to legal points of sale and/or inconvenience in purchasing legal marijuana. In many cities this has translated to hundreds of unlicensed “pop-up” medical marijuana dispensaries or delivery services which are unregulated and not subject to unified rules on testing and operation. Allowing for regulated delivery services will help state and local government provide a greater number of legal access points, reducing demand from illegal market operators and driving down crime.

**Creates Oversaturation of Dispensaries.** MCRSA's requirement of delivery through dispensary storefronts helps encourage overcrowding of dispensaries to ensure sufficient access. This leads to a natural conflict between communities which don't want dispensaries on every block and cannabis patients who have shown ample willingness to turn to the illegal market if access levels are not sufficient. Lack of delivery services in Denver is widely considered to be one of the driving factors in the city having over 400 dispensaries.

## Policy Recommendations

**Allow for Medical Delivery Throughout California.** Allowing for more medical delivery will facilitate compliance in both the medical and recreational regulatory regimes. With effective regulation, technology platforms for delivery and seed-to-sale tracking can be utilized to offer delivery services without any loss in accountability or product traceability. Every transaction, product, and delivery can be tracked and accounted for to preserve public safety and public health.

**Create a Separate Delivery Licensing Category.** There are several businesses that offer only delivery or contract with dispensaries to deliver products. Creating a delivery license or sub-license would be consistent with existing business practices, and provide more transparency and traceability for regulators. Additionally, it would allow cities to provide sufficient access to medical patients while keeping store front dispensary density at reasonable levels.

**Establish and Require Adherence to Delivery Best Practices.** To meet the state's public protection goals, delivery best practices should be established. Leading delivery businesses have already implemented rules like GPS tracking for drivers; maintaining a central delivery headquarters that can be inspected; secure in-vehicle storage requirements; real-time inventory tracking for all delivery vehicles; and regular vehicle inspections. Correspondingly, the rules crafted should be conservatively tailored to ensure that undue costs aren't placed on nascent licensees and to ensure that operators exit the illegal market.