

Issued: March 23, 2020
Amended: April 7, 2020
Effective: April 7, 2020 at 12:00 P.M.

Case No. 2020AM-0001 (Amended)

Marijuana Establishments
Medical Marijuana Treatment Centers
Colocated Marijuana Operations

**AMENDED CEASE AND DESIST ORDER
M.G.L. c. 94I, M.G.L., c. 94G, and
935 CMR 500.350: Cease and Desist Order and Summary Suspension Order.**

The Cannabis Control Commission (Commission), acting through its Executive Director, issues this amended cease and desist order (Amended Cease and Desist Order) in compliance with Governor Charles D. Baker’s *Order Assuring Continued Operations of Essential Services in the Commonwealth, Closing Certain Workplaces, and Prohibiting Gatherings of More than 10 People* issued on March 23, 2020, a.k.a. Covid-19 Order No. 13 (Essential Services Order), which was extended March 31, 2020 a.k.a. Covid-19 Order No. 21 (Extended Essential Services Order) and in accordance with M.G.L. 94I, M.G.L. c. 94G, and 935 CMR 500.350: Cease and Desist Order and Summary Suspension Order. Under the Extended Essential Services Order, all licensed Marijuana Establishments (MEs) and Colocated Marijuana Operations (CMOs) conducting non-essential activities, including adult-use retail, (each, the “Respondent” and collectively, the “Respondents”), shall continue to close their physical workplaces and facilities (Brick-and-Mortar Premises) to workers, customers, and shall not re-open to workers, customers, or the public before May 4, 2020 after 12:00 P.M, except that CMOs may continue all essential activities related to the provision of medical marijuana to registered qualifying patients and caregivers.

A. Factual Findings

In making its determination, the Commission, acting through its Executive Director, finds as follows:

- (1) As part of the Extended Essential Services Order, adult-use MEs and CMOs conducting adult-use retail are considered to be non-essential and therefore, are subject to this Amended Cease and Desist Order.
- (2) The Extended Essential Services Order designates workers in licensed medical marijuana retailer facilities as essential.



- (3) Workers necessary for the cultivation and manufacturing of finished marijuana and marijuana products needed to maintain the continuity of manufacturing functions as it pertains to medical marijuana supply chain are also considered to be essential. See Commonwealth of Massachusetts Executive Office of Housing and Economic Development, COVID-19 Essential Services FAQs, Critical Manufacturing: and COVID-19 Essential Services List of Extended Essential Services Order (Critical Manufacturing).
- (4) The Commission anticipates increased patient demand based on new patient applications and requests from certifying healthcare providers seeking to provide telehealth services.
- (5) From March 23, 2020 to April 1, 2020, the Commission received 1,308 new patient registrations, representing a 158% increase in new patient registrations from the prior 10-day period. Additionally, the Commission granted approximately 30 waivers to certifying healthcare providers to allow telehealth consultations for initial patient certifications.
- (6) Non-located MEs, including “stand-alone” MEs with no affiliated CMO, currently possess finished marijuana and marijuana products that may be necessary to support the medical marijuana supply chain.
 - a. According to a review of the Commission’s seed-to-sale tracking system of record, adult-use inventory accounts for approximately 66% of items identified as finished marijuana flower, 40% of concentrate marijuana products, and 63% of marijuana infused products.
- (7) Transfer of marijuana and marijuana products between MEs and MTCs is a common business practice within the industry and would otherwise be permitted subject to compliance with 935 CMR 502.105(8)(b).
- (8) Pursuant to 935 CMR 501.105(8)(j)(1.), an MTC may acquire marijuana from or distribute marijuana to another MTC or ME in the event of “a documented emergency” regardless whether such acquisitions or distributions exceed 45% of an MTC’s annual inventory.
- (9) The COVID-19 pandemic and the resulting strain on the medical supply chain constitutes a documented emergency for purposes of 935 CMR 501.105(8)(j)(1.) and permitting the transfer of existing, finished adult-use marijuana and marijuana products, upon attestation of supply need by a CMO and/or MTC, is necessary to avoid harmful disruptions to the medical marijuana supply chain.
- (10) Independent testing labs (ITLs) providing required testing necessary to support the medical marijuana supply chain are not subject to this Amended Cease and Desist



Order. ITLs may accept testing samples of adult-use marijuana and marijuana products subject to an attestation by the licensee, in a form and manner determined by the Commission, that any marijuana or marijuana product associated with the testing sample will be designated in the seed-to-sale system of record for medical use.

B. Order

The Commission, acting through its Executive Director, hereby ORDERS as follows:

1. Adult-use MEs and CMOs conducting adult-use retail shall cease all adult-use operations at their licensed premises and shall continue to close their Brick-and-Mortar Premises to workers, customers, and shall not re-open to workers, customers, or the public before May 4, 2020 at 12:00 P.M. or as otherwise ordered by the Commission. If, however, the Governor extends the Essential Services Order, this Amended Cease and Desist Order shall be automatically extended to be consistent with the effective date of that order.
2. Notwithstanding the prior paragraph, adult-use ME and CMOs conducting adult-use retail, cultivation, and product manufacturing, may complete wholesale transfers of adult-use marijuana and marijuana products to a CMO and/or MTC where necessary to maintain the continuity of manufacturing functions as it pertains to medical marijuana supply chain pursuant to the following requirements:
 - a. The CMO or MTC receiving a transfer order must file an attestation regarding the medical supply need that will be addressed by the wholesale transfer of product in a form and manner determined by the Commission.
 - b. On receipt of the transferred product, a CMO or MTC must immediately transfer such product to their medical license.
 - c. A CMO or MTC in receipt of transferred product must ensure that the transferred marijuana and/or marijuana products remain reserved for medical use until dispensed or destroyed.
 - d. A CMO may transfer wholesale product to a non-located MTC subject to compliance with 935 CMR 502.105(8)(b) and 935 CMR 501.105(8)(a), except that any transferred product shall not be counted toward cumulative distribution and acquisition of marijuana for purposes of 935 CMR 501.105(8)(j)(2.) and (3.).



- e. Prior to dispensing transferred marijuana and marijuana products, an MTC must ensure compliance with the Commission's labeling and packaging regulations, 935 CMR 501.105(5) and (6).
3. To the extent that under the Extended Essential Services Order farm and support service workers are deemed essential, Adult-use MEs and CMOs operating licensed adult-use cultivation and product manufacturing facilities may designate necessary staff to maintain their cultivation and product manufacturing operations. Essential cultivation operations include feeding and irrigation of existing plantings, undertaking pre-existing integrated pest management and preventative maintenance programs, and harvesting, drying, curing, and storing of existing plants. To the extent necessary to support the medical marijuana supply chain, essential cultivation operations shall also include making new cultivation plantings, transferring unfinished harvested marijuana, or further processing of harvested marijuana into finished products.
4. Adult-use MEs and CMOs conducting adult-use retail shall take all necessary measures to adequately secure the physical premises of MEs. To the extent that under the Extended Essential Services Order security staff to maintain building access control and security measures are deemed essential, Adult-use MEs and CMOs conducting adult-use retail may designate necessary staff to maintain building access control and physical security measures. Adult-use MEs and CMOs conducting adult-use retail must provide immediate notification to the Commission and municipalities of any inability to provide physical security to their operations pursuant to 935 CMR 500.110(9) and 935 CMR 501.110(9).
5. To the extent feasible, Adult-use MEs and CMOs conducting adult-use retail shall comply with any applicable requirements of 935 CMR 500.350 and 935 CMR 501.350, including, but not limited to, the posting requirements.
6. Respondents shall report to the Commission any instance of an employee work-related illness resulting in a confirmed COVID-19 case. Reporting shall be in a form and manner determined by the commission and submitted to the Commission immediately after obtaining actual knowledge of a confirmed case, but in no event later than twenty-four (24) hours. Respondent shall not share personal identifying information about the employee with the Commission.
7. Respondents shall comply with any applicable orders issued by state or local authorities, including all executive orders issued by the Governor pursuant to Chapter 639 of the Acts of 1950 and by the Commissioner of the Department of Public Health (DPH) pursuant to G.L. c. 17, § 2A.



8. Respondents shall monitor and comply with all bulletins and guidelines issued by the Governor, the Commission, DPH, local authorities, and the Centers for Disease Control and Prevention, including those establishing social distancing, environmental cleaning, and disinfection measures.
9. Respondents holding a valid license will continued to be considered licensed and to be subject to all applicable requirements for the maintenance of their licenses, including renewal.

Notice is provided pursuant to 801 CMR 1.02(6)(a)(1)(b) that this Amended Cease and Desist Order shall take effect on, April 7, 2020, at 12:00 P.M. Failure to comply with the above conditions may result in disciplinary action against Respondent up to and including suspension and/or revocation of licensure and any additional civil and criminal penalties established under the Essential Service Order and any extensions to that order.

Nothing herein should be construed as precluding or limiting the Commission's authority to take additional administrative action to protect the public health, safety, and welfare.

The Amended Cease and Desist Order shall remain in effect until Tuesday, May 4, 2020 at 12:00 P.M. or the date the Commission rescinds or amends the order, whichever occurs first. If, however, the Governor extends the Essential Services Order, this Amended Cease and Desist Order shall be automatically extended to be consistent with the effective date of that order. The Commission may amend or modify this order as applicable to one particular licensee, a group of licensees, or all Commission licensees.

Respondent may request a hearing within twenty-one (21) calendar days after the effective date of this Amended Cease and Desist Order by making such request electronically to Yaw.Gyebi@CCCMass.com. Respondent may seek representation of counsel at any such hearing. Any request for a hearing must comply with 935 CMR 500.350(5)(a) and 935 CMR 500.500(4). The Commission may consolidate multiple hearing requests into a single group hearing based on common issues of fact and law.

Questions about the Amended Cease and Desist Order may be directed in writing to the above address, by phone (774-415-0200) on Monday – Friday from 9:00 A.M. – 5:00 P.M. or email at Commission@cccmass.com.

ME or MTC agents who believe they are working under unsafe conditions or are not essential and being told to come into work may file a complaint with the Commission at Commission@cccmass.com containing the subject line "COVID-19 Agent Complaint." Complaints may be submitted anonymously. To the extent that records are sought through a public records request or other compulsory legal process, the Commission will seek to protect the complainant's anonymity to the extent allowed by law. All Commission licensees and agents



must comply with all applicable employment laws including laws prohibiting unlawful retaliation.

Signed this 7th day of April 2020:

Commonwealth of Massachusetts Cannabis Control Commission

A handwritten signature in black ink that reads "Shawn Collins". The signature is written in a cursive style with a long horizontal stroke at the end.

Shawn Collins, Executive Director

