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## MEMORANDUM

**TO:** CANNABIS REGULATORY COMMISSION BOARD

**FROM:** JEFF BROWN, EXECUTIVE DIRECTOR

**SUBJECT:** COLUMBIA CARE NEW JERSEY LLC PROPOSAL FOR ENFORCEMENT  
(NOV 04 2023)

**DATE:** [SEPTEMBER 8, 2023](#)

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**BACKGROUND:** On July 14, 2023, a Notice of Violation was issued to Columbia Care New Jersey LLC, evidencing one violation related to the entity's Labor Peace Agreement for its Cultivation facility at 51 West Park Avenue in Vineland, New Jersey. The Compliance Unit within the Office of Compliance and Investigations for the New Jersey Cannabis Regulatory Commission ("NJ-CRC") became aware of this violation on July 10, 2023, during its preparation of materials related to Columbia Care New Jersey LLC's request to renew the Class 1 Cultivation license associated with that address. At that time, an investigation was conducted, and the NJ-CRC confirmed that Columbia Care New Jersey LLC did not hold a valid and executed Labor Peace Agreement with a bona fide labor organization. The matter was then presented to Counsel's Office for consideration. In coordination with Counsel's Office and the Office of the Executive Director, the Notice of Violation was issued on July 14, 2023. On July 16, 2023, Columbia Care New Jersey LLC responded to the Notice of Violation.

**AUTHORITY:**

**N.J.A.C. 17:30-9.4(g)**

(g) The maintenance of a labor peace agreement with a bona fide labor organization by a licensed cannabis business, including an expanded ATC, shall be an ongoing material condition of the cannabis business's license.

**N.J.A.C. 17:30-9.4(h)**

(h) Where a majority of the employees of a cannabis business, including an expanded ATC, have voted to join a bona fide labor organization, failure to enter into a collective bargaining agreement within 200 days of the opening of such licensed cannabis business, may result in a referral to the National Labor Relations Board.



**N.J.A.C. 17:30-20.7**

(a) Violations shall be categorized as follows:

1. Category I, which is the exhibition of a pattern and practice of violating the requirements of the rules, posing a serious risk of harm to the health, safety, or welfare of consumers or personnel;
2. Category II, which is the failure to comply with administrative requirements, such that the licensee or permittee poses an immediate and serious risk of harm or actual harm to the health, safety, or welfare of consumers, personnel, or the general public, including, but not limited to, transfer of cannabis to a person under 21 years of age;
3. Category III, which is the submission of fraudulent, false, or misleading information, as to a material fact, to the Commission, or falsifying or concealing any record required to be maintained by the license holder;
4. Category IV, which is the failure of any owner, principal, management services contractor, employee, or volunteer of a cannabis business license holder or testing laboratory to register with the Commission and be issued a Cannabis Business Identification Card; or failure to complete training course, or failure to be in physical possession of their Cannabis Business Identification Card while acting in the course of their duties; and
5. Category V, which shall consist of other violations of the Commission's rules, or violations of valid ordinances established by municipalities that do not constitute a major violation.

(b) The Commission shall issue sanctions for violations of this chapter that account for the particular circumstances of the violation. The Commission shall consider, at a minimum, issuing the following sanctions for violations:

Category	Violation 1	Violation 2	Violation 3	Violation 4
I	Revocation			
II	\$500,000	Suspension	Revocation	
III	\$250,000	\$500,000	Revocation	
IV	\$10,000	\$25,000	\$50,000	Suspension
V	\$5,000	\$10,000	\$25,000	\$50,000

(c) A license holder shall pay an imposed civil monetary penalty by the time specified by the notice of enforcement action.



**IN-DEPTH REVIEW:** Inquiring parties can review the violation committed in the attached July 14, 2023, Notice of Violation. On July 13, 2023, Columbia Care New Jersey LLC, entered into a Labor Peace Agreement with Teamsters Local 863 that will expire three (3) years from the date of the agreement. Columbia Care New Jersey LLC also agreed to ensure compliance with the Labor Peace Agreement requirements by utilizing two licensing and contract management services designed to track the deadlines for their executed agreements.

As is required when a Notice of Violation is issued, Columbia Care New Jersey LLC did provide a corrective action plan within 20 days of receipt of the Notice of Violation. Columbia Care New Jersey LLC stated in its corrective action plan that it has corrected the violations. As stated above, Columbia Care New Jersey LLC has implemented new process controls that will enable it to better track its Labor Peace Agreement, as well as other agreements, to ensure that the agreements do not lapse in the future.

**RECOMMENDATION:** It is the opinion of staff that Columbia Care New Jersey LLC has failed to comply with N.J.A.C. 17:30-9.4(g) by failing to renew or enter into a new Labor Peace Agreement by July 1, 2023. Columbia Care New Jersey LLC was out of compliance with that portion of the regulation for 13 days before entering into a Labor Peace Agreement with Teamsters Local 863. The failure to adhere to the administrative requirements did not pose an immediate and serious risk of harm or actual harm to the health, safety, or welfare of consumers, personnel, or the general public. Further, the violation became apparent through review of documentation related to renewal, and not due to a complaint from an employee or labor organization. Therefore, the violations should be treated as Category V violations if considering a monetary penalty. Columbia Care New Jersey LLC was notified of its non-compliance on July 10, 2023, and contacted a bona fide labor organization, negotiated an agreement, and executed a new Labor Peace Agreement before close of business on July 13, 2023. It is recommended that if a penalty is to be imposed, the violation be considered a Category V, Violation 1, when calculating any potential sanctions. The failure appears to be one of organization and record-keeping, rather than an active and intentional refusal to contract with a bona fide labor organization and enter into a Labor Peace Agreement. The violation was rectified expeditiously with new processes put in place to avoid future violations of a similar nature.

## APPENDIX

**N.J. Admin. Code § 17:30-9.4**

(a) No person or entity shall operate a cannabis business without a Commission-issued license.

(b) A cannabis business shall only be operated under the name on the license, which shall be the legal entity name as found on the New Jersey business registration of the license holder.

(c) A license holder and its owners, principals, employees, management services contractors, financial sources, and vendor-contractors shall:

1. Maintain qualification to hold a license pursuant to N.J.A.C. 17:30-7.4, as applicable;
2. Comply with the Act and this chapter; and
3. Cooperate with the Commission and its staff.

(d) Upon request of the Commission, a license applicant or license holder shall provide, for any submission to the Commission, a redacted copy that may be released to the public.

1. Redactions shall be limited to information that is likely to be found to be exempted from the definition of a public record pursuant to N.J.S.A. 47:1A-1 et seq., or the common law on public records.

(e) A license holder shall make a good faith effort to recruit and employ, or contract with, as vendor-contractors, persons who would otherwise qualify for the provisions at N.J.A.C. 17:30-6.6(a)1 or 2. A “good faith effort” means that the license applicant or license holder shall demonstrate that it took all necessary and reasonable steps to achieve employee and vendor-contractor participation by the persons who are among the qualifying groups, which by their scope, quality, quantity, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient participation from such persons.

1. Good faith efforts shall extend beyond merely interviewing candidates from qualifying groups to include documentation of follow-up and offers of employment and contracting.
2. Good faith efforts shall include sufficient written documentation of the license applicant's efforts to recruit qualifying persons, including a list of the names, addresses, and contact information of all potential employees and contractors, identifying those who qualify pursuant to N.J.A.C. 17:30-6.6(a)1 or 2, and whether they have accepted an employment or contracting offer, and the dates of contact.
3. Good faith efforts may include:
  - i. Coordinating meetings, including meetings in economically disadvantaged areas, at which qualifying persons could be informed of the employment and contracting opportunities;
  - ii. Advertising in general circulation, trade association, and minority-focused media concerning the opportunities for persons who have been affected by the criminalization of cannabis to participate in the regulated cannabis industry; and

iii. Contacting minority-, women-, and veteran-owned business organizations and educational institutions concerning the opportunities for persons who have been affected by the criminalization of cannabis to participate in the regulated cannabis industry.

4. The cannabis business shall submit quarterly progress reports that include specifics on the good faith efforts being made to ensure the cannabis business's social equity plan as presented in its application or certification to the Commission is being achieved. The Commission may request additional information from the cannabis business to assist in making a determination on whether good faith efforts are being made.

(f) A microbusiness license holder shall employ no more than 10 employees.

(g) The maintenance of a labor peace agreement with a bona fide labor organization by a licensed cannabis business, including an expanded ATC, shall be an ongoing material condition of the cannabis business's license.

1. A microbusiness is exempted from this requirement.

(h) Where a majority of the employees of a cannabis business, including an expanded ATC, have voted to join a bona fide labor organization, failure to enter into a collective bargaining agreement within 200 days of the opening of such licensed cannabis business, may result in a referral to the National Labor Relations Board.

1. A microbusiness is exempted from this requirement.

(i) A license holder shall maintain sanitary conditions throughout the cannabis business premises.

(j) A cannabis business shall seek to prevent the escape of odors associated with cannabis over the boundary of the property. Failure to engage in such an effort may result in sanctions, including civil monetary penalties.

(k) A license holder shall implement a plan to increase sustainability in its operations, which may include, but is not limited to:

1. A waste reduction plan;
2. A water usage reduction plan;
3. Biodynamic farming;
4. A sustainable packaging plan that reduces or eliminates the use of single-use plastics and promotes the use of recyclable or environmentally friendly packaging; or
5. A plan to use renewable energy to power its operations.

(l) A visitor entering a cannabis business premises must be accompanied by an escort with a Cannabis Business Identification Card at all times, except in the consumer area of a cannabis retailer.

1. A vendor-contractor's staff shall be considered to be a visitor during any time present at a cannabis business premises, except if the person is a management services contractor or other cannabis handler that possesses a Cannabis Business Identification Card, in accordance with N.J.A.C. 17:30–8.1(a).

(m) An expanded ATC issued cannabis business licenses pursuant to N.J.A.C. 17:30–7.1 shall be authorized to use the premises for all activities under the Act and the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I–1 et seq.), without being required to establish or maintain any physical barriers or separations between operations related to the medical use of cannabis and operations related to personal use of cannabis items.

1. As a condition of licensure, an expanded ATC shall meet the anticipated treatment needs of registered qualifying patients before meeting the retail requests of consumers, and the expanded ATC shall not make operational changes that reduce access to medical cannabis for registered qualifying patients in order to operate a cannabis business.
2. If the Commission finds an expanded ATC does not have sufficient quantities of medical cannabis or medical cannabis products available to meet the reasonably anticipated needs of qualifying patients, the Commission may issue fines, limit retail sales, temporarily suspend the expanded ATC's cannabis business licenses, or issue any other penalties included at N.J.A.C. 17:30–20.
3. Not fewer than 90 days prior to the date on which the expanded ATC's cannabis business license is set to expire after its first year of operations, in order to renew its cannabis business license pursuant to N.J.A.C. 17:30–7.16, an expanded ATC shall:
  - i. Certify to the Commission as to the continued material accuracy of the expanded ATC's previously approved ATC license application and its compliance with the provisions of the Act regarding its operations concerning cannabis or cannabis items; and
  - ii. Submit a new written approval from the municipality in which the expanded ATC is located, approving the continued operations as a cannabis business.
4. After the end of the second year of expanded ATC's licensure, the license renewal process pursuant to N.J.A.C. 17:30–7.16 shall be followed.
5. Nothing shall authorize an alternative treatment center that has not been licensed as an expanded ATC pursuant to N.J.A.C. 17:30–7.1 to:
  - i. Provide cannabis items to a person who is not a registered qualifying patient;
  - ii. Purchase or acquire cannabis items in a manner or from a source not permitted by the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I–1 et seq.); or
  - iii. Operate on the same cannabis business premises as a cannabis business license applicant or license holder, although it is not prohibited for an unaffiliated cannabis business and ATC to be located in the same multi-tenant building or strip mall in separate, unconnected premises.

#### **N.J. Admin. Code § 17:30-20.4**

(a) During an onsite assessment, a review of financial records, or other Commission review of the license holder and its operations, if the Commission identifies a violation of the Act or this chapter, the Commission shall provide notice of the violation, including an official written report of the findings and

the nature of the violation, to the cannabis business or testing laboratory within seven business days following the onsite assessment or other identification of the violation.

1. Such notice may be provided by service of written notice or the receipt of a written notice from an investigating officer that a violation has occurred, which may be presented to the license holder's owner, principal, or manager at the licensed premises or administrative office, or through other reasonable form of notice, such as certified mail or personal service pursuant to N.J. Ct. R. 4:4-4.

(b) Unless otherwise specified by the Commission, within 20 business days of receipt of the notice of violation pursuant to (a) above, the cannabis business or testing laboratory shall:

1. Correct the violation(s); and
2. Notify the Commission, in writing, with a postmark date that is within 20 business days of the date of receipt of the notice of violation, of any corrective actions taken to correct the violations, and the date of implementation of such corrective actions.

(c) The violation identified pursuant to (a) above shall not be deemed corrected until the Commission verifies, in writing, within seven calendar days of receiving notice of corrective action pursuant to (b) above that the corrective action is satisfactory.

(d) If the violation identified pursuant to (a) above has not been corrected in accordance with (b) above, the Commission may, in its discretion, issue a notice of proposed suspension or revocation to the license holder and seek to revoke the cannabis business license in accordance with N.J.A.C. 17:30-20.8.

#### **N.J. Admin. Code § 17:30-20.6**

(a) This section sets forth civil monetary penalties for violations of the Act or this chapter and enforcement procedures for imposing and collecting civil monetary penalties by the Commission.

(b) A monetary penalty imposed by the Commission on a license holder pursuant to this subchapter may not exceed \$500,000 per violation. Penalties may be imposed on a license holder as follows:

1. Not more than \$500,000 per major license violation; and
2. Not more than \$50,000 per any other license violation.

(c) A violation by each entity or person per day shall constitute a separate incident for purposes of calculating the number of violations.

(d) The Commission may impose greater penalties for successive violations up to the maximum amounts set forth at (b) above.

(e) The penalty for a subsequent violation shall only be imposed if the license holder has been notified of the prior violation or violations.

1. Such notice may be provided by service of written notice or the receipt of a written notice from an investigating officer that a violation has occurred, which may be presented to the license holder's owner, principal, or manager at the licensed premises or administrative office, or other reasonable form of notice such as certified mail or personal service pursuant to N.J. Ct. R. 4:4-4.

2. If violations are discovered during an undercover or unannounced inspection or onsite assessment, then no notice of any prior violation is necessary to impose the penalty for a subsequent violation.

(f) Notwithstanding anything in this section, the Commission may, in the Commission's sole discretion, consider additional factors in determining the penalty for each violation. Such factors may include, but are not limited to:

1. Any prior violations that the license holder has admitted to or was found to have engaged in;
2. Good faith measures by the license holder to self-report or prevent the violation;
3. The license holder's record of compliance with the laws and rules pertaining to personal use cannabis;
4. Corrective action(s) taken by the license holder related to the current violation or prior violations;
5. Willfulness and deliberateness of the violation;
6. Likelihood of reoccurrence of the violation; and
7. Violations involving damage or danger to the life, health, welfare, safety, or property of any person.

(g) Any penalties, costs, and/or fees pursuant to this subsection may be imposed and collected by the Commission in a summary proceeding pursuant to the Penalty Enforcement Law of 1999, P.L. 1999, c. 274 (N.J.S.A. 2A:58–10 et seq.).

(h) The Commission may additionally seek reimbursement for the costs of the State, including, but not limited to:

1. Costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs for violations; and
2. Costs of cleaning up, mitigating, or remedying any environmental damage caused by a cannabis business or testing laboratory.

(i) The license holder may request an adjudicatory hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B–1 et seq., and 52:14F–1 et seq., to contest the Commission's imposition of a civil monetary penalty for any license violation within 14 days of receipt of the notice of civil monetary penalty.

(j) If the license holder requests an adjudicatory hearing pursuant to (i) above, the Commission shall arrange for a hearing to be conducted by the Commission and a final agency decision shall be issued after the hearing by the Commission.

1. If the Commission affirms the civil monetary penalty, it shall become final.

(k) The cannabis business may, pursuant to N.J.A.C. 17:30–20.10, apply for injunctive relief against the Commission's civil monetary penalty in the New Jersey Superior Court, Appellate Division.



**N.J. Admin. Code § 17:30-20.7**

(a) Violations shall be categorized as follows:

1. Category I, which is the exhibition of a pattern and practice of violating the requirements of the rules, posing a serious risk of harm to the health, safety, or welfare of consumers or personnel;
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3. Category III, which is the submission of fraudulent, false, or misleading information, as to a material fact, to the Commission, or falsifying or concealing any record required to be maintained by the license holder;
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5. Category V, which shall consist of other violations of the Commission's rules, or violations of valid ordinances established by municipalities that do not constitute a major violation.

(b) The Commission shall issue sanctions for violations of this chapter that account for the particular circumstances of the violation. The Commission shall consider, at a minimum, issuing the following sanctions for violations:

Category	Violation 1	Violation 2	Violation 3	Violation 4
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(c) A license holder shall pay an imposed civil monetary penalty by the time specified by the notice of enforcement action.