



# FRANKEL LAW GROUP APC

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## Client Advisory

March 24, 2020

### Essential Services in California - Compliance

As you know, on March 19, 2020, Gov. Newsom issued Executive Order N-33-20 (<https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>) directing all residents immediately to heed current State public health directives to stay home, except as needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as the State Public Health Officer may designate as critical to protect health and well-being of all Californians.

In accordance with this order, the CA State Public Health Officer has designated a list of “**Essential Critical Infrastructure Workers**” to help state, local, tribal, and industry partners as they work to protect communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. The “Essential Critical Infrastructure Workers” list can be found here: <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>.

Cannabis is listed in two sections of the list: healthcare/public health and food and agriculture.

#### *Healthcare/Public Health (page 1, bullet 4)*

- Workers in other medical facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Organ Pharmacies, Procurement Organizations, Psychiatric, Residential, Rural Health Clinics and Federally Qualified Health Centers, **cannabis retailers**).

#### *Food and Agriculture (page 4, bullet 11)*

- Workers supporting **cannabis retail** and dietary supplement retail

While the list is silent on manufacturing and distribution, we believe the food and agriculture listing is sufficient to cover the entire supply chain.

Any licensee that continues to operate must adopt social distancing and anti-congregating measures and must follow the CDC's [Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease](#) at all times.



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To Clients

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Local, City and County health orders may be MORE restrictive than the State order. Therefore it is important to consult the specific local, city and county health orders to confirm compliance.

All businesses should carefully review the CDC Guidance to ensure compliance with those guidelines.

Licensed distributors should supplement training to drivers concerning the CDC guidelines and should equip drivers with sufficient supplies of gloves, masks and sanitizer to be able to demonstrate compliance to any member of law enforcement that such driver(s) may contact during transport.

In addition to required documentation (e.g., METRC related; shipping manifest, license, proof of insurance/ownership, motor carrier permit), such drivers should be supplied with a written statement describing the Essential Service being provided by such driver(s) and should have a copy of the "Essential Critical Infrastructure Workers" list and the CDC Guidance with them and be prepared to demonstrate compliance to any member of law enforcement contacted during distribution.

One potential problem is maintaining proper distance between drivers in a distribution transport van.

Non-distributors (manufacturers, cultivators, retailers) should likewise have a written statement describing the Essential Service being provided by such company and its workers and should provide workers who are asked to travel outside the home with such written statement as well as a description of such worker's job duties as related to and supportive of Essential Services.

Companies of 50 employees or more should pay particular attention to the recent benefits provided through the Department of Labor. If you are unsure of how this applies to you, feel free to contact us.

While licensed Cannabis companies are protected from the shutdown(s) as Essential Services, they are excluded from federal benefits due to the prohibition. Also, Cannabis companies are required to use cash which has been implicated as a possible vector of virus spread. Therefore, extra care should be used to prevent spread by segregating and sanitizing cash as needed and using protective gloves and masks when handling cash. In this regard, the CDC Guidance should be consulted and applied in all respects.

We are all facing unprecedented challenges. This too shall pass.

In the meantime, if there's anything I can do in support, please do not hesitate to contact me.