



# Office of Cannabis Management

**KATHY HOCHUL**

Governor

**TREMAINE WRIGHT**

Cannabis Control Board Chair

**JESSICA GARCIA**

Board Member

**HOPE KNIGHT**

Board Member

**ADAM W. PERRY**

Board Member

**JENNIFER GILBERT JENKINS**

Board Member

**FELICIA A.B. REID**

Acting Executive Director

No. 2024-97  
September 10, 2024

## RESOLUTION DIRECTING THE OFFICE OF CANNABIS MANAGEMENT TO FILE A NOTICE OF EMERGENCY ADOPTION AND REVISED RULEMAKING OF AMENDED VIOLATIONS, HEARINGS, AND ENFORCEMENT REGULATIONS

**WHEREAS**, pursuant to Section 17 of the Cannabis Law, the Cannabis Control Board (Board) is charged with adopting, amending, and repealing administrative rules and regulations governing the procedures to be followed with respect to violations, hearings, and enforcement, issuing subpoenas and administering oaths in connection with any hearing or investigation, making determinations founded upon a preponderance of evidence to sustain charged brought at a hearing, and making appropriate determinations and issuing a final order after a hearing;

**WHEREAS**, pursuant to Section 13(5) of the Cannabis Law, the Board wishes to take emergency action and undertake revised rulemaking to implement the authority provided in the Cannabis Law to the Office of Cannabis Management (Office) to act against licensees and unlicensed individuals violating the Cannabis Law, its rules, regulations or guidance to protect public health and safety;

**WHEREAS**, on May 10, 2024, the Board voted to approve Resolution No. 2024-72. Resolution Directing the Office to file for Emergency Adoption and Proposed Rulemaking of certain violations, hearings and enforcement regulations, located at Part 133 of Title 9 of the New York Codes, Rules and Regulations (Part 133);

**WHEREAS**, the Office recommends the Board file a new Emergency Adoption and Revised rulemaking of violations, hearings and enforcement regulations to include substantial changes to the Part 133 to further implement the authority for the Office of Cannabis Management to act against licensees and unlicensed individuals violating the Cannabis Law, its rules, regulations or guidance to protect public health and safety ;

**WHEREAS**, such powers include, but are not limited to, the following, after an administrative inspection or investigation, to execute and order the sealing of certain places of business where cannabis, cannabis products, cannabinoid hemp, cannabinoid hemp product, or any product marketed or labeled as such, are sold, or offered to be sold, where no registration, license, or permit has been issued pursuant to the Cannabis Law and such conduct continues after an inspection or investigation has revealed violations, or where such conduct poses an imminent threat to public health, safety, and welfare;

**WHEREAS**, the Office recommends the approval of Attachment A, the Emergency Adoption and Revised Rulemaking for Part 133, which established the method in which the Office implements newly amended Cannabis Law, such as the ability to implement a secret shopper program for compliance purposes; clarifies that the stop work order shall include a warning notice posted in a publicly visible location, and removal or alteration of the notice is subject to fines; describes the Offices' broadened authority to issue orders to seal for



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unlicensed activity if imminent threat to public, safety and welfare exists, where the location is not used for residential purposes and when the unlicensed activity is more than a de minimis part of the business, and the circumstances for delayed padlocking; stipulates the process for respondent to request an emergency hearing on an order to seal; and require respondent to provide a verified statement of ownership information upon the office's request as a condition to proceeding with a hearing;

**WHEREAS**, Attachment A, the Emergency Adoption and Revised Rulemaking makes significant revisions to the rule from the prior proposed rulemaking, including changes to who is authorized to represent the Office at a hearing (§ 133.18); when and what types of records may be admitted as evidence in a hearing (§ 133.18); Mandatory revocation of current licenses held by a respondent when a final determination has been issued affirming continued unlicensed activity following issuance of an order to cease unlicensed activity (§ 133.25); and specific authorization to the Office to seize material or equipment, such as packaging, used in the creation, production, packaging, or maintenance of cannabis, cannabis product, cannabinoid hemp or cannabinoid hemp extract product, or any product marketed or labeled as such (§ 133.25);

**WHEREAS**, the Office prepared this Emergency Rule and Revised Rulemaking pursuant to Sections 13, 16, 16-a,17, 89, 132,133, and 138-A of the Cannabis Law, Part UU of Chapter 56 of the Laws of 2023, and Part G of Chapter 55 of the Laws of 2024. As a result of the Office's research, this rule incorporates language from other New York State agencies and other states with a cannabis market; and

**WHEREAS**, each Board member has separately reviewed the proposed regulations, had the opportunity to ask the office questions to the extent they needed additional information, and agrees with the Office's recommendations for the proposed rule; now therefore, be it

**RESOLVED** the Board directs the Office to refile Notice of Emergency Adoption and Proposed Rulemaking for Part 133 with the New York State Department of State to make effective the attached emergency and proposed violations, hearing and enforcement regulations amendments currently before the Board, as may be amended for changes in accordance with the State Administrative Procedure Act to be effective immediately upon filing.

[Attachment A]