Is GNC an Essential Service?

By Chuck Dinerstein, MD, MBA — March 31, 2020

As non-essential businesses were lock-down over the last few weeks, the regulatory line between essential and non-essential got fuzzy. Some essential services are no-brainers, pharmacies, grocery and food markets, logistical systems, and of course, healthcare facilities. Other businesses were not so lucky, involving crowds that could not be effectively physically distanced – movie theaters and gyms come to mind. And then, of course, there are those grey area businesses.

Let's consider liquor stores. They are considered essential services in New York. As someone who enjoys "an adult beverage," I'm down with that. But what about that other popular "adult pastime" marijuana. As you might expect, California deems it an essential service, but so did a majority poll of 5400 Americans. Other states seem to be keeping medical marijuana facilities open and deeming recreational use non-essential. That is quite a change from years ago when a joint could bring you into the legal system. As Forbes writes, "cannabis providers in many states are held up as vital members of the community who are providing a valuable service on par with picking up prescription drugs at a pharmacy or filling up your car at a gas station."

Next up, one of the real "bad boys" of health, at least until COVID-19, vape shops. For example, in Denver as well as Ontario Province in Canada, liquor and pot are essential, vaping not so much.
To their customers, vape shops are essential, after all, nicotine is an addictive drug. And the vape shop owners are vocal too, pointing out that if vapers can't vape, they may well turn back to cigarettes, which, while they may not be deemed essential, seem to be available everywhere with no shortages insight.

For GNC, a store that primarily sells supplements, is it essential or not? As you might expect, essential is in the eye of the beholder. Pennsylvania, where medicinal marijuana is essential, believes that "GNC is a supplement shop, which is considered 'health and personal care' therefore, it is considered non-essential and should not be open." GNC, of course, disagrees. Here is the interesting part, Susan Canning, GNC's general counsel writes that the Department of Homeland Security, "recognized retailers which sell food and beverage products as within the sixteen critical infrastructure sectors that are considered vital, or essential, to the United States."

Ah, now I understand, GNC is selling food, not supplements. If that is the case, then we do not need those disclaimers regarding their health claims – have you ever seen a claim by a producer of fruits or vegetables that like Prevagen, it "is clinically proven to show improvement in mild memory impairment?" There are hundreds of nutritional studies showing the benefits of any and all plant-based foods; they do not make those health claims. If GNC is a food store, and parenthetically, at prices that make Whole Foods seem like Costco, then perhaps we should not allow them to make any health claims for supplements.

GNC reports that "Approximately 75% of our current products are in need right now offering immune support, shelf stable protein, water and snacks and are available at accessible locations." If by immune support, they mean the support you might get from reasonable purchases at any food store, they are correct. If not, then I remind them of what is found on all those packages they sell, "This product is not intended to diagnose, treat, cure, or prevent any disease."

COVID-19 has exposed some of the frailty in our health system. In this instance, I believe it reveals some of the hypocrisy of our regulatory system. Marijuana, liquor, and tobacco are essential "sins," supplements are not quite sins, but not entirely essential.

Sources: First, a thank you to Stat DC Diagnosis for pointing me at more information.

GNC has stayed open amid confusion around 'essential' retail. Some employees feel unsafe Retail Dive [4].