

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

August 31, 2023

Governor Hochul:

As leaders of the four largest and most established licensed medical cannabis operators in New York State, we write concerning the alarming state of New York's cannabis program under the current direction of the Office of Cannabis Management (OCM).

Since obtaining medical cannabis licenses a decade ago, our companies have built modern cultivation and processing facilities throughout New York, created over 600 strong union jobs represented by the United Food and Commercial Workers, Local 388, and generated tens of millions of dollars in new tax revenue for the State.

Our teams have proudly and tirelessly worked – in partnership with the State of New York – to build a safe, sustainable, and well-regulated medical cannabis market that serves more than 125,000 patients statewide.

Following the passage of New York's adult-use law in 2021, medical operators, including each of our businesses, were incredibly excited by this new opportunity to expand our service to New Yorkers. We fully expected to play the vital role envisioned for medical operators by the state legislature in the Marihuana Regulation and Taxation Act (MRTA). Now, almost two and a half years later, the reality is much different. During that time, OCM has ignored the collective wisdom of every other state with an adult-use cannabis program – most recently Maryland – to permit existing medical operators to stand up the adult-use market. Those states continue to demonstrate the correctness of this path:

- Medical operators provide a stable supply chain of safe, tested, and taxed cannabis products for new retailers and their customers;
- Medical operators build market infrastructure, giving rise to transportation processes, testing labs, seed-to-sale tracking, and other behind-the-scenes consumer protection, safety, and security measures, and
- Medical operators ease the entry of new adult-use businesses, particularly for social equity licensees by providing immediate training opportunities, both at retail and at wholesale.

Unfortunately, OCM has abused its authority under New York's adult use law, played politics with the licensing process, and allowed thousands of unregulated, commercial scale sellers to flood the market with unregulated and unsafe cannabis products. Through intransigence, OCM has ultimately

turned the adult-use rollout into a demonstration of “worst” practices rather than best. Today, the State’s entire cannabis ecosystem is in dire need of a new direction.

Supported neither by law, nor regulation, OCM has sought to launch the adult-use market using cannabis supplied exclusively by outdoor micro-cultivation facilities run by hemp farmers and sold exclusively by dispensaries owned by a very small subset of applicants with limited access to necessary financing. While we agree with the social aims of issuing licenses to justice-involved individuals, OCM has done so in a way that clearly violates the law, forcing the courts to constantly intervene and pause New York’s rollout of legalized cannabis. Indeed, by choosing to create this Conditional Adult Use Retail Dispensary (CAURD) program – despite the State Legislature’s clear instruction to open the adult-use retail dispensary application window for all applicants at the same time – OCM has put New York’s cannabis program on a clear course for failure.

According to OCM, New York State needs [2,000](#) retail dispensaries in order to meet consumer demand. Yet, in the eight months since the opening of New York’s first adult-use retail dispensary, fewer than two dozen licensed adult-use dispensaries have opened – a pace that, in the face of a rapidly expanding unlicensed market, threatens the future of any functioning legal market. Even OCM’s most ambitious forecasts suggest that New York will have fewer than 100 total adult-use dispensaries opened by January 2024.

The effects of this slow rollout have been detrimental to the entire cannabis ecosystem in New York. Due to the overwhelming lack of licensed dispensaries and supply of quality product, the unregulated market has “[undermined](#) the legal market,” including an estimated 2,000 unlicensed storefronts in New York City alone selling unregulated cannabis products to consumers, including children. As OCM has continued to neglect the [State’s medical program](#), disregarding the significant investment and infrastructure our teams have built over the past decade, the proliferation of these unlicensed smoke shops has diverted patients from the safety of licensed medical dispensaries and toward unlicensed shops selling [untested, contaminated products](#).

Many of the unregulated cannabis products proliferating throughout the market have been [found](#) to contain contaminants such as E. coli, salmonella, and heavy metals. There have even been an alarming number of instances in which THC-P – a fully synthetic cannabinoid that is up to 30 times as potent as regulated cannabis products – has been found in a high percentage of hemp-derived vape products. This is just one example of many safety concerns we have as the leaders of the registered organizations New York State has entrusted to produce safe, quality cannabis products.

Ironically, while OCM was previously proud of New York’s testing standards, its emergency rules have relaxed these standards such that the testing of flower products for yeast, mold, and aerobic bacteria has been removed from the regulations. Most alarmingly, these changes were clearly motivated by OCM’s political goals of expediting licenses for CAURD holders – at the expense of consumer safety and the rights of every other applicant (including disabled veterans and social justice applicants without an arrest).

The state's ineptitude is endangering New Yorkers who wish to use cannabis safely and legally, while also hurting taxpayers. Despite an almost 40% larger population, New York is on track to generate [less](#) than a quarter of the revenue Illinois generated in its first year of adult-use cannabis sales in 2020.

The solution to this situation is simple: OCM must begin issuing the licenses provided by Article 4 of the MRTA to qualified applicants as soon as possible. By simply issuing licenses to the medical operators alone, the State can more than double the existing dispensaries in the State, while providing a dependable supply of safe and professionally grown products. The legal sales from these dispensaries would help displace the unlicensed market, while simultaneously generating the revenue necessary to help cannabis entrepreneurs of all backgrounds open and sustain their own businesses.

Moreover, the MRTA requires that licensing fees from the medical operators should be used to support social and economic equity programming. These fees should be economically rational so that we can provide this needed support. To that end, the State must also permit the medical operators to enter the adult-use market within 30 days of opening the general adult-use application window.

Although we have repeatedly made this obvious case to OCM, the agency's leadership has refused to even consider it. They persist in a false belief that our collective investment in the adult-use program would stifle competition in the market. On the contrary, our businesses are far from the enemy of competition. The MRTA makes abundantly clear that no single medical operator can operate more than three retail dispensaries. At most, New York's 11 medical operators could operate just 33 retail dispensaries, or 2% of the anticipated market – hardly a “monopoly” by any standard.

Without significant changes, the State's adult-use program will continue to be plagued by the thriving unregulated market and dangerous products that are flooding New York's streets. In contrast, by permitting the existing medical operators to finally access the adult-use market, you can create thousands more union jobs while generating tens of millions of dollars in sorely needed tax revenue for New Yorkers.

For years, New Yorkers have trusted us to build and grow the Empire State's medical cannabis program. Now, a decade later, our plea is simple: Direct OCM to authorize registered organizations to begin adult-use cultivation and dispensary operations without delay, so the State's legal cannabis market can thrive for all participants, creating a reliable revenue and job generating industry for decades to come.

Sincerely,

Matt Darin, CEO, Curaleaf

Brett Novey, CEO, PharmaCann

Ben Kovler, Founder, CEO, and Chairman, GTI

Dennis Curran, CEO, Acreage