

THE CANNABIS INDUSTRY INFORMATION MEMO

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MSOs and Cannabis Retail Applicants Sue New York Cannabis Regulators Over Licensing Process

As we [previously wrote](#), the Office of Cannabis Management (OCM) is already facing litigation over New York's cannabis licensing program. On March 16, 2023, a group of large, multistate organizations and potential dispensary applicants filed another lawsuit against the OCM, accusing it of "unconstitutional overreach" in connection with the conditional adult-use retail dispensary (CAURD) licensing process¹.

Coalition for Access to Regulated & Safe Cannabis, which includes (1) large, licensed multistate cannabis organizations such as Curaleaf and PharmaCann; (2) potential adult-use dispensary applicants, including social and economic equity applicants; and (3) at least one medical professional whose practice has suffered due to the state's alleged neglect of the medical cannabis program (Plaintiff), filed its petition on March 16, 2023 alleging the OCM and Cannabis Control Board (CCB) "improperly assumed the role of Legislature" by allowing CAURD applicants to apply prior to the rest of the applicant pool. Plaintiff's main legal argument throughout its petition is that OCM and CCB violated the separation of powers doctrine and the plain language of the Marihuana Regulation and Taxation Act² by providing certain applicants with priority over others.

Interestingly, Plaintiff's lawsuit does not request injunctive relief against the CAURD licensing program. Instead, Plaintiff's petition calls on the Albany Supreme Court to: (1) declare the CAURD program unconstitutional; (2) compel OCM and/or CCB to pursue civil penalties against illicit cannabis stores; and (3) immediately open the adult-use retail dispensary application period for all applicants.

Bond's cannabis attorneys continue to closely monitor developments surrounding New York's cannabis industry and will publish updates about the foregoing lawsuit as it progresses. For questions about the information provided above or about the cannabis industry in general, please contact [Dustin M. Dorsino](#) or the Bond attorney with whom you are regularly in contact.

¹ *Coalition for Access to Regulated & Safe Cannabis v. N.Y.S. Cannabis Control Board et al.*, [Index No. 902390-23](#) (N.Y. Sup. Ct., filed Mar. 16, 2023).

² Plaintiff cited Section 10(19) of the Act, which stated "the initial adult-use cannabis retail dispensary license application period shall be opened for all applicants at the same time."

