

# THE CANNABIS INDUSTRY

## INFORMATION MEMO

DECEMBER 8, 2023

### **December Thaw: New York's Cannabis Control Board Settles with Plaintiffs in Two Suits that will End the Freeze on Dispensary Licenses**

On Dec. 1, 2023, a New York State Supreme Court Justice in Ulster County approved the settlement by the New York State Cannabis Control Board (CCB) of two cannabis-related lawsuits brought over the summer, putting an end to months-long disputes and lifting the injunction previously preventing the issuance of provisional licenses by the CCB. One of the lawsuits, *Carmin Fiore, et al v. New York State Cannabis Control Board*, was brought by a group of military veterans who challenged the validity and constitutionality of the state's Conditional Adult-Use Retail Dispensary (CAURD) program. The aim of the CAURD program was to provide avenues for participation in the legal cannabis market for those affected by decades of strict enforcement of cannabis laws. The group of military veterans argued that while the CAURD program was corrective in nature, the program violated the law and rights of other social equity groups, such as veterans and women, who were not included in the initial provisional licensing process.

On Aug. 7, 2023, the Supreme Court in Ulster County temporarily enjoined the CCB from awarding or further processing additional provisional CAURD licenses. The injunction also prevented CCB from approving current license holders from moving forward with their operations until the dispute was resolved. At the time of the injunction, the State had granted more than 400 CAURD program licenses to those convicted of cannabis crimes. During the August halt in operations, fewer than 30 of those licensees had commenced operations, leaving hundreds of potential licensees waiting for a resolution.

The settlement, which was proposed by the plaintiffs, was approved by a vote of the CCB on Nov. 27, 2023, and will bring swift and significant changes to the cannabis landscape in New York State. The settlement in *Fiore* includes the grant of an adult-use retail dispensary license to each plaintiff in such lawsuit and ensures the CCB takes other necessary steps to help those licensed dispensary owners become operational, subject to statutory requirements. Further, the CCB will now be required to work with the Division of Service-Disabled Veterans Business Development to guarantee exposure to licensing for military veterans. In regard to CAURD licenses, the settlement terms restrict the state's ability to grant additional CAURD licenses in the near future. The parties agree that the CCB shall not issue additional provisional CAURD licenses until April 1, 2024. This decision was made to focus New York State's Office of Cannabis Management (OCM) to focus on the processing of adult-use licenses, including the Social and Economic Equity applications.

Aside from the direct benefits to the plaintiffs, the lifting of the injunction and the terms of the settlement will lead to many changes in the cannabis industry in the State of New York. The issuance of the 436 CAURD program licenses prevented by the injunction, including the 23 dispensaries that were set to open at the time it took effect, will lead to a flurry of cannabis businesses pushing to open for business, including developing and preparing storefronts and hiring staff. Also, the additional retail dispensaries provide an outlet for the 600,000 pound stockpile of cannabis currently sitting with New York's cannabis farmers, processors and distributors, which has created financial strain on the industry. Further, with the

halt of future CAURD licenses until April of 2024 to allow for the state to focus on Adult-Use Cannabis Licenses<sup>1</sup>, the window is open for entrepreneurs to enter the market in the first round of licensing. The deadline for applications for Adult-Use Cannabis Licenses—including those for cultivators, processors, distributors, cooperatives, and craft businesses in addition to retail dispensaries—was initially set for Dec. 4, 2023, but was extended by the CCB to Dec. 18, 2023 at 5 p.m.

If you have any questions pertaining to the cannabis licensing process, or any of the information contained in this memo, please contact [Jeffrey Gleason](#), [Charles Grieco](#), any attorney in Bond's [cannabis focus area](#) or the Bond attorney with whom you are regularly in contact.

*\*Special thanks to Associate Trainee David Burgio for his assistance in the preparation of this memo. David is not yet admitted to practice law.*

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<sup>1</sup> The Adult-Use Cannabis License is the general license open to all members of the public for various cannabis enterprises. This can be distinguished from the CAURD program licenses which requires the applicant to have been affected by cannabis convictions. This requirement can be direct (the applicant was charged with a cannabis related crime) or indirect (a spouse or someone for whom the applicant was a dependent).

