



Conditional Adult-Use Retail Dispensary (CAURD)

Frequently Asked Questions Completing Your CAURD Post-Selection Application

Overview

On July 14, 2022, the Cannabis Control Board (Board) directed the Office of Cannabis Management (Office) to file regulations to be effective for the *Conditional Adult-Use Retail Dispensary (CAURD) License*. CAURD licensees are the first retail dispensaries to open for legal adult-use cannabis sales in New York State, establishing businesses owned by justice-involved individuals as the foundation of New York's adult-use cannabis market.

The first provisional CAURD licenses were approved by the Board on November 21, 2022. Provisional licensees received notice from the Office outlining the next steps required to be completed by provisional licensees to obtain final CAURD licensure. This FAQ is intended to help clarify those requirements and next steps.

Please read the FAQs below and continue to monitor the Office's website for updates as future license information becomes available. If you have not done so already, please sign up for updates from the Office at www.cannabis.ny.gov/licensing. If your question is not answered in any of the provided materials, please email licensing@ocm.ny.gov. You may also sign-up for email updates from the Office at the following link: https://cannabis.ny.gov/sign_up_for_updates_from_OCM.

1. Can I change the qualifying individual with sole control over the license now that I have been selected for provisional approval?

No. If you are provisionally licensed, you are not permitted to change the qualifying individual who has sole control.

2. Can I make any changes to my True Parties of Interest (TPI) on the CAURD Post-Selection Application?

Yes. You can make changes to your TPI as long as sole control of the applicant remains the same, their ownership share of the license remains at least 30%, and that individual or qualifying nonprofit entity has sole control over the licensee. The licensee must also continue to be majority-owned (at least 51%) by justice involved individuals or qualifying nonprofit organizations. All changes must be disclosed in the form and manner as determined on the application.

Please Note: The New York State Cannabis Law (Cannabis Law) prohibits any of your TPIs from having a direct or indirect financial or controlling interest in more than three retail dispensary licenses and from having any direct or indirect interest in any cultivator, manufacturer, or distributor licensee in New York State or anywhere else in the country.

The Cannabis Law sets out restrictions for individuals and entities with interests in businesses licensed by the Office. The Cannabis Law creates a two-tier market structure for the Adult-Use Cannabis Program, whereby individuals or entities having any direct or indirect interest in a licensee authorized on the supply tier (cultivation, processing, distribution) are prohibited from holding any direct or indirect interest in a licensee on the retail tier (retail dispensary, on-site consumption, delivery), and vice versa. In contrast to the prohibition on holding any direct or indirect interest in licensed entities across the two tiers, the Cannabis Law allows for an individual or entity to have an interest in multiple licenses within the same tier, albeit with several significant restrictions which are designed to increase access, competition, and diversity of business ownership in the industry.

The two-tier market structure fulfills the Cannabis Law's intent preventing conflicts of interest, undue influence, and market concentration from taking root in the New York cannabis industry, and allows the New York cannabis market to develop around strong, independent licensing tiers, instead of the centralization and consolidation that has created barriers to entry in other legal markets for small and medium sized entrepreneurs, legacy operators, and other individuals and communities lacking access to capital.

The Office is tasked by the Cannabis Law to ensure compliance with the restrictions outlined above. It does so by requiring the disclosure of individuals and entities having certain interests in licensees. These disclosures are required when applicants apply for a license and when existing licensees make changes to their license.

Please consult the Office's guidance on TPIs located at cannabis.ny.gov/CAURD-TPI.

3. I have been granted a provisional CAURD license, what are the next steps?

Before you can submit the required documentation to receive a final retail dispensary license, you must have a location approved by the Office. The Office will send a survey to the Primary Contact on the provisional licensee's application to submit a location for approval.

As a reminder, Qualifying Nonprofits must obtain their own location for a brick-and-mortar storefront retail dispensary, subject to the Office's retail guidance: [Guidance for Adult-Use Retail Dispensaries](#). Qualifying Businesses are authorized to submit a

location from which they can offer delivery services on a temporary basis, as described in Question 6 below.

Upon receiving location approval from the Office, you will be invited to complete the CAURD Post-Selection Application. The CAURD Post-Selection Application requests additional compliance materials required under the Cannabis Law and applicable regulations and guidance. After submitting the required Post-Selection Application, you will be notified when a final license has been granted by the Office, and when you may begin retail sales operations.

There are some urgent items that provisional licensees should begin to prepare before the Post-Selection Application, which are outlined in Questions 4 and 7.

4. What are other steps my TPI should be taking before a location is approved and I begin the CAURD Post-Selection Application?

All True Parties of Interest (TPI) must be reported in the CAURD Post-Selection Application, along with the appropriate disclosures. This includes new TPI who may have joined the entity since application submission or provisional approval. The required disclosures for individual and entity TPI, financiers, and the New York State Department of Tax and Finance screening can be found at cannabis.ny.gov/CAURD-TPI.

As an additional requirement for licensure, certain TPI must complete a fingerprint-based background check. Please find fingerprinting instructions at the following link: [OCM Fingerprinting Instructions](#). The TPI who must be fingerprinted include:

- The applicant or licensee's sole proprietor, partner (whether limited or general), member, manager, president, vice president, secretary, treasurer, officer, board member, trustee, director, or any person with an equivalent title to each of the foregoing, and their spouse;
- A stockholder of the applicant or licensee, other than a person owning 5% or less in the aggregate of a publicly traded company, and their spouse;
- Each person that makes up the ownership structure of each level of ownership for an applicant or licensee that has a multilevel ownership structure, and their spouse.

A fingerprint-based background check for each of these TPI must be received by the Office before a final CAURD license can be awarded. Please initiate the fingerprinting process for these TPI as soon as possible to expedite your application's processing.

5. When will I know where I am being assigned a retail dispensary location?

Qualifying Business CAURD applicants selected for a provisional license will have the opportunity to identify a preferred dispensary location from a list of available locations secured by the Social Equity Cannabis Investment Fund (Fund) and provided by the Office to the applicant's primary contact. Completing and submitting the location preference survey does not guarantee being matched to a location immediately or any specific location assignment.

Qualifying Business licensees will receive a location and a loan for capital expenses through the Fund. The Dormitory Authority of the State of New York (DASNY) and the Fund are continuing to secure locations for CAURD licensees, and the Office will provide additional details on the matching and assignment process.

Please note, applicants eligible under the qualifying nonprofit criteria will not be assigned a location and must secure their own.

6. Do I have to wait for a location to be provided by the Fund to begin retail dispensary delivery operations?

Qualifying Business licensees are authorized to operate delivery services under their retail dispensary license on a temporary basis. Licensees must submit a temporary delivery location to the Office for approval before completing their Post-Selection Application for final licensure. More information related to delivery authorizations will be made available in CAURD Delivery Guidance.

7. What are the documents that I need to submit to finalize my CAURD Post-Selection Application?

The Post-Selection Application mock up is available at: [CAURD Post-Selection Application](#). If you have been selected for a provisional CAURD license, you must submit all the requested information in the Post-Selection Application, including but not limited to the following documents:

1. Site Plan for the retail dispensary location, as described in the [Guidance for Adult-Use Retail Dispensaries](#).
2. Department of Tax and Finance Certificate of Authority, for sales tax on non-cannabis items, if applicable.
3. Documentation that the applicant has obtained worker's compensation insurance.
4. Documentation that the applicant has obtained disability and paid family leave benefits insurance.
5. A management staff roster and organizational chart for the dispensary.

6. If providing delivery, a delivery plan, compliant with delivery guidance, and a copy of the vehicle registration and insurance for all vehicles planned to be used for delivery operations, if any.
7. A signed labor peace agreement with a bona fide labor organization.
8. New or updated personal or entity history disclosures for True Parties of Interest and for financiers lending over 10% of a licensee's capital, available at cannabis.ny.gov/CAURD-TPI.
9. Tax Clearance Forms for the provisionally licensed applicant and their True Parties of Interest, available at cannabis.ny.gov/CAURD-TPI.
10. For non-Fund retail dispensary locations, including delivery locations, **to be completed only after location approval:**
 - a. Ownership deed or signed lease agreement for the approved location.
 - b. Proof of [Notification to Municipality](#).
 - c. Certificate of Occupancy or its equivalent for the location.
 - d. Vendor contract or purchase order for a point of sale/ inventory tracking system.
 - e. A copy of all other licenses or permits issued by local, state, or federal authorities related to the operations of the facility.
 - f. Floor plan for the facility.

Additionally, you must submit any required materials that were not required to be submitted in the Pre-Selection Application, such as certified or audited financial statements, all management services arrangements, vendor contracts, and financial interest agreements. Materials already submitted during the initial application phase do not need to be resubmitted on the CAURD Post-Selection Application.

8. Once I have a dispensary location, how do I notify the municipality of my intent to open?

Once a location has been submitted to and approved by the Office, qualifying nonprofit provisional licensees and CAURD licensees operating delivery from a temporary location, are required to submit notification to the municipality where they will be operating their retail dispensary location. Details on the notification to municipality process can be found at this link: [Notification to Municipality Instructions](#).

The Office will provide additional information regarding notification to municipalities for licensees upon being assigned a Fund location.

9. How do I register with the Department of Taxation and Finance?

If you plan to sell items that are subject to New York State Sales and Use Tax, then you must submit proof of a Sales Tax Certificate of Authority during the CAURD Post-Selection Application. A Sales Tax Certificate of Authority can be obtained

before final licensure is granted. You can find more information about obtaining this certificate, including the application, at [New York Business Express](#).

After your CAURD Post-Selection Application has been approved and a final CAURD license has been granted, you must register with the New York State Department of Taxation and Finance to receive an Adult-Use Cannabis Certificate of Registration to collect and remit applicable adult-use cannabis taxes. You can begin the Certification of Adult-Use Registration process by visiting the [Department of Tax and Finance website](#). A dispensary may not begin operations without registration from the Department of Taxation and Finance.

10. Do I need to submit a staff list with the CAURD Post-Selection Application?

The Office requires disclosure and a list of names and job titles of all managing staff (or “Employees in Charge”) of retail dispensaries during the Post-Selection Application. This list must be updated within five (5) business days of such staff being hired to or leaving the business. It is the responsibility of the licensee to ensure the Office always has an accurate list of managing staff/Employees in Charge.

Licensees must also maintain a staffing plan which must, at minimum, include the name, contact information, and age of all workers involved in activities related to the sale and delivery of cannabis products. Such list must be made available upon request by the Office.

Additional retail dispensary guidance regarding staff can be found at this link: [Retail Dispensary Guidance](#).

11. Am I required to have insurance for my retail dispensary? What types?

Yes, you must obtain the insurance required under state law. This includes unemployment insurance, workers compensation, disability insurance, and paid family leave. The applicant must also attest to indemnify the Office, Cannabis Control Board, The Dormitory Authority of the State of New York (DASNY), Coldwell Banker Richard Ellis (CBRE), the Fund, or any related individual before receiving a final CAURD license.

12. How can I apply for workers compensation insurance?

The [Workers’ Compensation Board](#) has more information on how to apply. You must apply for workers compensation insurance within 30 days of opening your retail dispensary. This insurance can be provided through a private carrier, the NY State Insurance Fund, or through self-insurance.

13. What is a Labor Peace Agreement and who am I entering into the agreement with?

A labor peace agreement (LPA) is an agreement entered into between an employer and a union pursuant to which the employer agrees not to oppose unionization and the union (who is attempting to organize the workforce) agrees to not strike or otherwise stop work. An LPA is not a collective bargaining agreement (union contract). New York State law defines LPAs as an agreement between an entity and a labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the entity.

CAURD licensees must submit proof that they have entered into an LPA with a bona fide labor organization as part of the CAURD Post-Selection Application. For purposes of this requirement, a “bona fide labor organization” is defined as a labor union: (1) That represents employees in this state with regard to wages, hours and working conditions; (2) In which officers have been elected by secret ballot or otherwise in a manner consistent with federal law, and; (3) That is free of domination or interference by any employer and has received no improper assistance or support from any employer. The [New York State School of Industrial and Labor Relations provides some additional information about LPAs.](#)

14. What if I do not have audited financial statements?

If the applicant was formed within the year preceding the application, you are not required to provide audited financial statements. Instead, you must provide certified financial statements for the period of time the applicant has existed. For purposes of the application, certified financial statements are financial statements that have been compiled by an accountant but have not been audited by an accountant. If the applicant has no financial activity, you are still required to provide financial statements.

If the applicant is an existing business that has been operating at least one year prior to this application, then you must provide audited financial statements for that business as part of this application.

15. Where can I find assistance to run and grow my CAURD business?

The Office will make information on support services available on the website. Please continue to monitor the OCM website at cannabis.ny.gov for more information in the coming months.

16. Can a CAURD licensee invest in other CAURD licensees?

Yes, a person may be a True Party of Interest (TPI) with a direct or indirect financial or controlling interest in up to three (3) CAURD licensees. A TPI with fewer than 20% of current and future shares in an individual CAURD license is not considered

to have a financial or controlling interest in the license, so long as that person does not otherwise qualify as a TPI. Therefore, a person holding less than 20% of current and future shares in a CAURD license is not limited to such an interest in only three retail licenses. Further, all TPI are subject to vertical ownership prohibitions, restricting them from simultaneously holding any direct or indirect interest in a CAURD and having an interest in any cultivator, processor, distributor, cooperative, microbusiness, nursery, registered organization, or a permitted laboratory.

17. A TPI in my CAURD license wants to also hold an interest in other cannabis businesses. Is this allowed?

The New York State Cannabis Law (Cannabis Law) prohibits any of your TPIs from having any direct or indirect interest in any cultivator, manufacturer, or distributor licensee in New York State or anywhere else in the country. True Parties of Interest must comply with the CAURD TPI rules at: cannabis.ny.gov/CAURD-TPI.

The Cannabis Law creates a two-tier market structure for the Adult-Use Cannabis Program, whereby individuals or entities having any direct or indirect interest in a licensee on the retail tier (retail dispensary, on-site consumption, delivery) are prohibited from holding any direct or indirect interest in a licensee authorized on the supply tier (cultivation, processing, distribution), and vice versa. As a CAURD license is a “retail tier” license, all TPIs in a CAURD business are prohibited from holding an interest in the “supply tier” in any state (cultivation, processing, or a distribution). This prohibition extends to any interest in any microbusiness, cooperative, registered organization, or permitted laboratory. Additionally, within each licensing tier there are restrictions on the number of licenses a person can be a TPI with financial or controlling interest in. No True Party of Interest may have a financial or controlling interest in more than three retail dispensary licenses.

18. As a CAURD licensee, can I have a management services agreement with another licensee?

A CAURD licensee may enter into a management services agreement or goods and services agreement with another CAURD licensee. Management services agreements must be based on a flat fee and may not result in a transfer of control from the licensee seeking the services or otherwise trigger TPI rules, to avoid the service provider from becoming a TPI in the license for which services are being provided. Where any agreement exceeds the greater of 10% of a licensee’s gross revenue, 50% of a licensee’s net profit, or \$100,000, the services provider becomes a TPI in the licensee to whom they are providing services.

No CAURD licensee, nor its TPIs, can have a goods and services agreement, including a management services agreement, with a licensee authorized to cultivate, process, or distribute cannabis (including nurseries, cooperatives, microbusinesses), a Registered Organization, or a cannabis laboratory or permittee. Further, a management services provider is prohibited from providing

such services across the two tiers and cannot simultaneously service a CAURD and a cultivator, processor, distributor, cooperative, microbusiness, nursery, or registered organization.

Contact Us

If you have any questions that were not answered by this FAQ, please reach out to the Office at licensing@ocm.ny.gov or by phone at 1-888-OCM-5151 (1-888-626-5151).