



Office of Cannabis Management

DRAFT FOR DELIBERATION

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Cannabis Advisory Board Vice Chair

Dear Cannabis Control Board Members,

The New York State Cannabis Advisory Board (CAB) has the authority to make recommendations to the Cannabis Control Board, the Office and the Legislature on cannabis and hemp cultivation, processing, distribution, transport, social and economic equity in the cannabis and hemp industries, criminal justice, public health and safety concerns, law enforcement related to cannabis and cannabis products, and on the testing and sale of cannabis and cannabis products.

This letter is in response to discussions at the November Cannabis Control Board (CCB) meeting whereas members of the Board expressed an interest in approving an irresponsibly large amount of Retail and Supply licenses as it relates to the “December Queue”.

The CAB with guidance from the Industry and Markets Sub-committee, makes the strong recommendation that any discussion and decisions regarding the approval of additional licenses be based on the original spirit of the MRTA, to create a legal cannabis market that is fair and equitable and supports small and medium size operators; Second to make decisions based on economic and market driven data compiled by both public and private experts that review and analyze the New York Cannabis market as well the markets of other states with a more mature Cannabis history.

Data for retail licensing has been presented by the Office of Cannabis management showing the market can bear approximately 2,000 retail licenses over the course of the next 4 years. Once there are more than the stated 2,000, we will see market compression. Data also shows the dramatic decline of revenue per retail store and how it is directly correlated to the amount of stores open shows that the CAB and the CCB needs to be making data driven decisions of how many stores to license if we are to meet the goals of the MRTA. Further, the Proximity Protection guidelines that exist must be adhered to during the development of the Cannabis market in NYS. These protections are imperative both for the success of existing operators and those seeking to secure a license. In addition, the use of proximity measures in making licensing decisions is a logically systematic means of creating a measured license approval rollout that considers data in making these decisions. Until there is more significant movement on enforcement of the illicit retailers and until the existing legal operators have a solid presence in their neighborhoods, waivers of additional proximity protections should not be considered.

The responsibility of the CAB is great in this decision. The advisory board recognizes that there are several qualifying New Yorkers that deserve and are qualified to receive a license. However, to grant all qualifying



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persons a license at the same time is irresponsible to the market that has already seen a slow and bumpy rollout.

Several factors to consider in this recommendation are the limited abilities of the Office of Cannabis Management to license and enforce existing regulations upon existing operators, the inability of the State to close all illicit operators creating a market imbalance, and the data analyzed by private economic experts that suggest the market can only bear a total of 1250 licenses over the course of the next 5 years. Please see the attached third-party report by Whitney Economics for their analysis of New Yorks retail needs.

We recognize that the actual open rate of licensed retailers is approximately 60% of the license award rate, therefore our recommendation to the board accounts for this.

The December Queue also has many Supply side licenses that are awaiting review and approval. Since the OCM data is showing that the current rate of canopy coming into production from the November Queue with new Registered Organization licenses, Micro business licenses, and Tier 1 and Tier 2 Indoor is sufficient to support the current retail landscape we ask to first see a retail plan before continuing to over license the supply side causing an unintentional market crash.

It is the responsibility of the board to merge all of these considerations when making a decision on how many licenses to approve.

We ask that the CAB vote on the below recommendations for the CCB:

1. It is the suggestion of the Cannabis Advisory Board, with the assumption of the current pace of licenses being issued, to issue a total of 1600 total retail licenses which does not include the micro business retail licenses. This recommendation assumes a similar pace of licensing is maintained. This rate will ensure a measured approach and will allow existing and newly licensed retailers an opportunity to be successful in their business role outs. Further it is the responsible approach to creating a successful NYS Cannabis market. The CAB will revisit this licensing recommendation with a third party market study in 2026.
2. The Cannabis Advisory Board understands that the CCB must consider variances on proximity protection however we recommend taking each request very seriously since there is not enough data to



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know which regions and neighborhoods can handle an increased concentration of stores. Further these decisions have a dramatic effect on retailers that are currently open and on retailers that are currently building out their store with the assumption of existing proximity protection.

3. In light of the amount of supply capacity that has already been issued the Cannabis Advisory Board recommends a temporary hold on issuing any more Supply Side licenses until the target for retail licensing is agreed upon by the Cannabis Control Board.

Thank you for your consideration to this important matter,

The Cannabis Advisory Board

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