



This is a condensed summary of OCM's Conditional Adult-Use Retail Dispensary Licenses regulations (Part 116) which were published in the NY State Registrar on March 10, 2022 and open for public comment until May 31, 2022:

OCM released a statement regarding these proposed regulations in that these adult-use retail licenses are to be the first set of licenses released by NY state and are reserved for "justice-involved" individuals and the state anticipates granting 100-200 of these licenses.

### **Applicant Eligibility (§ 116.4)**

An "Eligible Applicant" is:

1. An applicant that has:
  - a) a significant presence in New York State, either individually or by having a principal corporate location in the state;
    - *this could be satisfied by an organization that does business in other states but has established a principal corporate location in NY State (in other words, does not prohibit MSOs from applying)*
  - b) is incorporated or otherwise organized in the state; or
  - c) a majority of the owners are residents by being physically present in the state no less than 180 calendar days during the current year or 540 calendar days over the course of 3 years;
2. An individual, or an entity with one or more individuals, least one individual must:
  - a) be "Justice-Involved," meaning individuals who were; or had a parent, legal guardian, child, spouse, or dependent who was; or were a dependent of an individual who was convicted of a marijuana-related offense in New York before March 31, 2021;
  - b) Provide evidence of the primary residence of the Justice-Involved individual at the time of said individual's arrest or conviction; and
  - c) The Justice-Involved individual holds or held for at least two years at least 10% ownership and control of a business that had net profits for at least 2 years, or a qualifying nonprofit
3. A nonprofit must
  - be recognized as an entity pursuant to section 501(c)(3) of the Internal Revenue Code;
  - intentionally serves Justice-Involved individuals and communities with historically high rates of arrest, conviction, incarceration or other indicators of law enforcement activity for marijuana-related offenses;

- operates and manages a social enterprise that had at least two years of positive net assets or profit;
- has a history of creating vocational opportunity for Justice-Involved individuals;
- has board members or officers who are Justice-Involved;
- has at least five full-time employees.

### **Applicant Ownership and Control Restrictions**

An applicant must also satisfy the following ownership and control restrictions:

For an entity, it must:

- Be at least 51% owned in the aggregate by one or more individuals who satisfy both sections (1) and (2) of the applicant eligibility rules above; and
- Have at least one individual who satisfies both sections (1) and (2) above and owns at least 30% and exercises sole control of the applicant or licensee.

### **Application Evaluation**

Whether the applicant qualifies as an Eligible Applicant will be evaluated on:

- The primary residence of the Justice-Involved individual at the time of arrest or conviction, and whether that address is:
  - Relative to areas with historically high rates of arrest, conviction, or incarceration for marijuana-related offenses
  - relative to areas with historically low median income, or
  - was provided by a public housing authority in New York State or New York City.
- If a qualifying business:
  - Number of employees
  - Number of years the business has been in operation
  - profitability of the business
  - type of business (specifically, whether this business was a retail operation)
  - whether the business had a physical location
  - whether the business received or resolved any violations, fines or fees assessed against the business by state or federal regulatory authorities.

### **Geographic Limitations**

OCM will create regional “geographic zones” and determine the number of available licenses per zone. For regional geographical zones where there are more applicants than available licenses, OCM may select from Eligible Applicants who indicated a first preference for the given region based on weighted scoring of the evaluation criteria.

### **Conditional License Details**

- The “Conditional Period” is four years from the date the license is granted.
- The licensee must commence operations no later than 12 months from the date the license is granted, or as otherwise determined by OCM.
- Must only acquire cannabis products from entities authorized to distribute cannabis products in the state.

- For the duration of the conditional period, the licensee must maintain the minimum standards for ownership and control described above.
- The licensee “shall enter into and comply with all terms and conditions of any agreement with any fund approved by the [CCB] and made available by [OCM], including, but not limited to, accepting a dispensary location identified by the fund or office, any loan agreement with such fund, any lease or sublease agreement with the State of New York or its agents, or any other such agreements into which the licensee enters.”
- After the Conditional Period, licensees may apply to transition to an adult-use retail dispensary license.