

NEW YORK

MEDICAL CANNABIS INDUSTRY ASSOCIATION

Senator Liz Krueger

172 State Street, Capitol Building
Room 416 CAP
Albany, NY 12247

Assemblymember J. Gary Pretlow

172 State Street, Capitol Building
LOB 923
Albany, NY 12248

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Dear Chair Krueger and Chair Pretlow,

Thank you for the opportunity to submit this testimony on behalf of the New York Medical Cannabis Industry Association (NYMCIA), which represents the registered organizations (ROs) participating in New York's medical cannabis program - Curaleaf, GTI, iAnthus, Canopy USA, Cresco Labs, Green Express Medical, and New York State of Mind.

For nearly a decade, this Association has represented companies that are committed to providing patients with safe, affordable, and high-quality medical cannabis, while working to preserve affordability and equity. Unfortunately, that is getting harder to do every day.

New York's medical cannabis industry continues to face some of the highest barriers to entry for its licensed operators, healthcare practitioners, and most importantly, our patients. As a result of this, as well as a myriad of other challenges – most notably the state's consistent disinterest and disinvestment in the medical program – dispensaries are closing and patient participation in the program is steadily eroding, creating medical cannabis deserts that disenfranchise some of New York's most vulnerable residents.

While the businesses that make up the Association's membership are suffering, it is our patients who bear the brunt of the negative impact of the program's drawn-out demise. Individuals such as children under the age of 21 with autism and seizure disorders, the elderly, those with terminal or chronic illnesses and individuals who are immunocompromised cannot

legally access the high-quality, medical-grade cannabis they require to manage pain, nausea, disease, and disorders on the adult-use market.

If the medical cannabis market continues to deteriorate and eventually fails altogether, as the current trajectory indicates will occur in the not-too-distant future, these patients will have nowhere to turn for the medications they require.

Years of instability at the Office of Cannabis Management (OCM) and the Cannabis Control Board (CCB) have been a significant limiting factor in maintaining the consistency of our industry. The Marijuana Regulation and Taxation Act (MRTA) codified critical improvements and expansions to the medical program, yet the CCB and OCM are still working to implement them.

This has created an environment that is prioritizing control over care. In 2021, when the program hit its peak, medical cannabis served over 150,000 patients. Since then, the program has lost 50% of its patients (now at approximately 75,000 and dropping by the day), served only by 27 medical dispensaries statewide with more dispensary closures expected in the near term.

Since the program's implementation, three operators have wound down, leading to a loss in both patient access and jobs – many of them unionized - while only 1 out of the 10 of the newly licensed ROs have been able to turn on any part of their operations. This cannot be explained by blaming poorly run businesses. It is a clear indication that the regulatory framework has systemic issues. No other state has seen such a severe failure to its medical cannabis program after adult-use cannabis was legalized, New York stands alone in this regard.

Under the MRTA, the number of dispensaries should be growing. In fact, the state provides for as many as 160 medical cannabis dispensaries, and industry reports indicate at least 80 should be continuously operating to properly serve New York patients in need.

There is still time to preserve – and even expand - care and access for medical cannabis patients in the Empire State. But you must act now, because soon it will be too late.

Though the Association has several policy priorities this legislation session, we only have one budget ask: A complete repeal of the 3.15% excise tax on medical cannabis.

We strongly believe that this is the fastest and most effective way to halt the decline of the medical cannabis program and help address the affordability crisis faced by patients, who are forced to pay out-of-pocket for the medications on which they rely as medical cannabis is not covered by health insurance.

No other medication in New York is subject to a tax. The 3.15% excise tax stigmatizes medical cannabis patients and singles them out for unjust treatment. Eliminating this tax will result in an average annual savings of more than \$200 per patient, with some income-eligible patients potentially realizing more in savings as a result of existing dispensary discount programs.

The reduction in tax revenue to host counties where medical cannabis dispensaries are located is expected to be minimal – about \$80,000 a year, on average. This will be more than offset by

continued expansion of the legal adult-use market, which surpassed \$2.5 billion in sales last year.

Make no mistake, if swift action is not taken this year to shore up the medical cannabis program and expand its patient base, it will fail altogether.

If this happens, the New Yorkers who will suffer the most are the patients who are under the age of 21 and depend on specialized, medical-grade cannabis products that are not available on the adult-use market. Some of these pediatric patients and their parents were the driving force behind the legalization of cannabis for medical use in 2014. Even if they wanted to access the adult-use market, it would not be a solution for these patients as it is illegal for a parent to purchase non-prescription cannabis products for use by an under-age individual.

Medical cannabis products are held to a higher testing standard than adult-use products, ensuring safety for patients. This is in stark contrast to the adult-use market, which is still flooded with illegal dispensaries and beset by inversion (the laundering of untracked, unregulated, or out-of-state products into the legal market). Medical cannabis products can also be more potent than what is permitted in adult-use, come in forms (such as powders or tinctures) that are not available on the adult-use market, and are subject to the in-person supervision of a trained pharmacist.

The ongoing decline of New York's medical cannabis program is deeply troubling and has had tangible, harmful consequences. While broader market forces within the cannabis industry have certainly played a role, this downturn is not accidental. It stems from years of neglect coupled with deliberate policy choices that have made it progressively harder for the ROs to remain viable, driven in part by a reluctance among some policymakers to allow so-called "corporate cannabis" or multi-state operators (MSOs) to do business in the state.

Although there have been some encouraging developments, New York's medical cannabis program continues to rank among the most restrictive in the nation. As the adult-use market expands after a challenging launch, the state must take decisive action to strengthen and grow the medical program so that every patient can access safe, high-quality, affordable, medical-grade cannabis. This patient-centered commitment has guided our Association's mission since its inception and will continue to be our primary focus during this year's budget negotiations and the post-budget session.

Please know that I and my fellow Association members are happy to serve as a resource for any information about medical cannabis, the medical cannabis market, and the challenges facing our respective companies. We look forward to continuing to work with you.

Thank you for your consideration.

Don Williams

Chair, New York Medical Cannabis Industry Alliance

Vice President of Government Relations, Curaleaf