

# *The New York Medical Marijuana Program: For Industry Professionals*



**Revised 1.20.2016**

On July 7, 2014, Governor Cuomo signed a medical marijuana bill into law, which expires in seven years unless renewed by the Legislature. After an eighteen-month implementation process, New York's medical marijuana program was officially launched on January 7, 2016. Below is a summary of the provisions in the law that relate to people interested in entering the medical marijuana industry in New York.

## **Who can enter the medical marijuana industry in New York?**

The New York State DOH has broad discretion for setting up New York's medical marijuana industry. They issued regulations outlining the process for applying to become a licensed producer and dispensary in New York. Under the law, the Commissioner initially issued 5 licenses for producers, and each of those producers may operate 4 dispensaries statewide, creating a "vertically integrated" system of production and dispensing. The Commissioner can decide to issue more licenses based on patient need and access. Under the law, the entities licensed to produce and sell medical marijuana are called "Registered Organizations (RO's)".

## **How do I become and organization registered to produce and distribute medical marijuana?**

Until DOH opens the system for more applications, there is no way for new people to become producers or to open dispensaries. Should DOH expand the program, any entity wishing to become an RO must apply with DOH. Organizations must meet a range of criteria, including that they:

- Are able to manufacture approved medical marijuana products, each with a consistent cannabinoid profile and able to pass quality control testing
- Have geographically distributed dispensing facilities located in multiple counties across the state
- Have sufficient facilities and land or a bond of \$2 million
- Prove they can maintain good security at their facilities
- Have entered into a labor peace agreement
- Are able to comply with all state and local laws

To be considered, any application must include all the following:

- A certified check to the "New York State Department of Health" totaling \$210,000 which consists of a non-refundable fee of \$10,000, and a registration fee of \$20,000 that will be refunded if the applicant does not receive a registration license
- The registration application Form DOH-5138, along with all necessary attachments, appendices and supporting documentation. The applications forms, including instructions and an FAQ can be found here:

[https://www.health.ny.gov/regulations/medical\\_marijuana/application/applications.htm](https://www.health.ny.gov/regulations/medical_marijuana/application/applications.htm)

Licenses are valid for 2 years, after which they must be renewed. Licenses can be immediately suspended or terminated if the RO is not adequately controlling diversion or otherwise violating the statute or regulations.

### What are the rules and regulations for RO's?

RO's:

- Can be for-profit or not-for-profit organizations
- Must contract with an independent laboratory approved by the Commissioner of Health for product testing
- Cannot be managed by or employ anyone who comes in direct contact with the marijuana who has been convicted of felony drug charge within 10 years (unless they received a certificate of relief or good conduct)
- Must grow all marijuana indoors (which may include a greenhouse) in a secure facility.

The DOH has issued extensive regulations for Registered Organizations, which can be found at:

[https://www.health.ny.gov/regulations/medical\\_marijuana/regulations.htm](https://www.health.ny.gov/regulations/medical_marijuana/regulations.htm)

### What are the requirements about testing, labelling, packaging & advertising?

RO's must determine and provide information to DOH, patients, and practitioners about the quality, safety, and clinical strength of marijuana through testing. The approved forms of medical marijuana are liquids, oils and pills. Smoking as a method of consumption is prohibited by the law, and edible products are not currently permitted. All final products must be tested to ensure consistent cannabinoid profiles and assessed for various contaminants and pesticides. All products must be sold in a secure, properly labeled package and include a safety insert that details methods of administration, individual dose, risk, and dangers. The Health Commissioner issued restrictive regulations about advertising, which can be found here: [https://www.health.ny.gov/regulations/medical\\_marijuana/regulations.htm](https://www.health.ny.gov/regulations/medical_marijuana/regulations.htm)

### How much will medical marijuana cost?

The Health Commissioner will determine the price of all sales by establishing a per dose price for each form of medical marijuana sold by taking into account production costs submitted by the RO's. Department-approved prices will be in effect until July 30, 2017, when the RO licenses expire. When an RO adds a new product, it must submit revised production costs and a proposed price for the new product to the DOH for review and approval. The Compassionate Care Act allows RO's to provide discounted products and offer 'reduced price programs'.

### How will medical marijuana be taxed?

Medical marijuana is taxed through an excise tax, which means that the RO pays the tax directly to the state. The new medical marijuana law establishes a medical marijuana trust fund in which 100% of revenue is to be deposited.

The excise tax of 7% will be levied on gross receipts and paid by the RO, of which:

- 22.5% goes to county where the medical marijuana was produced
- 22.5% goes to county where the medical marijuana was dispensed
- 5% goes to Office of Alcohol and Substance Abuse Services for prevention, counseling and treatment services
- 5% goes to the Department Criminal Justice Services for discretionary grant program related to enforcement of the this title

**Are patients, caregivers, and people in the medical marijuana industry protected from discrimination?**

Under the law, patients, caregivers, practitioners, or employees of registered organizations “shall not be denied any right or privilege, including but not limited to, they shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for the certified medical use or manufacture of marihuana, or for any other action or conduct in accordance with this title.”

Patients, practitioners and employees of registered organizations are also protected under the human rights law (e.g., cannot be discriminated against in housing, employment, public accommodations). Patients, practitioners and employees of registered organizations are protected in custody and family law proceedings.

**Where else can I find more information?**

The New York State Department of Health’s website can be accessed to view the following:

- Detailed information on the evaluation process:  
[https://www.health.ny.gov/regulations/medical\\_marijuana/application/evaluation\\_process.htm](https://www.health.ny.gov/regulations/medical_marijuana/application/evaluation_process.htm)
- FAQ on the application process:  
[https://www.health.ny.gov/regulations/medical\\_marijuana/application/docs/q\\_and\\_a.pdf](https://www.health.ny.gov/regulations/medical_marijuana/application/docs/q_and_a.pdf)
- Redacted applications of the 43 organizations that applied for the one of the 5 licenses:  
[https://www.health.ny.gov/regulations/medical\\_marijuana/application/applications.htm](https://www.health.ny.gov/regulations/medical_marijuana/application/applications.htm)
- A list of 5 selected ROs and links to their websites:  
[https://www.health.ny.gov/regulations/medical\\_marijuana/application/selected\\_applicants.htm](https://www.health.ny.gov/regulations/medical_marijuana/application/selected_applicants.htm)