



FOLEY
HOAG LLP

2021: The Year of New Jersey Cannabis Opportunities

November 18, 2020



Agenda

- > **State of the Medical Cannabis Marketplace.**
- > Referendum and Beyond: Enabling Legislation and Adult-Use Timeline.
- > No Time Like the Present: Immediate Action Items for Entrepreneurs.
- > Business Considerations for New Jersey Cannabusinesses.
- > How Does Federal Legalization Impact my New Jersey Cannabusiness?
- ❖ Please ask questions throughout the program using the Q&A feature.

■ New Jersey Medical Cannabis Timeline

- **1/18/10- CUMMA:** Compassionate Use Medical Marijuana Act.
 - Limited products, qualifying conditions, and licenses.
- **1/23/18 - Executive Order 6:**
 - Cutting through the administrative red tape.
- **7/18 – 2018 Request for Applications (“RFA”):**
 - 146 total applications for 6 vertical licenses.
- **7/1/19 – 2019 RFA:**
 - 196 total applications for 24 total license.
 - 4 vertical licenses, 5 cultivation licenses, and 15 dispensary licenses.
- **7/2/19 - Jake Honig Law.**
- **12/19 - 2019 RFA Litigation:**
 - Appellate Division stops the DOH from taking any action on the 2019 RFA
 - That stay continues in effect today....

- **Hold on the Medical Program will slow down Adult-Use progress.**
 - S21/A21 Grandfather in Alternative Treatment Centers to Adult-Use.
 - Big Problem: The Program Has Not Scaled With Demand.
 - April 1, 2019 Biennial Report – estimated that by January 1, 2021:
 - 100,000 total patients;
 - Need for 50-70 dispensaries;
 - 337,914 square feet of cultivation space.
 - Reality as of November 15, 2020:
 - 95,000 (+/-);
 - 12 dispensaries;
 - 210,000 (+/-) square feet of cultivation space.
- **24 licenses caught in the pipeline**
- **Still Need at least 25 dispensaries and 100,000 sq. ft. of cultivation**



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■ **Referendum:**

- Enabling legislation + sales tax + 2% local tax.
- Simplicity creating complexity.

■ **67% of Voters in Favor:**

- 67% effectively authorized the Senate to vote.
- 21 votes in the Senate are still the critical ingredient.

■ **What is the Disagreement?**

- Taxation:
 - Sales tax? But at what point of the supply chain?
 - Stamp tax? Applied by who and for what purpose?
 - Cultivation excise fee?
 - Social equity excise fee?
- Social justice/social equity?
- License caps/canopy caps?

■ License types:

- Class 1 Cannabis Grower.
- Class 2 Cannabis Processor.
- Class 3 Cannabis Wholesaler.
- Class 4 Cannabis Distributor.
- Class 5 Cannabis Retailer.
- Class 6 Cannabis Delivery.

■ Other License Considerations:

- Conditional license: 35% of all licenses issued.
 - Issued pursuant to an abbreviated application process, after which the conditional license holder shall have a limited period of time in which to become fully licensed by satisfying remaining conditions.
- Microbusiness licenses: 25% of all licenses issued.
 - No more than 10 employees, operational limitations (square footage of canopy, amount that may be processed and dispensed), geographic limitations (51% of owners, directors, officers, or employees must be residents in the town (or bordering town) where the business is located).
- MBE/WBE businesses: 30% of all licenses issued.
- Impact Zones: 25% of all licenses

■ Timeline – Hypothetical (and Optimistic):

- January 1, 2021 – adult use implementation legislation signed into law.
- June 1, 2021 – interim rules and regulations must be adopted by CRC.
- June 1, 2021 – earliest date adult use sales could begin.
- June 1, 2021 – CRC must issue adult use RFA.
- July 1, 2021 – CRC begins accepting applications from applicants.
- August 1, 2021 – CRC must make decisions on conditional licenses.
- October 1, 2021 – CRC must make decisions on annual licenses.
- January 1, 2022 – latest date when adult use sales must commence.



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■ Real Estate

- Geographic diversity and patient access have been a cornerstone.
- Zoning approvals/proof of local support.
- RFAs are 30-day sprints/government runs slowly.
- Impact zone and microbusiness considerations.

■ Team Building

- Experience is 1/3 of the points – how do you reflect it?
- Business experience in regulated marketplaces.
- Not a residency requirement – but a residency preference.

■ Local Awareness

- Community impact statement.
- Workforce development and job creation plan.
- LPA/CBA/PLA



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■ Structuring/Choice of Entity

- Corporation v. LLC
- Who are the founders?
- How is the entity going to be funded?

■ Disclosure Obligations

- Disclosure & background checks of owners
- Disclosure of agreements
- Submission of business and financial plan



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■ **The Biden Administration**

- Department of Justice pro-active action: Cole Memo 2.0?
- Department of Justice Civil Rights division: Decriminalization of Cannabis?
- Executive action on cannabis as a Schedule I Controlled Substance?

■ **Congressional Action**

- Georgia on my Mind!
- Option 1: Full Democratic Control of Congress
- Option 2: Divided Control of Congress and the competing Cannabis Agendas
 - Will Republican Senators from states that recently approved cannabis be supportive of federal cannabis reform?



QUESTIONS?



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