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**MEDICAL CANNABIS PROVIDERS CHALLENGE CONSTITUTIONALITY OF NEW YORK ADULT-USE MARKET ENTRY FEE THAT IS DEPRIVING THE STATE OF SOCIAL EQUITY FUNDS**

*Legal Complaint Outlines How ‘Special Licensing Fee’ is the Latest Example of Cannabis Regulators Overstepping Their Role, Systematically & Arbitrarily Blocking Medical Cannabis Operators from Serving the Adult-Use Market*

**ALBANY, NY (December 4, 2024)** – The New York Medical Cannabis Industry Association (NYMCIA) – representing licensed registered medical cannabis operators – today filed a lawsuit challenging the constitutionality of the prohibitive \$20 million “*special licensing fee*” established by state regulators.

The lawsuit, filed in the New York State Supreme Court in Albany, alleges that the New York State Office of Cannabis Management (OCM) and the New York State Cannabis Control Board (CCB) overstepped their authority, subverted the intention of the state Legislature in the 2021 [Marihuana Regulation And Taxation Act](#) (MRTA) and assessed a punitive tax in the guise of a special licensing fee.

In establishing a “special” fee that is a magnitude higher than any other state in the nation has charged for a cannabis license of any kind, New York has reduced the potential for a vibrant adult-use cannabis market, has undercut its own stated social equity goals, and has compelled eleven medical-only dispensaries to close leaving medical patients unserved. Indeed, by setting the financial bar for medical operator entry into the adult-use program unattainably high, operators cannot afford the special licensing fee. This onerous

fee has kept these medical operators out of the adult-use cannabis retail market, deprived New York State of tax revenue, and is deteriorating patients' access to medical cannabis.

*“Once again, the state’s rhetoric around social equity is out of step with its actions,” said **NYMCIA spokesperson Ngiste Abebe**. “Medical cannabis providers have long advocated for and supported a robust and equitable cannabis market, only to be blocked by the state from fulfilling those goals at every turn. Instead of investing in New York’s cannabis future, these operators are struggling to stay afloat, shedding union jobs and closing medical dispensaries. If equity is truly a top priority for state regulators, they must recognize the reality of today’s cannabis landscape and work with medical providers to establish a sensible and attainable fee that supports growth and helps realize the promise of the cannabis economy.”*

As outlined by the MRTA, the CCB was authorized to assess medical operators with a one-time special licensing fee to allow these operators to also serve adult-use consumers. The MRTA further provided that the “one-time” fee must be “*an amount to adequately fund social and economic equity and incubator assistance*”.

In response to a [public comment period](#), CCB and OCM acknowledged that they disregarded the MRTA’s direction and instead devised the Fee to “*facilitate[] fair competition amongst all operators*” and/or to effectively exclude the ROs from the adult-use retail market altogether.

The lawsuit seeks to invalidate the so-called fee because it (i) violates the separation of powers doctrine, (ii) constitutes an impermissible tax in the guise of an administrative fee, and (iii) violates the Equal Protection and (iv) [Taking Clauses of the New York Constitution](#). As a result of this unconstitutional and punitive fee, Defendants have prevented many medical operators from dispensing adult use cannabis and decimated the overall enterprise value of these operators.

But, as the lawsuit alleges, this was, in fact, Defendants’ goal.

*“New York’s repeated attempts to block medical cannabis providers from participation in the adult-use market is unacceptable, but sadly, not surprising,” said **Matthew Schweber, of Feuerstein Kulick LLP.** “Regulators here show an irrational and unconstitutional animus towards medical providers since their appointment in September 2021. For the New York cannabis market to fully live up to its stated potential, the regulators must lower the barriers to entry for medical providers and embrace what the law clearly intends for them – to serve as a mechanism to fuel social equity participation.”*

To read the full complaint, [click here](#).

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