June 8, 2026

New York State Office of Cannabis Management
One Commerce Plaza
99 Washington Avenue, Suite 1030
Albany, New York 12231

Re: Comments on the Adult-Use Cannabis Regulations (9 NYCRR Parts 116–133)

Dear Office of Cannabis Management:

The Bronx Cannabis Hub ("the Hub"), a project of The Bronx Defenders, submits these comments in response to the Office of Cannabis Management's ("OCM" or "the Office") review of the adult-use cannabis regulations codified at 9 NYCRR Parts 116–133. The Hub is the nation's first holistic legal services and business incubation program dedicated to justice-impacted cannabis entrepreneurs. Since 2022, the Hub has guided 27 individuals through the Conditional Adult-Use Retail Dispensary ("CAURD") licensing process, providing over $2 million in pro bono legal and professional services. Hub members have launched seventeen dispensaries that have generated over $30 million in sales revenue, $7 million in new state and local tax revenue, and more than 125 full-time jobs across the state.

These comments grew out of a semester-long engagement between Hub members — dispensary owners and operators holding CAURD licenses — and two law school clinical programs: the Criminal Defense Clinic at Columbia Law School and the Entrepreneurial Law Clinic at Fordham University School of Law. During the Spring 2026 semester, Hub members worked with students from both institutions to identify the regulatory provisions that most directly impede their ability to operate viable businesses. Columbia students conducted in-person interviews at five dispensaries, spending multiple hours at each location observing operations firsthand. Fordham students conducted interviews at three dispensaries and performed an intensive legal and jurisdictional analysis of the provisions governing credit terms and pricing. Supervising clinical faculty at both institutions reviewed the legal analysis. The resulting recommendations were revised in final consultation with the licensees whose operational experience they reflect.

The Hub does not submit these comments to criticize the Office's work. We submit them because the Office's review of the adult-use regulations presents a rare opportunity to calibrate the rules to the market they govern. The Marijuana Regulation and Taxation Act ("MRTA") charged the Office with building a regulated market that would repair the harms of cannabis prohibition by ensuring that the communities most targeted by enforcement would be the primary beneficiaries of legalization. That mandate requires ongoing attention to how the regulatory framework functions in practice and whether it advances or undermines the equity goals the Legislature embedded in the Cannabis Law.

The recommendations in this submission address five areas where targeted reform would reduce disproportionate compliance burdens on small and equity-licensed businesses, strengthen CAURD dispensaries, and advance the objectives of the MRTA and the Office's Social and Economic Equity Plan ("SEE Plan"):

I. the 30-day credit rule and terms of sale;
II. the absence of a pricing floor and the dynamics of price compression;
III. storefront visibility, product display, staffing, and inventory management;
IV. outdoor signage and billboard restrictions; and
V. enforcement against unlicensed operators.

Each section identifies the relevant regulatory provisions, describes the operational reality as reported by CAURD licensees, and proposes specific amendments or guidance within the Office's existing statutory authority. A supplementary appendix proposes legislative amendments to strengthen enforcement, included to provide a complete account of the structural reforms necessary to support the regulated market.

We respectfully urge the Office to explore adoption of these recommendations.

Respectfully submitted,

The Bronx Cannabis Hub
A Project of The Bronx Defenders

COMMENTS OF THE BRONX CANNABIS HUB

ON THE ADULT-USE CANNABIS REGULATIONS

9 NYCRR Parts 116–133

I. TERMS OF SALE — THE 30-DAY CREDIT RULE (§ 124.2)

A. Current Rules

Section 124.2(c) of the adult-use regulations permits licensees to purchase cannabis products from distributors on credit, provided the balance is paid within thirty days:

Distributor, microbusiness, cooperatives, ROD, or ROND licensees may, but are not required to, accept payment on credit from licensees authorized for retail sales, provided: (1) payment terms comply with this Part; and (2) retail dispensaries and on-site consumption licenses purchasing cannabis products on credit pay their balance due within thirty (30) days, unless otherwise approved by the Board. 9 N.Y.C.R.R. § 124.2(c).

When non-payment occurs, distributors must report late payments to the Office and demand cash-on-delivery from any licensee found to be in default:

Distributors ... shall (1) report retailers who are delinquent in payment for cannabis products to the Office; and (2) not sell cannabis products on credit to any retailer reported and found by the Office to have a delinquent payment due ... [distributors shall] give written notice of default [and] [a]ny such retail dispensary licensee received a notice of default shall not thereafter purchase cannabis products, except for by paying cash, until such time as the Office determines that their name shall not be published on the delinquent list. 9 N.Y.C.R.R. §§ 124.2(d)–(e).

If a dispute arises between a distributor and a licensee regarding payment terms, OCM is authorized to receive statements from both parties and determine whether the licensee should be placed on the delinquent list. The licensee may appeal that determination and request a hearing. 9 N.Y.C.R.R. § 124.2(f).

B. Problem Statement

The 30-day credit period prescribed by § 124.2(c)(2), read together with the mandatory reporting and delinquent list provisions in § 124.2(d)–(e), functions as a compounding penalty structure that falls hardest on the licensees the MRTA was enacted to support.

First, the 30-day window does not account for the financial environment in which licensed cannabis retailers actually operate. Recreational cannabis remains a Schedule I controlled

substance under federal law. Licensed retailers are excluded from conventional banking and credit markets. They cannot maintain standard lines of credit, access merchant financing, or open basic commercial accounts. This is a systemic condition that OCM cannot regulate around.[1] A 30-day credit period designed for a business with access to revolving credit is a fundamentally different proposition when applied to dispensaries that operate primarily in cash.

Second, the penalty for a single missed payment is disproportionate and self-reinforcing. Under § 124.2(d), a distributor must report any delinquent retailer to OCM. Once reported and found delinquent, the retailer is barred from purchasing on credit and must pay cash on delivery for all future inventory. For a capital-constrained operator who missed a single payment because of a short-term cash flow disruption, mandatory upfront payment makes the following month harder. The rule is especially punishing for CAURD licensees in their early years, before they have built stable cash flow. It turns a temporary liquidity problem into a barrier to continued operation.

Third, the public delinquent list carries reputational consequences that extend well beyond the financial. Section 124.2(e)(4) permits OCM to publish the delinquent list on its website, with full access available to every licensed supplier in the market. For a justice-involved entrepreneur who has come through the carceral system, navigated the CAURD licensing process, and built a business in their community, public placement on a government-maintained delinquency list brands them as unreliable to every potential supplier and undermines the legitimacy that the MRTA's equity framework was designed to help these operators establish. A public disclosure mechanism with no cure period is inconsistent with OCM's equity mandate.

The broader regulatory environment makes all of this worse. Equity licensees, many of whom launched with minimal startup capital, operate alongside unlicensed competitors who bear no compliance costs, pay no excise taxes, and face limited enforcement. Internal Revenue Code § 280E continues to deny licensed cannabis businesses the ability to deduct ordinary and necessary business expenses, compressing already thin margins.[2] OCM has no authority over § 280E. But OCM can ensure that its own regulations do not compound the burdens that result from it. The 30-day rule was not designed with this environment in mind, and it should not be administered as though that environment does not exist.

The dispute resolution mechanism offers no meaningful remedy. Although § 124.2(f) authorizes OCM to arbitrate disputes, several licensees reported that there are no effective mechanisms to challenge erroneous inclusion on the delinquent list. The regulation provides no timeline for OCM's determination, no requirement that the parties exchange statements, no stay

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[1] See N.Y. Cannabis Control Board & Office of Cannabis Mgmt., New York Social and Economic Equity Plan 15–16 (2023), https://cannabis.ny.gov/system/files/documents/2025/07/nys-see-plan-english.pdf (noting that federal prohibition prevents licensed cannabis businesses from accessing standard banking services and capital from traditional financial institutions).

[2] I.R.C. § 280E (disallowing deductions for businesses trafficking in Schedule I controlled substances).

of delinquent-list placement pending resolution, and no structured procedure that would allow a small operator to contest a distributor's report. For a licensee whose credit access and supplier relationships depend on that determination, an open-ended process without procedural safeguards is indistinguishable from no process at all.

C. Proposed Amendments

OCM should amend § 124.2(c)(2) and § 124.2(d)(1) to extend the default credit period, introduce a tiered equity accommodation, create a mandatory pre-reporting cure period, and establish structured dispute resolution procedures with enforceable timelines.

1. Extended Credit Period

Proposed Amendment to § 124.2(c)(2):

… retail dispensaries and on-site consumption licenses purchasing cannabis products on credit shall pay their balance due within ~~thirty (30) days~~ ***sixty (60) days****, unless otherwise approved by the Board.*

All licensed retailers would receive an extended default credit period of 60 days, double the current 30-day window, reflecting the cash-only operating environment that every cannabis retailer faces regardless of size.

2. Tiered Equity Accommodation

Proposed New § 124.2(c)(3):

The Board shall, by regulation, establish extended payment terms of ninety (90) days for (i) licensees qualifying under the Office's social and economic equity criteria, and (ii) any retail dispensary licensee during the first twelve (12) months following the date on which such licensee records its first retail sale in the Cannabis Data System, provided such licensees remain in good standing and are not subject to a prior delinquency finding in the calendar year. A licensee qualifying under both clause (i) and clause (ii) shall not receive credit terms exceeding ninety (90) days. A licensee is in good standing if such licensee is not on the delinquent list and has no pending license suspension or revocation proceedings.

CAURD licensees, other OCM-certified social and economic equity licensees, and any retail dispensary in its first year of sales would receive an additional 30 days beyond the 60-day baseline, for a total credit period of 90 days.[3] For equity licensees, this is an accommodation that

[3] All equity criteria are tied to existing eligibility criteria set out by OCM. See 9 N.Y.C.R.R. § 116.4(a)(2)(iii) (defining qualifying business criteria for CAURD eligibility); N.Y. Cannabis Law § 87(1) (establishing social and economic equity plan and certification criteria). The first-year eligibility window is measured from the date of a

recognizes the capital disadvantages they face relative to better-resourced competitors. For first-year dispensaries, it reflects the operational reality that new entrants — regardless of license type — face acute cash flow volatility during their initial months of operation, when customer bases are not yet established and revenue is unpredictable. A retailer without a valid SEE certification and past its first year of sales receives 60 days. A retailer with a valid SEE certification, or any retailer in its first twelve months of recorded sales, receives 90 days. The tiered structure ensures the regulatory framework advances both the MRTA's equity mandate and the Office's interest in supporting market entry for all new licensees.

3. Mandatory Pre-Reporting Cure Period

Proposed Amendment to § 124.2(d)(1):

Distributors, microbusinesses, cooperatives, RODs, or RONDs shall report retailers who are delinquent in payment for cannabis products to the Office; provided, however, that no retailer shall be reported as delinquent until fifteen (15) business days following the expiration of the applicable credit period (the "Cure Period"). The Cure Period shall commence automatically upon the expiration of the applicable credit period and shall expire at 11:59 p.m. Eastern Time on the fifteenth (15th) business day thereafter. During the Cure Period, the retailer may satisfy the outstanding balance in full without being subject to reporting to the Office or placement on the delinquent list.

The Cure Period shall be available to each licensee once per rolling twelve (12)-month period, measured from the date on which the licensee's most recent Cure Period was used pursuant to this section. A licensee that has used a Cure Period may not access an additional Cure Period until twelve (12) full calendar months have elapsed from the date of such prior use. A licensee that has already used a Cure Period within the last twelve (12) months and fails to timely pay a balance due within the applicable credit period shall be reported to the Office as delinquent upon satisfaction of applicable notice requirements in § 124.2(e)(2). A licensee's use of a Cure Period shall be deemed to occur on the date the outstanding balance is paid in full during the Cure Period.

Notwithstanding the foregoing, a retailer reported as delinquent and placed on the delinquent list may be removed upon full payment of all outstanding balances owed by such retailer to all reporting distributors. Upon receipt of full payment, the distributor shall notify the Office within three (3) business days, and the Office shall remove the licensee from the delinquent list within five (5) business days of receiving such notification. During the period between full payment and removal from the delinquent list, the reporting distributor may, in its discretion, resume sales to the licensee on credit terms.

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licensee's first recorded retail sale in the seed to sale system, providing a verifiable, system-generated trigger that does not require a separate application or certification.

The cure period distinguishes between a retailer who cannot pay and one who is temporarily short on cash. The once-per-year limitation prevents abuse while protecting licensees going through genuine short-term disruptions. The removal mechanism ensures that a licensee who cures a default is not penalized beyond the period of actual delinquency.

4. Delinquent List Notification

Proposed New § 124.2(e)(5):

The Office shall notify any licensee of its placement on the delinquent list within two (2) business days of such placement by electronic mail and through the licensee's Cannabis Data System account. The notice shall identify the reporting distributor, the amount alleged delinquent, and the licensee's rights under §§ 124.2(d)(1) and 124.2(f). The Office shall not publish the licensee's name on the delinquent list until such notice has been sent.

CAURD operators reported learning of their delinquent-list placement through social media or from suppliers who had already cut off credit, rather than from the Office. A licensee who does not know they are on the list cannot cure the default or initiate dispute resolution. The notification requirement ensures actual knowledge before commercial consequences attach.

5. Structured Dispute Resolution

Proposed Amendment to § 124.2(f):

(f) In the event that any dispute shall exist between any distributor, microbusiness, cooperative, ROD, or ROND and a retail dispensary licensee to whom they shall have sold cannabis products, either as to the fact of payment or as to the amount due for such cannabis products or as to the quantity of the cannabis products sold or delivered, which dispute cannot be resolved between them, the Office is hereby authorized to receive statements from each of the parties to such dispute as to the facts and circumstances thereof and to determine whether or not a retail dispensary licensee is delinquent and should be included on the appropriate delinquent list, provided that:

(1) the Office shall require statements from all parties to the dispute, require that the parties serve their statements to all other parties, and that responsive statements be made within fourteen (14) business days of service of any initial statement;

(2) the Office shall make its determination and communicate the same to the parties as soon as reasonably practicable, but no later than fourteen (14) business days following receipt of the last statement made pursuant to this section;

(3) the addition of any licensee to any delinquent list authorized by this Part shall be stayed pending the Office's determination; and

(4) The licensee may appeal this determination and request a hearing pursuant to Part 133 of this Title.

These safeguards prevent a licensee from being placed on the delinquent list while a good-faith dispute is pending. The stay provision is essential: without it, a licensee who disputes a payment claim faces the commercial consequences of delinquent-list placement before OCM has even looked at the merits.

D. Comparative Jurisdictional Analysis

No state has directly amended a distributor credit period analogous to § 124.2(c)(2). But Illinois and Massachusetts have confronted the same underlying problem, equity licensees unable to survive short-term cash flow disruptions, and addressed it through state-administered capital programs that function as substitutes for longer payment windows.

Illinois recognized early that equity licensees were handicapped by capital constraints. The Illinois Department of Commerce and Economic Opportunity launched the Cannabis Social Equity Loan Program, a state-financed forgivable loan facility offering an 18-month grace period with no required payments and zero-percent interest, with the loan principal 100% forgivable upon documentation of eligible business expenses.[4] These loans cover ordinary business expenses including inventory, wages, and rent. Illinois structured the program so that equity licensees facing financial stress would not be further penalized for it: dispensaries remain eligible even if they are not current with the licensing agency on fees. This stands in direct contrast to New York's delinquent list mechanism, which triggers penalties at the first sign of payment default.

Massachusetts established a Cannabis Social Equity Trust Fund to encourage full participation in the regulated marijuana industry by entrepreneurs from communities disproportionately harmed by prohibition.[5] In fiscal year 2025, the fund distributed $26.5 million in grants to 181 social equity businesses, with awards ranging from $25,000 to $500,000. Massachusetts further created an Immediate Needs Grant Program, providing up to $50,000 to eligible marijuana establishments for imminent or outstanding operational expenses.[6]

New York is not without capital support mechanisms. OCM and Empire State Development launched a $5 million CAURD grant program in 2025, and New York City operates a loan fund that expanded in two phases. But these programs do not address the liquidity problem the 30-day credit rule creates. The CAURD grant fund was a one-time disbursement that has since been

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[4]Ill. Dep't of Commerce & Econ. Opportunity, Cannabis Social Equity Loan Program – Round 3, https://dceo.illinois.gov/oe3/cannabisequity/cannabis-social-equity-r3.html (last visited Apr. 27, 2026).
[5]Mass. Gen. Laws ch. 94G, § 14A (2022).
[6]Mass. Exec. Off. of Econ. Dev., Cannabis Social Equity Trust Fund FY25 Annual Report (2025), https://www.mass.gov/doc/fy25-csetf-annual-report/download.

exhausted.[7] The NYC loan fund is limited to New York City and was designed for startup and capital costs, not the month-to-month cash flow disruptions a rigid credit structure generates. Neither program addresses the ongoing operational liquidity gap that § 124.2(c)(2) creates for every CAURD licensee statewide on a recurring basis.

Neither Illinois nor Massachusetts solved this problem through penalties. They reduced the conditions that make penalties inevitable. OCM should both amend the credit rule as proposed above and urge Empire State Development to expand and restructure existing capital programs into a durable operational backstop, modeled on Illinois's forgivable loan facility and Massachusetts's recurring grant program, without requiring new legislative authority to do so.

II. PRICING — PRICE COMPRESSION AND THE MISSING PRICE FLOOR (§ 124.2(a))

A. Current Rules

Section 124.2(a) establishes the pricing framework for cannabis distribution. Three provisions are relevant:

§ 124.2(a)(2): Licensees engaged in distribution shall sell cannabis and cannabis products, or cannabis merchandise or cannabis paraphernalia, at prices indicative of their true value when sold without any other products, terms, or services.

§ 124.2(a)(3): Licensees engaged in distribution shall not discriminate, directly or indirectly, in price, payment terms, or discounts for time of payment or in discounts on quantity of merchandise sold, except as permitted by this Part.

§ 124.2(a)(4): Licensees engaged in distribution shall be permitted to offer volume-based discounts on cannabis and cannabis products, provided that such discounts are offered to all licensed purchasers.

The MRTA also authorizes the Board to "[a]pprove any price quotas or price controls." N.Y. Cannabis Law § 10(20). The adult-use regulations do not implement this authority.

B. Problem Statement

The pricing framework rests on a standard, "prices indicative of their true value", that is undefined, unverifiable, and unenforceable without a corresponding price floor.

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[7] See FORWARD Platform, New York ESD CAURD Grant Program, https://forwardplatform.wpcomstaging.com/new-york-esd-caurd-grant-program (noting that funding for the CAURD Grant has been fully exhausted).

"True value" is undefined in the Cannabis Law, undefined in the implementing regulations, and undefined in any OCM guidance document. The regulation does not specify whether the term refers to cost of production, wholesale market price, comparable product benchmarks, or some other metric. Without a definition, the standard cannot be enforced. No mandatory price reporting requirement exists for cultivators or distributors. OCM's Cannabis Data System ("Metrc") collects seed-to-sale tracking data, but nothing in the regulations requires cultivators or distributors to report the prices at which transactions occur in a form that would allow OCM to establish or monitor a market benchmark. The result is that OCM has no visibility into whether wholesale prices reflect "true value" in any real sense and no mechanism to detect below-cost pricing even if it were occurring.

First, the absence of a price floor permits below-cost pricing by well-capitalized operators. A large distributor or multi-location operator with access to capital can price cannabis products at or below cost to suppress competition and capture market share. A CAURD licensee purchasing at wholesale with no credit facility and operating on slim margins cannot. The current framework offers no protection because it establishes no floor below which pricing becomes impermissible.

Second, the volume discount provision of § 124.2(a)(4), while facially neutral, advantages high-volume operators in ways that cut against OCM's equity mandate. The requirement that discounts be "offered to all licensed purchasers" creates a formal equality that masks a substantive inequality: a retailer purchasing 500 units accesses a materially different price point than one purchasing 50. For a small equity licensee whose capitalization limits order volume, equal access to a discount they cannot qualify for is meaningless.

The problem is a self-reinforcing cycle that the regulation actively accelerates. A well-capitalized operator who qualifies for the highest volume discount tier acquires inventory at lower per-unit cost, prices its retail product more competitively, generates higher revenue, and uses that revenue to place even larger future orders, unlocking deeper discounts in the next cycle. Each iteration widens the cost-of-goods gap between the large operator and the small equity licensee. The CAURD licensee, constrained by limited startup capital and operating without access to conventional credit, cannot increase order volume to chase the discount and therefore cannot compete on price. Over time, the large operator captures market share, the equity licensee loses it, and the gap compounds. Section 124.2(a)(4) does not just permit this dynamic. It subsidizes it.

The operators the Hub works with described this in concrete terms. One CAURD licensee explained that competing against a corporation with seven locations ordering inventory for all of them at once means competing against an entirely different cost structure. Another called the situation a "race to the bottom," where dispensaries keep undercutting each other until margins become unviable for single-location operators. Multiple retailers pointed out that what looks like a minor price cut can dramatically alter revenue: making $100 on ten units at $10 requires a very different sales volume than making $100 at $7 per unit.

Third, the current framework places OCM in direct tension with its own SEE Plan. The SEE Plan directed OCM to "aggregate and analyze pricing patterns to determine whether evidence of below-cost predatory pricing or price fixing warrants further investigation and, if necessary, enforcement."[8] That directive presupposes a pricing standard against which predatory conduct can be measured. No such standard exists. OCM cannot investigate below-cost pricing if it has never defined what "cost" means for regulatory purposes. The SEE Plan commitment, without a price floor, is unenforceable by design.

The two-tier market structure separating the supply tier from the retail tier aggravates these dynamics. The Cannabis Law established this structure to prevent vertical integration and protect independent retailers. That protection functions as intended only when wholesale and retail prices are subject to a baseline floor. When wholesale prices are driven down by volume-based discounting and retail prices are compressed by unlicensed competition operating outside the regulatory framework entirely, the independent retailer is squeezed from above and below simultaneously.

Analogous frameworks exist and offer tested models. New York's Cigarette Marketing Standards Act prohibits tobacco sales below cost to prevent exactly the predatory pricing dynamics now emerging in the licensed cannabis market.[9] New York regulates alcohol wholesale prices through a price-posting system. New York's dairy minimum pricing framework provides an agricultural precedent. Multiple states impose minimum markup requirements on alcohol for the same reason.[10] OCM has statutory authority under the Cannabis Law to establish minimum pricing thresholds.[11] The question is whether OCM will exercise that authority before below-cost pricing displaces the equity licensees the MRTA was enacted to protect.

C. Proposed Amendments

OCM should amend § 124.2 to establish a minimum pricing framework with four components: a volume-discount reform, a floor-setting mechanism, an annual update obligation, and a defined promotional exemption.

1. Volume Discount Reform

Proposed Amendment to § 124.2(a)(4):

[8]N.Y. Cannabis Control Board & Office of Cannabis Mgmt., New York Social and Economic Equity Plan 57 (2023).
[9]N.Y. Tax Law art. 20-A, §§ 483, 484, 488 (Cigarette Marketing Standards Act).
[10]See, e.g., Ohio Admin. Code § 4301:1-1-72 (mandatory minimum 25% markup on retail beer sales).
[11]N.Y. Cannabis Law §§ 10(20), 13(1)–(2) (authorizing the Board to approve price quotas or price controls and granting broad rulemaking authority over the sale of adult-use cannabis).

Licensees engaged in distribution shall be permitted to offer volume-based discounts on cannabis and cannabis products, subject to the following conditions:

(i) volume-based discounts shall be offered to all licensed purchasers on equal terms; provided, however, that no single discount tier shall confer a per-unit price reduction exceeding twenty percent (20%) below the base wholesale price offered to purchasers who do not meet the volume threshold for that tier;

(ii) notwithstanding subdivision (i), distributors shall establish and make available a separate Social and Economic Equity Discount Schedule applicable to licensees who hold a valid social and economic equity ("SEE") certification issued by the Office; the SEE Discount Schedule shall provide per-unit pricing no less favorable than the pricing available to the highest-volume tier under the standard discount schedule, regardless of the SEE licensee's actual order volume;

(iii) a distributor that offers any volume-based discount to any licensed purchaser must make the SEE Discount Schedule available to all SEE-certified licensees upon request, and shall not condition access to the SEE Discount Schedule on minimum order quantities, minimum purchase frequency, or any other volume-based threshold; and

(iv) distributors shall report to the Office, no less than quarterly, the discount schedules offered to all licensed purchasers, including the SEE Discount Schedule, in a form and manner prescribed by the Office; the Office shall review reported discount schedules to assess whether pricing patterns are consistent with the equity objectives of the MRTA.

The 20 percent cap is consistent with markup thresholds applied in state-controlled alcohol markets.[12] OCM should treat this figure as a starting point, subject to adjustment based on cost-of-goods data collected under the proposed reporting framework. The SEE Discount Schedule ensures that volume-based discounts do not function as a subsidy for large operators at the expense of equity licensees.

2. Minimum Pricing Framework

Proposed New § 124.2(l) ("Minimum Pricing"):

(l) Minimum Pricing. The Office shall establish and publish minimum wholesale and retail prices for cannabis and cannabis products, updated no less than annually, based on verified cost-of-goods data reported by licensed cultivators, processors, distributors, and retailers. In setting minimum prices, the Office shall account for average production costs, distribution and compliance expenses, applicable tax obligations, and a reasonable operating margin sufficient to support viable operations for small and equity-licensed retailers.

[12]Mont. Code Ann. § 16-1-106(18) (2017); Miss. Code Ann. § 27-71-11 (2024).

(1) To support minimum price-setting, all licensed cultivators, processors, distributors, and retailers shall report to the Office cost-of-goods data on a quarterly basis. Cost-of-goods data shall include per-unit wholesale prices at which cannabis products are sold or transferred, costs of goods sold, and any discounts applied. Price reporting shall be integrated into the Office's existing Cannabis Data System ("Metrc") at the point of each recorded wholesale transaction. The Office shall publish its pricing methodology and cost-of-goods data annually to allow for public comment prior to any adjustment.

(2) No licensee shall sell cannabis or cannabis products at a price below the established minimum. The Board may grant a temporary exemption from the minimum price requirement for documented promotional purposes, provided that: (i) such promotions do not exceed fourteen (14) calendar days per calendar quarter per licensee, and (ii) the promotional price is not offered in a manner that has the effect of disadvantaging equity licensees or suppressing competition in the relevant market.

(3) The Office shall, no less than annually, analyze wholesale and retail pricing data reported pursuant to this section to assess whether pricing patterns are consistent with the equity objectives of the MRTA and whether evidence of below-cost predatory pricing warrants further investigation or enforcement action, consistent with the Social and Economic Equity Plan.

In establishing minimum pricing thresholds, the Office should account for the full range of operational costs borne by licensed retailers, including Metrc compliance costs, integration software, and inventory tracking labor, which as discussed in Part III.C of this submission can exceed $100,000 per year for a single dispensary. The cost-of-goods baseline should also reflect the non-deductibility of ordinary business expenses under I.R.C. § 280E, which compresses effective margins for all licensed cannabis businesses in ways that businesses in other regulated industries do not face.

3. State Action Immunity

The proposed minimum pricing framework is consistent with the state action doctrine under *Parker v. Brown*, 317 U.S. 341 (1943). Federal antitrust law does not preempt state regulatory programs where two conditions are met: the restraint is undertaken pursuant to a clearly articulated state policy, and the state actively supervises the anticompetitive conduct. *Cal. Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc.*, 445 U.S. 97, 105 (1980). Both conditions are satisfied here.

The Cannabis Law expressly authorizes the Board to "[a]pprove any price quotas or price controls." N.Y. Cannabis Law § 10(20). This is a specific legislative directive that displaces competition in favor of administered pricing, embedded within a statute whose legislative findings identify the equity objectives that pricing controls would serve. The "clear articulation" requirement is met by the statute's text.

Active supervision is built into the proposed framework. Under the proposed § 124.2(l), the Office would set prices based on verified cost-of-goods data, publish its methodology for public comment, review discount schedules quarterly, and analyze pricing patterns annually for evidence of predatory conduct. This is state-administered price-setting with continuous regulatory oversight, distinguishable from the arrangement invalidated in *Battipaglia v. New York State Liquor Authority*, 745 F.2d 166 (2d Cir. 1984), where the alcohol minimum-pricing regime lacked both the express legislative authorization and the active supervisory structure that the MRTA and the proposed regulations provide.[13]

D. Comparative Jurisdictional Analysis

California's licensed cannabis market provides the most instructive warning for New York.

According to the California Department of Cannabis Control's 2024 report, inflation-adjusted wholesale cannabis prices fell 57% between Q4 2020 and Q4 2024.[14] The licensed cultivator base contracted alongside prices: active cultivation licenses declined 43% over three years, from 8,493 at the end of 2021 to 4,805 by the end of 2024. As of February 2025, inactive licenses outnumbered active ones, 10,828 inactive versus 8,514 active.[15] The pattern is market consolidation driven by price compression, not organic growth. The operators that survived did so by scaling up. Smaller operators exited. That is exactly the outcome a minimum pricing framework is designed to prevent.

California's regulatory framework let price compression proceed unchecked. The result was market consolidation among well-capitalized operators and the displacement of the small and equity licensees the market was built to support.

III. PHYSICAL OPERATIONS

A. Storefront Visibility Standards (§ 125.3(b)(5))

Current Rule

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[13]The state action doctrine immunizes from federal antitrust liability regulatory conduct that is (1) clearly articulated as state policy and (2) actively supervised by the state. *Parker v. Brown*, 317 U.S. 341 (1943); *Cal. Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc.*, 445 U.S. 97 (1980). Cannabis Law § 10(20) satisfies the first prong by expressly authorizing price quotas and price controls. The proposed § 124.2(l) satisfies the second by establishing state-administered price-setting with quarterly reporting, annual publication, and continuous regulatory oversight. *Battipaglia v. New York State Liquor Authority*, 745 F.2d 166 (2d Cir. 1984), invalidated an alcohol minimum-pricing regime that lacked the express legislative authorization for price controls and the active supervisory structure that the Cannabis Law and the proposed regulatory framework provide.

[14]Cal. Dep't of Cannabis Control, California Cannabis Market Outlook 2024 (ERA Economics 2025), at 9, 65, https://www.cannabis.ca.gov/posts/california-cannabis-market-outlook/.

[15]Cal. Dep't of Cannabis Control, Cannabis License Summary Report, https://www.cannabis.ca.gov/resources/data-dashboard/license-report/ (last visited Apr. 28, 2026).

Section 125.3(b)(5) requires that cannabis products within storage areas be "kept out of plain sight and not visible from a public place outside of the licensed premises without the use of binoculars, optical aids, or aircraft." In practice, this has led to the widespread use of blacked-out or fully obscured windows across dispensary storefronts.

Operational Reality

The visibility prohibition cuts off foot traffic. Operators described their storefronts as uninviting. One owner likened the appearance to a "methadone clinic." Staff reported feeling isolated, with morale and retention suffering as a result. Multiple operators said they stand outside their own stores to signal to passersby that the business is open. For equity-licensed operators who depend on walk-in traffic and lack the capital for broad marketing campaigns, this compounds into a real barrier to revenue.

Other Considerations

Tinted or frosted windows are widely used in comparable regulated industries. Tobacco retailers, vape shops, and alcohol retailers in New York face no total opacity requirement. New York's own medical cannabis program already accepts a partial-frosting approach: registered organizations operating medical dispensaries obscure interior product displays while maintaining a recognizable, accessible storefront. Fixed security costs that do not scale with revenue fall harder on single-location CAURD operators who cannot spread them across multiple stores. Fixing this would materially help the equity licensees the framework was built around.

Recommendation

The Office should develop visibility standards through guidance that balance the anti-diversion purpose of § 125.3(b)(5) with the operational need for street-level presence. Such guidance should recognize frosted or partially screened windows as compliant alternatives, preserving the regulatory interest in preventing visible cannabis display while allowing the minimal exterior presence necessary for a viable retail storefront.

B. Product Display and Floor Staffing (§ 123.10)

Current Rules

Three provisions interact to create the framework at issue. Section 123.10(j)(1) requires working stock to be "locked behind a counter or other barrier" to prevent direct consumer access. Section 123.10(d)(2) requires staff to inspect the physical identification of every customer entering the store to verify the individual is 21 or older. Section 123.10(e)(3) permits dispensaries to display samples of cannabis products in "secure, locked cases," but requires that "[a]uthorized employees may remove samples from the display case and provide it to the cannabis consumer for inspection." No explicit numerical staffing minimum exists, though § 123.10(c) requires each

dispensary to have a designated “employee in charge” responsible for supervision, inventory acceptance, recordkeeping, training, and maintaining a staffing plan.

Operational Reality

The employee-mediation requirement converts every sale into an extended consultation without serving a clear regulatory purpose. Section 123.10(e)(3) permits locked display samples, but then requires an authorized employee to retrieve every sample from the case and present it to the consumer. The locked case itself addresses the anti-diversion concern: customers cannot remove products without staff assistance, and all working stock remains separately secured behind the counter under § 123.10(j)(1). The additional employee-retrieval step adds no incremental security benefit. As one operator put it: “I’m sitting here talking to you for five minutes about something you could have picked up and smelled with your nose in twelve seconds.”

The combined framework creates a de facto floor staffing requirement with no explicit basis in the regulations. ID verification at entry, employee-mediated product access, and inventory and recordkeeping obligations together require multiple staff on the floor at once. Operators described needing at least three people per shift: one checking IDs at the door, one on the sales floor, and one managing back-of-house compliance. When a floor employee gets pulled into a consultation, other customers go unassisted. For small businesses on thin margins, certain shifts become economically unviable, even though no single regulation mandates it.

Other Considerations

The stricter access regime in cannabis retail is not justified by any greater diversion or public-health risk than exists in comparable industries. Liquor and wine retailers sell a regulated, age-restricted product and are subject to age-verification requirements, yet customers routinely pick up wine bottles and make purchasing decisions based on sight. The Office’s own compliance guideline frames § 123.10(e)(3) as ensuring that samples are “for inspection only” and not consumed, used, or removed. That purpose is fully served by the locked-case requirement, the on-premises consumption prohibition under § 123.10(g)(20), continuous video surveillance under § 125.3, and the constant presence of trained staff.

Section 123.10(e)(3) already reflects a regulatory balance the Office struck. Its existence shows the Office contemplated a middle path between full open access and pure verbal consultation, with locked samples that customers can inspect. The remaining constraint — the employee-retrieval requirement — is what operators experience as the bottleneck. Amending this provision to permit consumer-accessible locked display cases would leave the framework’s core anti-diversion function intact: working stock stays locked behind the counter under § 123.10(j)(1), inaccessible to customers. Only sealed display samples in locked cases would become customer-accessible, under the same on-premises constraints that already apply.

Recommendation

The Office should amend § 123.10(e)(3) to permit consumer-accessible locked display cases, allowing customers to handle and inspect display samples without requiring employee retrieval for each product. Working stock would remain locked behind the counter under § 123.10(j)(1), preserving the anti-diversion rationale.

The Office should also evaluate the cumulative staffing impact of its retail operations framework. In the near term, the Office should issue guidance clarifying that a single employee may simultaneously fulfill the ID-verification, floor-sales, and employee-in-charge functions required under § 123.10(c) and (d) during lower-traffic periods, rather than treating these as roles requiring separate personnel. “Lower-traffic periods” should be defined operationally as periods during which customer volume, based on the dispensary’s own point-of-sale data, falls below its peak-hour average, so that operators may rely on their own records to determine when reduced staffing is permissible.

In the longer term, the Office should conduct a formal staffing impact study that maps how the combined obligations of §§ 123.10 interact in practice across different operator sizes and license types, and use the results to inform a staffing standard that gives small equity-licensed dispensaries a regulatory pathway to operate with staffing levels that reflect their actual capacity.

C. Inventory Management and System Downtime (§ 125.8)

Current Rules

Section 125.8(a) requires licensees to track all physical inventory of cannabis in an electronic real-time inventory tracking system as determined by the Office. The system must be capable of showing any cannabis released for sale and allow for a total recall if necessary. Licensees must accurately record all inventory in real time, physically tag all cannabis products with unique identifiers, and track data elements for every activity performed with cannabis. Section 123.10(e)(2)(v) separately requires dispensaries to use an inventory tracking system capable of compiling inventory, transaction data, and tax liability, with real-time reporting to the Office. Section 123.10(e)(2)(vi) requires dispensaries to "conduct a monthly analysis of its inventory tracking system to determine that no software has been installed that could be utilized to manipulate or alter inventory or sales data."

The Office designated BioTrack as the system of record in 2022 and set integration deadlines in 2025. Many operators built or purchased point-of-sale and integration software to meet those deadlines. The Office then announced it would transition to Metrc, with launch scheduled for early 2026. Operators who had already paid for BioTrack-compatible systems had to buy new integrations and eat the cost of the switch.

Operational Reality

Real-time Metrc compliance imposes substantial and recurring labor costs. One operator reported spending over $100,000 per year on inventory management labor alone. A small dispensary can require ten to fifteen hours per week of Metrc-related labor, including data entry, reconciliation, and manifest management. These costs fall hardest on small operators who cannot spread them across multiple locations.

System failures halt operations entirely. Because § 125.8 requires all cannabis transfers to occur through Metrc, a technical failure disrupts the entire supply chain. Operators described recurring instances where Metrc or integrated point-of-sale systems experienced glitches that prevented products from being sold or moved until reports were submitted. As one licensee said, "I literally can't sell products or put products out because I have to submit this report." The regulations provide no protocol for system downtime, leaving operators in legal limbo when the state-mandated system goes down through no fault of their own.

The monthly anti-tampering analysis under § 123.10(e)(2)(vi) is duplicative of OCM's own monitoring capacity. The provision targets software manipulation of inventory or sales data. But the Office now receives real-time data from all Metrc-integrated dispensaries and is better positioned than any individual operator to detect anomalies or signs of data manipulation across the licensed market. Requiring each operator to conduct its own monthly internal audit of data the Office already monitors in real time adds a recurring compliance obligation without adding real protection.

Other Considerations

Federal pharmacy regulations under the Controlled Substances Act require that any pharmacy using a computerized dispensing application "must have an auxiliary procedure" for documentation during system downtime, ensuring operators can continue and records can be reconciled once systems are restored. 21 C.F.R. § 1306.22(b)(5).[16] The absence of a comparable protocol in New York's cannabis regulations leaves operators exposed to legal liability for the failure of a tool the state mandated they use.

The Office's recent elimination of manual weekly inventory reporting, effective May 5, 2026, reflects its recognition that compliance obligations duplicating data the Office already receives through real-time tracking systems impose costs without corresponding regulatory value. The same logic applies to the monthly anti-tampering analysis under § 123.10(e)(2)(vi). If the Office has determined that manual weekly reports are unnecessary because Metrc provides the same data in real time, it should apply that reasoning consistently and relieve operators of a monthly internal audit that monitors for anomalies the Office is better positioned to detect through its own analytics.

[16] 21 C.F.R. § 1306.22(b)(5) (requiring auxiliary procedures for computerized prescription applications during system downtime).

Recommendation

The Office should develop a formal downtime protocol for Metrc outages that permits dispensaries to continue operations using documented manual procedures, subject to reconciliation with the tracking system once it is restored.

The Office should also revisit the monthly anti-tampering analysis under § 123.10(e)(2)(vi) in light of its real-time Metrc monitoring capacity. The Office should consider whether its own analytics, through the Trade Practice Bureau it has already established, can satisfy the anti-tampering function § 123.10(e)(2)(vi) was designed to serve, relieving operators of a duplicative obligation.

IV. MARKETING AND ADVERTISING

A. Outdoor Signage (§ 129.4)

Current Rule

Section 129.4(a)(2)(iv) permits licensees to advertise using outdoor signs containing only the licensee's name, address, directions to the business, and the "licensed activity." No other imagery of cannabis or cannabis paraphernalia is permitted.

Operational Reality

Customers cannot tell what the business is. "Licensed activity" allows legal dispensaries to post text identifying them as a "legal cannabis dispensary," but no imagery of cannabis is permitted. Without a cannabis leaf symbol or any visual marker outside the storefront, many passersby do not understand what the store sells. The problem is worse for potential customers who do not read or understand English but would immediately recognize a universally understood symbol for cannabis.

Licensed dispensaries also lose a simple way to differentiate from illicit stores. New York requires licensed stores to use an official OCM placard and other verification tools, yet restricts obvious cannabis imagery on outdoor signs. This makes it harder for legal dispensaries to stand out from unlicensed stores that freely display cannabis products or use the word "weed" on signage.

Other Considerations

Several peer jurisdictions permit cannabis-related imagery, including the cannabis leaf, on on-premises storefront signs, subject to general content and youth-protection limits. Missouri does not prohibit a marijuana leaf in dispensary advertising, provided other state content rules are met. In many California localities, state rules focus on sign size and avoiding youth-appealing designs

but do not bar cannabis-leaf logos. Alaska allows retail stores a limited number of exterior signs that may include logos, without a categorical prohibition on cannabis-leaf imagery, so long as size, number, and youth-appeal restrictions are satisfied.

Recommendation

The Office should issue interpretive guidance clarifying that standardized cannabis leaf imagery and the licensee's business logo fall within the "licensed activity" and licensee "name" language in § 129.4(a)(2)(iv). That reading follows from the plain meaning of both terms. The permitted imagery should be at least as large as the text that currently allows "licensed dispensary" or "licensed cannabis dispensary" to be displayed, so that it is visible to customers passing by.

To maintain compliance with the broader marketing rules, the permitted leaf imagery should be standardized to a specific color, size, and design. Business logos must be registered with the Office and comply with Part 129's existing prohibitions on youth-appealing imagery and content. Standardized leaf imagery paired with a licensee's registered logo serves two purposes: it helps consumers recognize legal dispensaries and provides a clear visual identity that distinguishes licensed operators from unlicensed competitors, directly advancing the MRTA's goal of displacing the illicit market.

B. Billboards (§ 129.2(b)(11))

Current Rule

Section 129.2(b)(11) prohibits licensees from advertising "in the form of a billboard." The prohibition is categorical, regardless of content.

Operational Reality

The billboard ban undermines basic visibility for legal dispensaries, especially small businesses and upstate licensees. Small dispensaries struggle to attract customers without out-of-premises advertising, particularly in upstate areas with low foot traffic. Billboards are a targeted method many businesses use to reach people traveling in proximity to their location. Because any large off-premises sign over the size thresholds in Section 129 becomes a prohibited "billboard," small licensees cannot use the highway-visible tools that other legal businesses routinely use.

The ban interacts with other marketing restrictions to compound the disadvantage. Part 129 bars additional content from outdoor signs beyond the categories listed in § 129.4(a)(2) and requires that marketing "cannot be easily seen by individuals under 21." Combined with the billboard prohibition, most licensed dispensaries default to minimalist text on storefront signage, leaving them with almost no visual branding capacity. Meanwhile, unlicensed operators continue to use bold marketing to draw in the very consumers the legal market is supposed to serve.

Other Considerations

Several adult-use states, including California, Nevada, and Connecticut, permit cannabis billboards under strict time, place, and content limits, including distance buffers from schools, audience-age thresholds, and bans on youth-appealing imagery, rather than imposing a categorical ban.[17] New York's blanket prohibition is more restrictive than these peer jurisdictions, and a narrow informational exception would bring the state's approach in line with these models while still protecting youth.

Recommendation

The Office should create a targeted exception within Part 129 to permit informational billboards for licensed cannabis dispensaries, while preserving strong youth-protection rules. Section 129.2(b)(11) should be amended so that billboards remain generally prohibited but are permitted when the content is limited to the same categories allowed under § 129.4 for outdoor signs: the licensee's name, business logo, contact information, the dispensary's address or highway exit directions, and a description of the licensed activity.

A narrow informational billboard exception would let licensees reach customers who are driving nearby, instead of depending entirely on storefront signs that only work if the customer already knows where to look.

V. ENFORCEMENT AGAINST UNLICENSED OPERATORS

The regulatory reforms proposed in this submission are necessary but not sufficient without enforcement against unlicensed operators. Every regulatory burden borne by a licensed dispensary — security infrastructure, inventory tracking, age verification, marketing restrictions, payment compliance — represents a cost that unlicensed competitors do not bear.

The Scale of the Problem

In 2023, New York City officials estimated over 1,500 unlicensed cannabis shops were siphoning customers from licensed operators. Following legislative reforms at the end of New York's 2024 legislative session, authorities ramped up enforcement, padlocking over 1,000 unlicensed shops statewide and producing a 72% average increase in sales for licensed NYC dispensaries. That enforcement effort demonstrated what CAURD licensees have argued for years: when the playing field is leveled even modestly, legal dispensaries can compete.

Yet licensees continue to report that enforcement is sporadic and impermanent. Several described instances where municipal police cracked down on smoke shop operators only for the same actor to be back in business days later. Unlicensed shops violate advertising regulations by prominently displaying cannabis in their windows. They open impermissibly close to schools

[17] See, e.g., Cal. Bus. & Prof. Code § 26152(f); Nev. Admin. Code § 453D.305; Conn. Regs. § 21a-XXX (billboard provisions with youth-protection limits).

and houses of worship. They sell products that have not passed quality assurance testing. They bear none of the compliance costs licensed operators face and pay no excise taxes.

The Regulatory Asymmetry

The Office possesses broad enforcement authority under Title 133. OCM can conduct site visits, inspections, and investigations of any person participating in the cannabis market without the appropriate license. 9 N.Y.C.R.R. § 133.25(a). It can impose fines, stop orders, product seizures, and orders to seal the premises of any unlicensed cannabis operator. §§ 133.25(d)(2), (f), (g), (h). The statutory tools exist. The question is the frequency and consistency with which they are deployed.

The enforcement asymmetry compounds every regulatory burden this submission describes. Price floors cannot protect small retailers if unlicensed competitors face no price constraint whatsoever. Credit rule reform cannot stabilize cash flow if unlicensed operators are capturing the customers that licensed dispensaries need to generate revenue. Storefront visibility reforms cannot drive foot traffic if the unlicensed shop across the street operates without consequence.

Recommendation

The Office should take three concrete steps within its existing regulatory authority.

First, the Office should publish quarterly enforcement data, including the number of inspections conducted, seal orders issued, fines imposed, and the geographic distribution of enforcement actions relative to licensed dispensary locations. Specifically, the Office should report, for each county and each Community District in New York City: (a) the number of inspections of unlicensed operators conducted during the quarter, (b) the number of seal orders executed, (c) the number of sealed premises that resumed unlicensed operations within 90 calendar days, and (d) the proximity of enforcement actions to the nearest licensed dispensary.

Second, the Office should adopt a geographic prioritization standard for enforcement. Resources should be directed first to areas within a one-mile radius of any licensed dispensary, with particular attention to blocks where licensed and unlicensed operators are in direct proximity. The Office should publish its prioritization criteria and report annually on whether enforcement patterns are consistent with them.

Third, the Office should exercise its seal-order authority under § 133.25(f) more aggressively and develop administrative procedures to prevent sealed premises from reopening. Specifically, the Office should: (a) establish a protocol for post-seal monitoring that requires a follow-up inspection within 30 days of any seal order to verify the premises remains closed; (b) coordinate with municipal agencies to ensure that sealed premises cannot obtain or retain business licenses, certificates of occupancy, or utility services while under a seal order; and (c) impose escalating

penalties for repeat violations at the same address, including referral for criminal prosecution where authorized.

The restrictions described throughout this submission — age verification, product testing, marketing limitations — were designed to protect consumers and communities. Unlicensed operators are subject to none of them. The Office's enforcement choices determine whether the MRTA's consumer protection and equity mandates have force or are merely aspirational.

Fourth, the regulatory reforms proposed above should be accompanied by targeted legislative amendments to strengthen the Office's enforcement tools. The Hub recognizes that the current comment period concerns OCM's regulations, and the three recommendations above are directed at the Office's existing authority. Two statutory provisions currently limit the effectiveness of the enforcement framework, and specific proposals for legislative reform appear in Appendix A to this submission.

VI. CONCLUSION

The regulations addressed in these comments do not operate in isolation. Together, they impose disproportionate costs on equity licensees. A credit structure with no cure period penalizes temporary illiquidity as though it were chronic default. A pricing standard with no definition and no floor lets predatory dynamics proceed unchecked. A visibility regime that blacks out dispensary windows and a staffing framework that imposes de facto minimums without acknowledging them create operating conditions that are economically unviable for single-location operators. Marketing restrictions that bar universally recognized imagery while unlicensed competitors advertise freely deprive legal dispensaries of the consumer awareness they need to survive. And enforcement that is sporadic, impermanent, and geographically inconsistent undermines every reform this submission proposes.

The amendments proposed here are targeted, feasible, and grounded in precedent from comparable regulated industries and other states. They do not ask OCM to abandon its compliance framework. They ask OCM to calibrate it to the market it has licensed — a market in which justice-involved entrepreneurs operate without access to conventional capital, without pricing protections, and without the operational safeguards that the MRTA promised them.

OCM has the statutory authority and the equity mandate to act. The Bronx Cannabis Hub respectfully urges the Office to explore adoption of these amendments.

APPENDIX A: RECOMMENDED LEGISLATIVE AMENDMENTS

The following recommendations are directed to the New York State Legislature, not to OCM's rulemaking authority. They are included because the regulatory reforms proposed in the body of

this submission cannot achieve their full effect without corresponding statutory reform. The Hub intends to communicate these recommendations separately to the relevant legislative committees and includes them here to provide a complete account of the structural changes necessary to support a viable regulated market.

1. Section 133.25(f) — The De Minimis Clause

Section 133.25(f) currently authorizes the Office to seal the premises of any unlicensed cannabis business, but only where "the unlicensed activity is more than a de minimis part of the business activity." This clause creates a loophole for businesses that conduct unlicensed cannabis sales as a secondary activity alongside otherwise lawful operations. A smoke shop that derives a substantial share of its revenue from unlicensed cannabis sales but can characterize those sales as "de minimis" relative to its tobacco or paraphernalia business may fall outside the reach of § 133.25(f). The de minimis exception should be deleted:

Proposed Amendment to § 133.25(f):

The office may issue an order to seal the building or premises of any business engaged in unlicensed activity pursuant to Cannabis Law Section 138-b with an immediate effective date upon a finding of an imminent threat to the public health, safety, and welfare and only if no part of the area to be sealed is used in part as a residence or is zoned for residential use~~, and the unlicensed activity is more than a de minimis part of the business activity~~.

Any unlicensed cannabis activity that poses an imminent threat to public health, safety, and welfare warrants a seal order regardless of the proportion of the business's overall revenue it represents.

2. Section 133.25(g)(3) — Mandatory Padlocking

Section 133.25(g)(3) provides the procedural mechanism for executing seal orders but does not require physical padlocking of sealed premises. Without a mandatory padlocking requirement, sealed businesses reopen and the deterrent effect of the seal order is lost. The following language should be added:

Proposed Addition to § 133.25(g)(3):

Once it is satisfied that service is properly made pursuant to this section, the county sheriff or equivalent shall remove all persons from the premises and seal the same with a secure padlock.

This amendment ensures that seal orders result in actual closure of unlicensed operations, not merely an administrative designation that leaves the premises physically accessible.
