

4 Issues To Watch As Adult-Use Cannabis Sales Begin In NJ

By **Michael DeLoreto** (April 28, 2022)

With adult-use cannabis sales beginning on April 21, New Jersey is now one of 18 states that allows adults over age 21 to lawfully purchase and use cannabis for recreational purposes.

The next several months will be extremely interesting to watch as legislators, regulators, cannabis industry entrepreneurs and the general public adjust to this new marketplace.

These four areas will be telling as to how the implementation of adult-use cannabis is going.



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1. Supply and Demand

The most watched issue will be the amount of supply available for sale and the demand for cannabis. This is particularly true for medical cannabis advocates who are concerned that adult use will consume the medical cannabis supply in New Jersey.

New Jersey's medical cannabis program has been in place since 2010, and in recent years, the number of card-carrying patients has dramatically increased to well over 120,000 as new qualifying conditions were added. How many will stay within the medical cannabis program is unknown, but other states provide some guidance here.

Colorado saw a nearly 20% drop in registered medical cannabis patients, Nevada experienced a 40% reduction, and Oregon and Alaska found nearly two-thirds of their patients gave up their medical cards once adult-use cannabis came to market.[1]

If the same holds true for New Jersey, a significant number of medical cannabis patients may become adult-use customers without adding to the demand.

As to the number of new customers that will start purchasing from the legal marketplace, evidence suggests that this transition will occur slowly at first, then exponentially increase.

For example, it took nearly a year in Colorado for adult-use sales to exceed the amount of medical cannabis sales. But by the end of the third year of legalization, adult-use sales were more than twice the amount of medical sales. Today, a little over eight years into Colorado's legal marketplace, adult-use sales are more than six times the amount of medical sales.[2]

2. Approval and Operation of New Licensees

With demand likely tepid at first and then rapidly accelerating, there is a limited window where supply can be increased, which will bring down costs for medical patients and adult-use consumers, thereby making the legal marketplace viable.

The burden then falls on the New Jersey Cannabis Regulatory Commission, or NJCRC, to license and bring to market new licensees, particularly cultivators and manufacturers or processors, as quickly as possible.

The NJCRC, which is only a year old, has the unenviable task of trying to expand the

cannabis industry while ensuring key elements of their development plans are adhered to, in particular social equity and consumer safety.

For example, the NJCRC's regulations require applications be reviewed based upon their application designation, with social equity microbusinesses being the highest designation of the 25 possible classifications.

Every applicant must also meet the NJCRC's initial licensing requirements for the proper distribution of product, and these vary depending upon the type of license sought.

Undertaking these reviews is not easy with a staff of roughly 60 people categorizing applications, analyzing hundreds of license applications and ownership structures, approving new locations, and monitoring current licensees.

Everyone, particularly those seeking licenses, will be watching to see if the NJCRC can approve applications in short order and bring these facilities to operational status. The inability to issue new licenses will only cause further delay in industry expansion.

3. Municipal Acceptance of Cannabis

Even if the NJCRC approves license applications at a rapid pace, municipal government challenges remain.

The vast majority of New Jersey towns opted out of the adult-use market, which immediately limits the number of communities that a cannabis licensee may locate.

No matter how eager the state, as well as the residents of those towns, may be to expand the marketplace, local control and the fears many municipal officials harbor toward adult-use cannabis have tempered that enthusiasm.

Some towns felt rushed to implement their zoning and regulatory framework and wanted to take a wait-and-see approach in order to learn from the experience of other towns. Others have a fundamental problem with allowing cannabis sales since it is still illegal under federal law.

Although municipal approval and support is a key element to the NJCRC's review process, each licensee will face problems developing their locations, even when permitted by local law.

Vocal members of the community who oppose adult-use cannabis, and just the run-of-the-mill permitting and construction challenges that every business faces can create delays and be costly.

Site plan approvals, depending upon the business's vision for the location, may be challenging, and construction has become even more difficult due to supply chain issues delaying the delivery of materials for fit-outs.

4. Legislative Hearings on the NJCRC

After the NJCRC delayed the expected announcement of the adult-use marketplace, New Jersey Senate President Nicholas Scutari, the prime sponsor of the adult-use law in the previous legislative session, announced his intention to hold legislative oversight hearings into the NJCRC.

The recent action by the NJCRC to permit adult-use sales did little to dissuade the senate president's desire "to move forward with legislative oversight hearings" and "get an understanding of the delays, the uncertainties and any obstacles that hinder the full implementation of the cannabis law." [3]

The stated purpose of this special oversight committee will be to engage in fact-finding and make recommendations on the continued expansion of the cannabis marketplace; reducing the cost of medical marijuana; the availability of product to meet the needs of both the medical and recreational markets; addressing the ongoing approval process; and reviewing banking and social equity concerns.

Depending upon the outcome of the hearings, there is the potential that additional legislative changes to the state's cannabis laws might be sought in order to speed up permitting and reduce costs to patients and consumers.

Conclusion

As with the launch of any new product or service, the next few months will have moments of excitement and frustration for those involved in the cannabis industry, whether they be regulators, businesses or consumers.

The ultimate outcome for the medical and recreational cannabis marketplace in New Jersey, however, will not be known for some time. Watching these four areas will give some insight as to how the industry will fare in the short and long term, which is important for new business entrants and policymakers.

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[1] Gillian Flaccus and Angeliki Kastanis, "AP analysis: Medical pot takes hit when weed legal for all," The Associated Press, June 11, 2019 available at <https://apnews.com/article/678b955988ce4e85b21815acb71972a9>.

[2] Marijuana Sales Reports, 2014, to Date Colorado Department of Revenue, available at <https://cdor.colorado.gov/data-and-reports/marijuana-data/marijuana-sales-reports>.

[3] <https://www.njsendems.org/scutari-statement-on-action-by-crc/>.