

Cannabis Compliance Board Regulatory Workshop

Meeting Minutes – April 29, 2022

The Cannabis Compliance Board (CCB) held a public meeting at 555 E. Washington Ave, Room 2450, Las Vegas, Nevada and 1919 College Parkway Room 100, Carson City, Nevada on April 29, 2022, beginning at 10:00 a.m.

Cannabis Compliance Board Members present:

Michael Douglas
Jerrie Merritt
Riana Durrett

Tyler Klimas, Executive Director, called the meeting to order at 10:03 a.m. Director Klimas noted that Chair Douglas and Member Merritt were present at the workshop. Director Klimas provided an introduction to the workshop and the regulations for discussion. Director Klimas stated that this was the third draft of the regulations, and this workshop will focus on the changes that have happened since the last draft. Agenda items II and III will be presented in their entirety before opening up to public comment. Written public comments that were submitted have been posted online; additional written public comments that come in during or after the workshop will be posted online.

I. Public Comment

Brianna Padilla wanted to acknowledge the CCB, its employees, community advocates, industry stakeholders, and professionals who have come together during the process of building the regulations. Ms. Padilla commented that the regulators, community, and industry have been gone through fifteen workshops regarding consumption lounges. Ms. Padilla thought that while no laws are perfect, a strong foundation is being built for cannabis lounges. It was a priority for the CCB, the Chamber of Cannabis, and the industry to create a regulatory environment where those harmed by the war on drugs could see the benefits of the recreational and medical legalization.

A'Esha Goins with Black Joy Consulting on behalf of CEIC stated she appreciated the efforts of the Board and CCB staff to put the regulations together. Ms. Goins was dismayed and disheartened that there was no way to centralize that the applicants, and specifically social equity applicants, only come from Nevada. Ms. Goins had hoped that the regulations would hold those applicants to being Nevada residents.

Brendan Blume, Vice President of Experiences for Green Thumb Industries, stated that Green Thumb just opened their first consumption lounge in Illinois. His co-worker Sara Stewart opened the first lounge in West Hollywood. Mr. Blume looked forward to providing their experience to help draft the regulations for business, consumers, and patients.

Director Klimas noted the Member Durrett joined the meeting via Zoom.

II. Proposed Amendments and Additions to the Nevada Cannabis Compliance Board Regulations – Applications

Deputy Director Michael Miles provided an introduction and stated he would present the updates to the regulations which govern the licensing process.

A. Regulation 1. Issuance of Regulations; Construction; Definitions

Several definitions have been removed as they are no longer pertinent on the new application process. All owners, officers, and board members need to be identified in a background check. Lounge licenses connected to a retail dispensary have been removed from the prospective license status. The retail will have to fill out the application and meet the minimum scoring requirements on the application to move forward, but instead of going to the drawing, it will go directly to the suitability analysis.

B. Regulation 5. Licensing, Background Checks, and Registration Cards

NCCR 5.020 was a housekeeping update regarding the posting of the new application period. NCCR 5.040 was the new application regulation; the regulation was broken up into separate sections. NCCR 5.040 added the required ACH payment process to the application. Comments received on this matter will be taken into consideration.

Comments were received regarding the 1500-foot rule from a gaming establishment; outside of the grandfathered retail dispensaries, a new lounge cannot be built within 1500 feet. There was a concern about the 5% rule regarding ownership.

The 5% rule was in place because of publicly traded companies; it would lock out publicly traded companies if every owner had to be checked. The general rule was that an establishment must become operational within 12 months of receiving a license and there was a procedure to request an extension if it was not built within 12 months. There was nothing that prevented a cultivation or production facility from applying for a consumption lounge license.

NCCR 5.045 was the prospective and conditional license section. NCCR 5.045 was updated to provide when the random number selector will be required. The applicant's diversity plan will no longer be confidential once the conditional license status has been granted. NCCR 5.050 updated requirements to be granted a final license. NCCR 5.053 was added to cover a petition for reevaluation of suitability by the Board. NCCR 5.055 was updated to state that all social equity applications only have to pay the \$2,500 application fee. NCCR 5.060 was updated to clarify what happens when a retail dispensary applies for a consumption lounge. NCCR 5.065 updated the requirements to reduce the license renewal fees for consumption lounge licenses pursuant to AB341. NCCR 5.085 was updated with the request for an extension to the 12-month period. NCCR 5.110 was a housekeeping update concerning the transferability of consumption lounge licenses. Pursuant to AB341, licensees can't transfer a lounge license until after the lounge has been open and running for two years; this allowed the transfer of up to 49% of shares to raise capital and discusses what happens if a licensee was incapacitated or passed away.

Member Durrett asked if anyone had submitted a definition for extenuating circumstances. Deputy Miles stated that no one had. Member Durrett commented that she would look into it. Member Durrett asked if the licensing regulations were for all license types or just consumption lounges. Deputy Miles stated that it was changed so that it was just for cannabis consumption lounges.

Chair Douglas commented on distance requirements and grandfathered facilities. Chair Douglas commented that he did not think that grandfathered facilities could build unless they stayed within their original footprint, which was how it was interpreted in gaming. Deputy Miles confirmed that was how it was in the regulations.

Amanda Connor suggested on NCCR 5.040(1)(e)(3) that first "local jurisdiction" be changed to "address." For NCCR 5.040(1)(g)(1), Ms. Connor recommended rephrasing so that the applicant must respond no later than two business days after contact by the Board. Chair Douglas asked why there needed to be a delay. Ms. Connor thought that most applicants would want to respond as soon as promptly as possible, but the standard of impossibility was included and not defined, and an application can be denied for not timely responding. In NCCR 5.045(1), there was a reference to "any" cannabis establishment type, and that would not limit it to lounges. In NCCR 5.045(2), there was a reference to "cannabis establishment" and it should be limited to lounges. In NCCR 5.045(2)(c), what would determine if something was "not possible." In regard to NCCR 5.055 and 5.065, Ms. Connor commented that there are other fees that an establishment may incur, such as time and effort, which could potentially be reduced for social equity applicants.

Chris Anderson commented in reference to NCCR 5.040 that retail cannabis consumption lounge applicants should be exempted from all location requirements restrictions, assuming that the lounge will be either attached or adjacent to the retail store. AB341 Section 10(2)(a) indicated that retail owners who are applying for an attached consumption lounge license are not subject to distance requirements. Mr. Anderson submitted a written comment to change the regulation. Chair Douglas asked Mr. Anderson if he had addressed that concern with any of the local jurisdictions. Mr. Anderson responded that he had not yet as the CCB was still working through the regulations at the state level. Mr. Anderson thought that local jurisdictions would have a difficult time enforcing a stricter standard than the state. Chair Douglas added that state law gave the final determination to the local jurisdictions.

Scot Rutledge with Argentum Partners on behalf of Chamber of Cannabis provided comment on NCCR 5.040(1)(a). Mr. Rutledge recommended a change on the ACH payment. On NCCR 5.040(1)(e)(1), Mr. Rutledge recommended allowing for an exception for retail cannabis establishment licenses in the attestation for the distance requirements. Mr. Rutledge stated that Senator Brooks made a floor statement in the Senate that specifically discussed protecting the grandfathered retail stores and allowing them to move forward with an attached lounge.

John Ocegüera spoke on behalf of Thrive, Curaleaf and GTI, and agreed with Mr. Anderson's and Mr. Rutledge's comments.

Chair Douglas commented that grandfather provisions are interesting to consider and what their intent was; floor statements by legislators that aren't articulated in the vote, or the language of the statute as adopted, are often self-serving as to what they want but may not be what was agreed upon. The public may not be worried about the distance to gaming establishments but are concerned about the distance to parks and schools.

Mr. Rutledge added that the language for that floor statement was provided by the gaming industry.

Chair Douglas reiterated that he was concerned with the footprint and expansion for grandfathered establishments, if it was exempted out or in, or was the language ambiguous enough to allow it.

Amanda Connor asked for clarification on what is meant by “existing footprint.”

A'Esha Goins with Black Joy Consulting on behalf of CEIC wanted to bring attention to NCCR 5.065 regarding hardship and fees. Ms. Goins stated that language was only for persons that have independent licenses and thought it should also go for social equity licenses. Ms. Goins recommended allowing hardships for all fees, not just licensing fees.

Serina Choi with NLS commented that for distancing requirements, some jurisdictions use door-to-door, and some use parcel-to-parcel and gaming uses square footage as the footprint.

III. Proposed Amendments and Additions to the Nevada Cannabis Compliance Board Regulations – Consumption Lounges.

Deputy Director Miles presented the changes to the regulations.

A. Regulation 1. Issuance of Regulations; Construction; Definitions.

NCCR 1.222 added tinctures, transdermal patches, and added a warning to those items. A section will be added to allow for the apportionment of bulk items to be sold as single serve items.

B. Regulation 4. Disciplinary and Other Proceedings Before the Board

There were no updates to Regulation 4.

C. Regulation 5. Licensing, Background Checks, and Registration Cards

NCCR 5.100 clarified the issuance and renewal of licenses.

D. Regulation 6. Production and Distribution of Cannabis

Regulation 6 was mostly housekeeping changes. NCCR 6.072 added two additional training topics.

E. Regulation 7. Cannabis Sales Facility

NCCR 7.055 removed the language to allow sales facilities to transport product to a lounge.

F. Regulation 9. Production of Cannabis Products

Regulation 9 was mostly housekeeping in nature to add in lounges where necessary. The changes were brought in to allow lounges to break down bulk orders to give single servings customers. Where lounges are doing that, they are responsible for complying with Regulation 9. Chief of Inspection and Audit provided additional information. Chief Cronkhite added that the lighting and ventilation requirements were pulled from the health code and only applied to areas where products are being handled, in the cooking area or food handling area. It would only apply to the dining area if food was handled there, for example, a hibachi grill in the dining area. Serving a plate was not considered food handling.

G. Regulation 10. Minimum Good Manufacturing Practices for Cultivation and Preparation of Cannabis and Cannabis Products for Administration to Humans

There were no significant changes to Regulation 10.

H. Regulation 11. Cannabis Independent Testing Laboratory

There were no significant changes to Regulation 11.

I. Regulation 12. Packaging and Labeling of Cannabis Products

There were no significant changes to Regulation 12.

J. Regulation 13. Cannabis Distributors

The regulation included language that required a distributor license for a retail dispensary to transfer products to an independent lounge and may require a distributor license when transferring product to its own retail.

K. Regulation 15. Cannabis Consumption Lounge

NCCR 15.010 was changed so that the lounge must cease sales for 30 minutes prior to closing if the lounge closes. NCCR 15.015 included language to further stress that it was required to visually inspect and authenticate all IDs. NCCR 15.025 added tinctures and patches and updated the THC limits. NCCR 15.030 added the requirement of a COA from a cannabis independent testing laboratory for hemp products sold at the lounges. NCCR 15.035 added storage requirements. NCCR 15.040 was mostly housekeeping and added that communicable illnesses needed to be reported pursuant to NCCR 6.090 and NRS 441A. NCCR 15.050 included training on the proper use of PPE. NCCR 15.055 added reporting requirements for deviations to mitigation plans or malfunction of equipment. Odor mitigation was removed from potential outdoor smoking areas and left those requirements up to local jurisdictions. NCCR 15.060 added “nicotine” as clarifying language. NCCR 15.065 added tobacco wraps; but after further discussion, tobacco wraps may be changed to hemp wraps to avoid tobacco issues in the lounges. NCCR 15.075 updated how retail lounges handle product when a consumer purchased products from the dispensary and remains in the lounge. NCCR 15.080 was housekeeping in nature. NCCR 15.100 updated the transferability of a retail consumption lounge and required the creation of a plan to transfer product from a dispensary to a retail lounge, and it included “adjacent” and a definition of “adjacent.” NCCR 15.105 was updated to include that ready-to-consume- products must be individually dosed to ensure accuracy and homogeneity. The infusion of bulk ingredients for multiple servings and sharing of products was prohibited; this language may be updated based on comments received. NCCR 15.110 added additional cleanliness requirements on utensils.

Director Klimas added that comments were received from the Nevada Tobacco Prevention Coalition regarding tobacco wraps.

Chris Anderson spoke on behalf of Planet 13 Holdings and Jardin. Mr. Anderson submitted comment on NCCR 1.222, the single use cannabis definition. As it was written, it eliminated vaporizer products. The minimum THC in the smallest kind of single serving disposable vaporizer device is almost 250 milligrams but not all of the 250 milligrams was available in those devices. Mr. Anderson submitted a comment that the Board increase the amount of usable cannabis from 1 gram to 3.5 grams if the product or flower to be served and prepared was accompanied by a warning that it was not recommended for inexperienced users. The larger tobacco wrapped products contain more than 1 gram of flower. Mr. Anderson noted that 3.5 grams of flower has about 125 milligrams of THC compared to vaporizer products. Mr. Anderson submitted changes in NCCR 15.025 to conform with NCCR 1.222; in subsection 4, Mr. Anderson added an exemption for tobacco leaves for wrap usage. In NCCR 15.105(4)(e), Mr. Anderson recommended changing the language back to “shall not” encourage sharing of ready to consume cannabis products. Mr. Anderson added that the vaporizer products and larger flower products were crucial to the commercial success of the industry. They are premium products sold in dispensaries and are single serving. Chief Cronkhite added that vaporizer products were allowed in NCCR 1.222 but there was a limit of 100 milligrams of THC.

Director Klimas asked for clarification that nothing prevented a combined sale and the facility wrapping 3.5 grams into a single serving. Chief Cronkhite responded that NCCR 1.222 may be revised so that the consumption lounges can receive bulk product and repackage it onsite which would allow them to wrap the products onsite. Chris Anderson added that while the products are large, they have a lower concentration; it prevented over-consumption as they are not able to be consumed quickly. Chair Douglas asked Mr. Anderson if he had proposed language as to the vaporizer. Mr. Anderson stated that he has submitted proposed language. Director Klimas added that the CCB must protect the public health and safety and that was the approach taken at the start.

Member Durrett asked what the reason for the limit on the vaporizers was. Deputy Miles stated that there wasn't a limit on vaporizers, but there was a limit of 1 gram to try so that the consumers discuss their usage and ability to use with the salespeople. Member Durrett asked if vaporizers could be exempted from the 1 gram, or a different amount allowed. Deputy Miles responded that the CCB was working on the language for that.

Brianna Padilla commented that there were devices that help with single serve dosing and would send that information to the CCB staff.

Amanda Connor suggested for NCCR 1.222 that single use products also be permitted to come from cultivators. Ms. Connor asked if cultivation facilities would be required to have sinks pursuant to NCCR 9.050. Chief Cronkhite responded that the CCB has been requesting that cultivators install three-compartment sinks based on their operations. If cultivators are handling cannabis and their operation requires washing of equipment, equipment washrooms, and sanitizer equipment, they would need to install a three-compartment sink. CCB staff do grant an allowance of time to install the

sinks. In NCCR 12.050(2), Ms. Connor suggested the grammatical change to capitalize the word “Board.” In addition, Ms. Connor recommended throughout the regulations clarifying that approved by the “Board” indicates approval in open meeting. For NCCR 15.040(2)(a), Ms. Connor asked if a certified food protection manager was required to be onsite at all hours if the facility only had limited food service hours. Deputy Miles responded that the food protection manager must be onsite during all hours when food is served. For NCCR 15.040(b), Ms. Connor asked if all staff were required to obtain a food handler card, or only staff that handle food. For example, would a security guard need a food handler card. Ms. Connor commented that the terms “staff,” “employees,” and “agents” were used and asked if there were distinguishing factors between the terms. For NCCR 15.060(1)(b), Ms. Connor recommended that the health warning signage not be required if the lounge does not permit smoking and suggested that exemption language be included.

A'Esha Goins commented on NCCR 13.040(3) and the fees that will incur for transportation for the independent and social equity licenses. Is there anything in place to ensure that the fees and taxes are manageable so the new licensees can be profitable. Director Klimas responded that was something the CCB will be looking into as required by AB341. A report will be submitted to the Legislature on business practices regarding those transactions. Ms. Goins was concerned that it be closely monitored since Legislature meets only every other year. Director Klimas noted that the CCB will look at it but does not regulate business practices. Ms. Goins asked if it was possible to adopt the same structure used to regulate taxes to look at how prices are being charged from retail to retail. Chair Douglas responded that the Board was not granted that authority.

Chris Anderson on behalf of Planet 13 Holdings and Jardin shared the concerns that Ms. Goins pointed out when AB341 was drafted. Mr. Anderson added that he had clients that would be fair with independent and non-retail lounges. In NCCR 6.085(11), Mr. Anderson submitted a change regarding the emergency medical service response. If the concern was regarding second-hand smoke or second-hand intoxication, Mr. Anderson submitted a revision that would address that concern.

Brendan Blume with Green Thumb Industries recommended that the Board allow flower products to be at 3.5 grams instead of 1 gram. Having less than 3.5 grams will greatly limit the product availability for consumers. Cultivation facilities would also be required to change what they currently do for the 1 gram limit. Deputy Miles noted that the statute does not allow lounges to buy from cultivators. Mr. Blume recommended that the Board allow sharing among patrons as a way to limit over consumption. Chief Cronkhite added that sharing was limited to ready to consume items such as infused dishes, as it is very common that those dishes were not homogeneous. Usable cannabis and single use items were not limited for sharing.

Scot Rutledge thanked the Board for all of the hard work and allowing people to speak on comments that were also submitted in writing.

Chair Douglas appreciated the comments from the industry and the people who will be affected. Chair Douglas’s questions are often aimed at keeping the CCB out of litigation. He hoped to produce a product that will serve the people of the state and visitors.

Member Merritt added that it was important that the public attend the meetings. The community was important to the process and the more the Board can hear the voices, the better the product will be. Member Merritt thanked everyone for attending and being involved.

IV. Public Comment

There was no additional public comment. Director Klimas stated the regulations may be up for adoption at the June Board meeting.

V. Adjournment

The meeting adjourned at 11:24 a.m.