

Nevada Cannabis Compliance Board

Meeting Minutes September 22, 2020

The Nevada Cannabis Compliance Board (CCB) held a public meeting on September 22, 2020, beginning at 9:00 a.m. In compliance with the Governor's Emergency Directive #006, dated March 22, 2020, the Meeting was conducted by means of electronic communication.

Cannabis Compliance Board Members Present:

Michael Douglas, Chair
Jerrie Merritt
Dennis Neilander

Tyler Klimas, Executive Director, called the meeting to order and took roll. Chairman Michael Douglas and Member Jerrie Merritt were present in Las Vegas and Member Dennis Neilander joined via telephone. Deputy Asheesh Bhalla confirmed that the meeting complied with open meeting requirements.

I. Public Comment

Executive Director Klimas stated all public comment received up until the start of the meeting will be read into the record. Any public comment received after the start of the meeting will be read into the records at the second public comment period.

Tiana Bohner, Public Information Officer of the CCB, read the following public comment into the record.

Public comment was received from Kimberly Maxson-Rushton on behalf of RAD Source Technologies (RAD Source). RAD Source requested that the CCB open a workshop to repeal Regulation 12.065. An interested party may file a petition to accomplish this per Regulation 14.145. The FDA does not consider sterilization of a drug by irradiation to be a threat to health and safety.

II. Consideration for approval of the August 7, 2020 and August 25, 2020 Cannabis Compliance Board meeting minutes.

Chairman Douglas asked for a motion. Member Neilander made a joint motion to approve the August 7, 2020 and August 25, 2020 meeting minutes. Member Merritt seconded the motion. All Members in favor said aye. Motion carried.

III. Extensions for Final Licensure

Executive Director Klimas stated this agenda item was a request from CCB staff for the Board to consider taking action to extend the deadline for cannabis establishments to perfect any outstanding conditional licenses to February 5, 2022. This request was to make this date effective for all current outstanding conditional licenses encompassing all license types. Director Klimas provided background on the conditional licensing process, including how long licensees had to perfect their license, requests for extensions, and reasons why extensions were granted. If this action is approved by the Board, it would allow the CCB to align current outstanding requests for extensions with those that have already been granted and extension, and would set a hard deadline for establishments to gain their approvals and final inspection. It would allow for easier administration and tracking of non-operational licenses, and a better understanding and more complete analysis of the industry. The length of the extension should provide enough time for establishments to become operational. Per Regulation 5.085, if a cannabis establishment has not received the final inspection within the allotted time, the license must be surrendered. Per Regulation 5.085, an establishment can request an additional extension if the new deadline is approved. This will need to be petitioned to the Board at a public meeting.

Member Neilander commented that it made sense to align the dates, and the sixteen months is adequate time for the industry to bring to fruition their development plans. Member Neilander supported motion to approve. Member Merritt seconded the motion. All members in favor said aye. Motion carried.

IV. Consent Agenda

A. Complaints

Executive Director Klimas stated that pursuant to NRS 678A.510, the Attorney General reviewed these violations and recommended proceeding with disciplinary action. Klimas presented the violations alleged and requested the Board vote to authorize the service of a complaint for disciplinary action for each licensee.

As to Licensee A, the complaint alleged multiple violations of NAC 453A and NAC 453D. As to Licensee B, the complaint alleged one violation of NRS 678C, three violations of NAC 453A and nine violations of NAC 453D. As to Licensee C, the complaint alleged one violation of NAC 453A and eight violations of NAC 453D. As to Licensee D the complaint alleged multiple violations of NAC 453D.

Chair Douglas asked for a motion to accept the complaints. Member Neilander made the motion to approve agenda items IV A (1) through (4). Member Merritt seconded the motion for approval of service. All members in favor said aye. Motion carried.

B. Request for Withdrawal of Transfer of Interest

David Staley, Chief Investigator for the CCB, presented one request for withdrawal of transfer of interest for Indus Holdings Inc. Withdrawal was requested due to termination of purchase agreement.

Chair Douglas asked for questions. There were no questions from the Board. Member Neilander made motion to grant the withdrawal as stated on agenda item IV B. Member Merritt seconded. All members said aye. Motion carried.

C. Request for Transfer of Interest

David Staley presented agenda item IV C, which consisted of six transfer of interest (TOI) applications. Staff requested item 6, Greenmart of Nevada NLV, LLC, to be continued to a later meeting. Member Neilander suggested it be referred back to staff, and then be presented at a later Board meeting when it is ready. Member Neilander made a motion to refer item IV C (6) back to staff for further investigation. Member Merritt seconded the motion. All members said aye. Motion carried.

Mr. Staley presented item 1, the TOI application for Inyo Fine Cannabis Dispensary LLC. TOI 19056 requested approval for existing shareholder, Greta Carter, to sell 4.99% of her 10% ownership in Inyo to Jeffrey Taylor. TOI 21009 requested approval for James G. Potter to transfer 5% ownership in Inyo to the James G. Potter Trust dated September 1st, 1978. Staff identified no areas of concern, but suggested that if approved the TOI 21009 be conditioned to require that if James G. Potter is replaced as trustee for the James G. Potter Family Trust dated September 1st, 1978, that Inyo or the Trust must file a new TOI to request approval of any new trustee.

There were no questions from the Board. Member Neilander made motion to support the application with the condition, and asked if there should be a time limit within which to meet the condition. Mr. Staley suggested 30 days. Chair Douglas asked for a representative from Inyo. David Goldwater, representative for Inyo, stated that 30 days was a reasonable time.

Member Neilander made a motion to approve item IV C (1) for Inyo Fine Cannabis Dispensary, with the approval conditioned to require that James G. Potter Family Trust dated September 1st, 1978 and Inyo Fine Cannabis Dispensary LLC to file a new TOI application in the event that James G. Potter is replaced as the trustee of the James G. Potter Family Trust dated September 1st, 1978. Further conditioned that the new application would be filed within 30 days of the replacement trustee being appointed to that position. Member Merritt seconded the motion. All members said aye. Motion carried.

Mr. Staley presented item 2, the TOI application 19049 for Solace Enterprises, LLLP in which Solace has requested approval for Leeward NV, LLC and Korfield Group, LLC to sell their Solace ownership to existing members LSP Global LLC and PMC Investments Limited. Staff identified no areas of concern with this application.

There were no questions from the Board. Member Merritt made motion to approve item IV C (2) for Solace Enterprises LLLP. Member Neilander seconded. All members said aye. Motion carried.

Mr. Staley presented item 3, the TOI application 18067 for THC Production, LLC in which THC has requested approval for Richard Stierwalt to sell 29.74% of his 49% ownership in THC to James Grant, James Byxbee, Sheryl Kay Sciro-Vanputten, Dominique Masson, Robert Trask, and Stephanie Magurno. THC requested a waiver, pursuant to NCCR 5.112 of the requirements of NCCR 5.110 regarding a review of all THC owners. THC adequately addressed the items required in NCCR 5.112 to allow the Board to approve such a waiver.

Chair Douglas asked if THC complied with the basic 5% requirement as to names and addresses. Mr. Staley stated yes. No further questions from the Board. Member Merritt made motion to approve item IV C (3). Member Neilander seconded the motion. All members said aye. Motion carried.

Mr. Staley presented item 4, the TOI application 18076 and 21008 for High Sierra Holistics, LLC. TOI 21008 requested approval for High Sierra to purchase adult use cannabis retail license RD665 from TRNVP098 LLC. TOI 18076 is a withdrawal request due to termination of proposed purchase agreement. Member Neilander asked if the withdrawal needed to be taken separately. Mr. Staley responded, there are two separate applications, and may be addressed individually or in conjunction. Per Deputy Bhalla, as long as it is clear for the record, the Board can proceed with addressing in either manner.

Member Neilander made a motion to approve item IV C (4) as stated on the agenda, with respect to transfer of interest in TOI 21008 and the withdrawal contained in TOI 18076. Member Merritt seconded. All members said aye. Motion carried.

Mr. Staley presented item 5, the TOI application 2000001 and 2000002 for Natural Medicine, LLC to purchase medical and adult use cannabis retail licenses D089 and RD089 from Terra Tech Corporation. Staff identified no areas of concern.

There were no questions from the Board. Member Merritt made motion to approve item IV C (5) with MediFarm LLC (D089, RD089) for Natural Medicine, LLC. Member Neilander seconded the motion. All members said aye. Motion carried.

V. Approvals and Resolutions

A. Notice of Final Licensure

Executive Director Klimas presented an informational item as notice to the Board of establishments that were issued their final license since the last Board meeting. Nevada Organic Remedies, LLC (RD219) located at 5270 Longley Lane in Reno, Nevada received its final inspection on August 17, 2020. CCB inspection agents noted no deficiencies, deeming it in regulatory compliance on August 19, 2020. Final license was issued on August 28, 2020.

Member Neilander noted that it was appropriate to have this on the agenda as in informational item.

VI. Consideration of the Dispute Over Request for Change of Location between Cheyenne Medical LLC (RD263) and MediFarm, LLC (D088, RD088)

Executive Director Klimas stated that at the last Board meeting, the Chair directed staff counsel to request in writing a brief from both parties detailing their position and allowing for each to respond to each other. Both parties satisfied this request, and those submissions were provided to Board members.

Chair Douglas indicated the parties would be allowed up to fifteen minutes to make their argument and then entertain questions from the Board. Chair Douglas asked Cheyenne Medial LLC to make opening remarks.

Derek Connor spoke on behalf of Cheyenne Medical. Mr. Connor stated that Cheyenne Medical has requested to move their license RD263 to the 2975 Sammy Davis Jr. Drive property, referred to as "the premises." Mr. Connor provided answers to the questions asked in the brief. Who applied for the special use permit for the premises? Silver Sage Wellness was the original applicant. Who requested the extension for the special use permit for the premises? Silver Sage Wellness was the listed as the applicant. What is the current status of the special use permit with Clark County? It is in good standing and runs with the land. Does the special use permit allow any cannabis establishment to locate to the premises? Yes, it runs with the land and not specific to a particular license. Does the special use permit for the premises exempt a cannabis establishment from distancing

requirements set forth in NRS 453D.210 (5)(c)(3). Yes, because the special use permit was approved before the effective date of the new distance separations requirements and because of the time when Cheyenne applied for the license. Does MediFarm have a legal right to use the premises? No, because they do not have a lease or a purchase agreement in writing with the owner of the property. Does Cheyenne Medical have a right to use the premises? Yes, Cheyenne is the tenant or a designee under a valid lease agreement with the property owner. Does the landlord or the applicant pull the special use permit for the premises? The special use permit is approved for the property and runs with the land. Should MediFarm be allowed to use the special use permit for the premises? MediFarm could if they had a lease or a purchase agreement, but they do not. Should Cheyenne be able to use the special use permit for the premises? Yes, if the change of location is approved.

Mr. Connor reached out to Clark County Department of Planning and was advised the special use permit is still good, is not specific to a licensee. It is limited and must be operational by December 6, 2021. If Cheyenne's change of location request is approved, they will be allowed to operate that facility. The dispute came down to whether or not the restrictions of NRS 210 (5)(c)(3) apply to this property. It is Cheyenne's position that they do not. The restrictions do not apply retroactively.

Chair Douglas asked the landlord to answer questions. David Michael Talla appeared before the Board. Chair Douglas asked for clarification of Mr. Talla's relationship to the property and who has been given any kind of right to use the property.

Mr. Talla stated they have owned the property for about five years. It was bought with the intent of moving a marijuana dispensary to the property, and they looked for a license holder to move there. The litigation from the 2018 licensing held it up, and the property has been vacant. They have a lease with Cheyenne Medical that was effective three or four months ago. They were in discussions with MediFarm in 2019, but did not come to an understanding. Mr. Talla would like to proceed with Cheyenne Medical and not MediFarm.

Member Neilander asked Mr. Talla if he believed that the property is grandfathered in from the distance limitation requirements that were adopted after he purchased the property. Mr. Talla responded that there were no limitations on the property when it was purchased and then when he got the SUP. He maintained the rights to put a dispensary there because he had the SUP far in advance of the law going into effect.

Mr. Connor had no additional comments at that time. Chair Douglas asked for MediFarm to present.

Michael Cristalli presented on behalf of MediFarm and picked up where Mr. Talla left off with regard to his involvement as the landowner. Mr. Cristalli stated he will refer to the Sammy Davis Jr. location as the Sapphire location as Mr. Talla is principal of Sapphire's and also a principal in the entities involved in the negotiations. Mr. Cristalli stated that during the 2018 licensing process, everyone believed a location was required to go with license application, except for Mr. Connor's and Ms. Amanda Connor's clients, from the DOT litigation. This matter is not necessarily a dispute between the parties, but about an interpretation of NRS 453D.210 (5)(c)(3). Mr. Cristalli stated that Assembly Bill 533 passed on June 1, 2019 and amended 453D.210 to preclude a marijuana establishment from being location within 1,500 feet of an establishment that holds a non-restricted gaming license and that existed on the date on which the application for the proposed marijuana establishment was submitted to the Department. A marijuana establishment is a licensee, not a landowner or a use permit. Mr. Cristalli stated that current licensees are subject to this provision, which differs from Cheyenne's interpretation.

Mr. Cristalli stated Sapphire was unsuccessful in getting a license in the 2018 application period with their licensee Silver Sage Medical. MediFarm was contacted by Sapphire in regard to possibility of transferring the Desert Inn location to the Sapphire location and discussion began in October 2019. Time was of the essence because the use permit was expiring and AB 533 was coming in to existence which would put the 1,500 foot restriction place.

Mr. Cristalli stated that exhibit 5 included communications with the architect who was working with county planning, and it was critical when negotiating with planning to make sure they got a licensee that was eligible for that location attached to the use. There were numerous emails, telephone calls, can correspondence with regard to making sure that the change of location was completed, and the county was aware of the building plans, renderings, permits, and continued negotiations between MediFarm and Sapphire with regard to potential management agreements and an agreement to occupy the premises. There was a meeting with the principals of MediFarm and the Department of Taxation Marijuana Enforcement Division regarding the change of location for

the DI Bloom retail facility to the Sapphire location. Zoning and distance requirements were discussed, and an approval was granted to MediFarm on January 10, 2020. And the submission was done prior to November 23, 2019, prior to the application of the new regulation imposing the distance restrictions.

Sapphire continued to engage in negotiations with MediFarm and the terms of their agreement through the end of July 2020. It was not until they received notification from the Attorney General that there were competing change of locations submitted that MediFarm learned of the lease agreement with Cheyenne Medical. The execution of the lease agreement did not occur until they received notification from the Attorney General in regard to this conflict.

Mr. Cristalli stated that MediFarm was instrumental in Sapphire getting their use extended and urgently pushed MediFarm to submit its relocation request to the Department prior to November 23, 2019. MediFarm submitted its change of location request to the Department on November 21, 2019 which included a survey establishing its compliance with the requirements of NRS 453 D.210 as they existed at the time. The Board must affirm the change of location request because MediFarm is grandfathered into the Sapphire property by virtue of the date it submitted its license relocation request. Approval of Cheyenne's request would violate Nevada law because the State cannot approve a relocation request to place a dispensary on the property within 1500 feet of a gaming establishment submitted after November 23, 2019.

There were not questions from the Board for Mr. Cristalli. Chair Douglas asked the Board members if there were any questions for Cheyenne Medical to address.

Member Neilander commented that the grandfather issue is different from that of Gaming. Member Neilander asked Cheyenne to respond to the claim that if Cheyenne did not apply for a relocation prior to the effective date of the distancing requirement, then there is no grandfather going forward, and no one could move a license within those restrictions after that effective date. Chair Douglas asked how they could move forward if a professional survey could not be done in accordance with the requirements? Chair Douglas asked further, is there a distinction between the land use by the county and the provisions of the Nevada Revised Statutes as to mandating when the transfer request was made?

Mr. Connor responded that it was their position that the statute did not take effect until after. When the land use was approved, they believed that is controlling. The land use was approved prior to enactment of Section 216 of AB 533. They also believe that if it was ruled that you could not submit the survey with the change of location request, it would destroy the grandfather clause and no one could ever move to one of those prior existing locations because they could not provide the survey. Mr. Connor did not think that was the intent of Legislature, but the record is unclear. If for example a dispensary was within 1,200 feet of a non-restricted gaming license and went out of business, moved, or had their license revoked, then no one else could move to that property.

Chair Douglas commented that we are dealing with a property that never had a licensed business in place prior to the requests, there was no existing use even though there was a building there. It is a question of did the county issue a right to use the property for cannabis and give a cutoff date that something had to be done by a certain date. Chair Douglas asked Mr. Connor to give a final point regarding the conflict between the zoning and overall intent of the State Legislature and their position about date of application, is it from the original application or from the application to move from one location to another.

Mr. Connor responded that the Legislature intended to grandfather certain properties that were in existence. A marijuana establishment was approved by Clark County for the premises, and they would still allow one to be there so long as it was built within the time frame that they have put forth.

Chair Douglas added that there was no licensed establishment but a request to use the land for a particular purpose. Mr. Connor confirmed that it would be approved for a marijuana retail store.

Chair Douglas asked Mr. Cristalli for final comments.

Mr. Cristalli focused attention on NRS 453d.210 (5)(c)(3). According to Mr. Connor's analysis, this provision doesn't apply to any current licensee, but to some licensee that may get a license in the future under some new application process. Mr. Cristalli state that this regulation governs licensees. This came into effect November 23, 2019. The application for change of location was filed on November 21, 2019, before the change in the

regulation. The county required a licensee for the purpose of extension on the use and that was MediFarm. MediFarm was used for the purpose of the extension of the use and to make sure there was a licensee in place before the November deadline of new distance restrictions. To think that this provision doesn't apply to current licensees would be an analysis that belies reason. MediFarm also submitted a survey in regard to the change of location and the use.

Chair Douglas asked if the only requirement missing was the permission of the landowner.

Mr. Cristalli responded that he believed they had the permission of the landowner at the time of filing the change of location request. The landowner was giving a copy of the form filed to the State to change the location of the Desert Inn retail facility to their location to review prior to submission. Mr. Cristalli stated they do not have a lease.

No further questions from the Board members. Chair Douglas made a motion to continue the matter to the October Board meeting to allow Board attorneys to take a look at what has been offered, and oral arguments supplementing written briefings, and whether or not we have any additional concerns. Member Neilander seconded the motion. All members said aye. Motion carried.

VII. Next Meeting Date.

Executive Director Klimas stated the next meeting date was October 20, 2020.

VIII. Future Agenda Items

Executive Director Klimas asked if there were items requested for future agendas. There were none.

IX. Public Comment

Ms. Bohner read one public comment into the record from Michael Nahass on behalf of MediFarm, MediFarm I and MediFarm II, LLC. MediFarm asked for the support of the transfer of interest to Natural Medicine LLC.

X. Adjournment

Member Merritt made motion to adjourn. Chair Douglas stated meeting adjourned. Meeting adjourned at 10:24 a.m.