



November 8, 2021

Cannabis Advisory Commission
Grant Sawyer Office Building, Suite 4200
555 E. Washington Avenue
Las Vegas, NV 89101

Subject: Subcommittee Recommendations

Dear Members of the Cannabis Advisory Commission and Director Klimas,

On behalf of the Nevada Dispensary Association, thank you for considering our written comments regarding the Subcommittee recommendations for lounge regulations. We want to thank the members of the Public Health, Public Safety, and Social Equity, Diversity & Inclusion Subcommittees for their significant work in developing these recommendations.

Public Health Subcommittee Recommendations

Air Quality Recommendations

With respect to the proposals for smoking rooms, we would suggest that the lounge regulations be in line with existing air quality requirements for age-restricted stand-alone bars, taverns, and saloons. Smoking is permitted in age-restricted stand-alone bars without a requirement of a closed-off smoking area (NRS 202.2483(3)(c)). To require smoking rooms only for lounges would place an additional burden on consumption lounges that does not exist for similar types of businesses.

The recommendation in 2(f) that lounges be in freestanding building and not in a strip mall conflicts with Assembly Bill 341's requirement that retail lounges be attached or immediately adjacent to existing retail stores, many of which are located in strip malls. Additionally, requiring that lounges be located in freestanding buildings would significantly limit the available locations for lounges and could increase the start-up costs of independent lounges. There are plenty of bars and gaming establishments that allow smoking and are located in strip malls, so this would add an additional burden to consumption lounges that does not exist for similar types of businesses.

The recommendations suggest that lounges should be subject to a higher standard of air quality than casinos and bars; however, as discussed above, this puts an increased burden and expense on lounges compared to similar businesses. If the existing standards are inadequate, then the legislature should consider revising NRS 202.2483 with respect to the air quality standards for all types of businesses.



Health Notices and Disclosures Recommendations

We support the recommendation to make the disclosures at lounges the same as disclosures required by existing cannabis facilities. Additionally, we would recommend that the “written notification” proposed in Section 9 be permitted in a QR code located on the menu, or table top sign, or at the point of sale. Allowing these warnings to be conveyed digitally would be better for the environment and reduce excess paper.

Ready-to-Consume Product Recommendations

The NDA supports the recommendation in Section 12 to allow lounges to procure multi-serving items from dispensaries and resell individual pieces to consumers. This will be less costly, as production facilities could continue to use existing packaging for products sold to lounges, rather than repackaging all lounge products as single serve. To maintain consistency with the current regulations, we support the recommendation in Section 12 that the individual edible serving size contain a maximum of 10mg of THC, but customers may purchase more than one serving.

Additionally, we support the recommendation in Section 13 to allow for pre-tested infused oils to be allowed in order to infuse foods prepared on-site, and to allow those oils to be either pre-measured or in bulk and measured on-site (the latter option being more environmentally-friendly).

Section 19 recommends lounges purchase from cultivation and production licensees directly; however, this is prohibited by statute (AB 341, Sections 25 & 27).

Occupational Health & Training Recommendations

In Sections 20 and 22, the logging and reporting requirements for illnesses of patrons or staff should be in line with what is required of bars and restaurants. Similarly, the requirement in Section 25 of certified food protection manager on site at all hours of operation should be in line with what is required of other restaurants and bars, and adjusted based on the type of food served (i.e., restaurant-style meals versus prepackaged snacks).

We recommend that Section 30 be modified to only permit customers to use devices in lounges that are purchased on site or rented from the lounge. Similar to utensils and glasses in a restaurant or bar, devices can be cleaned and sanitized in between uses. Lounges in other states allow for cleaning and re-use, and there are multiple ways to clean and sanitize products, including ultrasonic cleaners and 99% isopropyl alcohol, alcohol wipes provided to customers, removable mouthpieces, and custom dishwasher racks for glass devices. Lounges should be required to submit SOPs to the CCB outlining their plans for cleaning and sanitizing devices between uses. Allowing customers to rent devices would create a potential additional revenue stream for lounges and the opportunity for customers to learn about and test out new devices.



Public Safety Subcommittee Recommendations

Orderliness and Law Enforcement Suspension of License

It is unclear why an entire establishment would have to cease operations if the police or medical service providers are called. Law enforcement could easily address an unruly customer or any other discrete issue without requiring the entire lounge and all patrons to cease all activities. Additionally, such a requirement could lead operators to not call law enforcement or EMS unless absolutely necessary, because they could lose an hour -- or many more -- of business.

The timeline for temporary suspension of a license by a sheriff or law enforcement agency for cause or code violation should mirror the timeline for similar types of businesses (bars and gaming establishments).

Social Equity, Diversity & Inclusion

With respect to Section IV, we would suggest clarification as to the term "application stacking" and what activity this prohibition is intended to prevent. There may be many situations where an individual or ownership group partners with multiple different groups or individuals on different concepts, and it is not clear whether submitting applications for different concepts with some shared ownership would be considered stacking.

Again, we are grateful for the Subcommittees' extensive work on deliberating and drafting these recommendations, and we appreciate the opportunity to provide input on these proposed recommendations. Thank you for considering these written comments.

Respectfully,

A handwritten signature in black ink that reads "L. Martin".

Layke Martin, Esq.
Executive Director
Nevada Dispensary Association

From: Richard A. Manhattan <d.manhattan@propyriion.com>
Sent: Monday, November 8, 2021 8:59 PM
To: CAC Meetings
Subject: [EXTERNAL]PUBLIC COMMENT : Objection & Recommendation - CAC 11/09/21 Agenda Item III-A

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Commissioners:

I respectfully object to the Air Quality Recommendations (the "Recommendations") of the Subcommittee on Public Health (the "Subcommittee"). The Recommendations appear to draw a distinction between newly legalized cannabis lounges and existing hookah and cigar lounges.

Generally, similar classes of licenses should see similar regulatory framework. A visit to any Clark County hookah lounge will reveal patrons who eat, drink, dance, socialize and smoke hookah all in the same room. If one were to stop by the cigar bar at Caesars Palace today, one would similarly be able to eat, drink, socialize and smoke cigars in the same room. The staff and entertainers in these existing hookah and cigar establishments are not forced to work or perform in less than ideal air quality conditions. Rather, they arguably voluntarily assume the risks associated with consuming second hand smoke. Because current regulations permit these air quality conditions in existing businesses of a similar size and scope, the regulatory framework for new cannabis lounges should be similar and not overly burdensome.

It is noteworthy that one can fly across the country in a commercial airplane with fully recycled air that has sufficient filtration to prevent the spread of communicable diseases yet patrons and workers need expensive and separate air filtration systems plus separately designated smoking rooms not to mention outdoor odor diffusers to protect them (and the Public) from the dangers of cannabis. It is also noteworthy that there is a method of consuming cannabis (plant vaping) that involves little to no second-hand carbon pollution. It is not clear from the record that these considerations were weighed by the Subcommittee.

Allowed to stand, the Subcommittee Recommendations threaten to undermine the Legislature's intent when that Body included social equity provisions in the authorizing law. Specifically, the Recommendations will make operational and facility costs so burdensome that Social Equity applicants cannot operate like Mom & Pop Shops and bootstrap family support into a thriving business. Rather, they will be forced to leverage their operations from the beginning by partnering with or borrowing from the very same people who benefited from the pricing of the original cannabis licenses and avoided an even playing field and a truly competitive landscape. Naturally, some Social Equity Applicants will not survive as a going business concern with such burdensome air quality regulations and, in the end, these Recommendations could completely undermine the Legislature's objective in empowering Social Equity Applicants.

This Commission should consider striking the Recommendations from the Subcommittee's report or, alternatively, tabling the full report and referring it back to Subcommittee for further consideration. The Recommendations include no reference to comparative considerations as they

relate to businesses of a similar license class and, thus, arguably could benefit from further deliberation.

As an aside, one notes that the Subcommittee's report does not list its membership, which does not seem to serve the public interest and makes it difficult to see whether industry or other bias could exist in the subcommittee makeup. Membership is also missing from the report from the Subcommittee on Public Safety Recommendations. The Public has a right to know the makeup of subcommittees that are unanimously voicing support for a regulatory scheme that will impact all Nevadans and I request on the Public's behalf that all subcommittee membership be posted on the CCB website.

Sincerely,
Richard A. Manhattan

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From: Richard A. Manhattan <d.manhattan@propyriion.com>
Sent: Monday, November 8, 2021 5:38 PM
To: CAC Meetings
Subject: [EXTERNAL]PUBLIC COMMENT : Objection & Recommendation - CAC Agenda Item III-C

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Commissioners:

I respectfully object to the adoption of the Subcommittee on Social Equity, Diversity, and Inclusion ("Subcommittee") Recommendations in their current form. As explored below, the Subcommittee Recommendations ("Recommendations") severely limit public access to Social Equity Applications. While one applauds the Subcommittee's work thus far, their recommendations do not appear to encompass sufficiently broad repercussions of cannabis prohibition caused both by adverse institutional impact and by compounded socioeconomic impact.

It would appear from the content of its Recommendations that the Subcommittee might benefit from broader public membership with additional perspective. As such, I ask that the Commission consider referring the matter back to Subcommittee with instructions to broaden Subcommittee membership outside cannabis industry insiders and tenured or elected Nevada Public Servants. Naturally, industry insiders have a vested interest in protecting their own and their clients' current industry standing. Tenured and elected Nevada public servants may exhibit a bias towards law & order institutional outcomes and not fully appreciate the adverse socioeconomic impact of cannabis on individual lives. Therefore, the Subcommittee may benefit from broader membership that includes ordinary citizens, as social equity conceptually invites broader socioeconomic perspective. If the Commission agrees, I am available for Subcommittee membership.

Adverse Institutional Impact

Limiting access to Social Equity Applications based upon past formal legal entanglements severely limits access to this Legislative benefit. The Subcommittee recommends that applicants be limited to individuals or family members of individuals with a bona fide history of non-violent and/or misdemeanor cannabis related legal offense. In other words, the recommendation is to deny Social Equity status to an applicant unless the legal system has bestowed a recorded offense directly or indirectly upon the applicant.

It is well established that the legal system is biased. The longstanding inability for the legal profession to diversify its ranks and adequately service Communities of Color is common knowledge at this point. Therefore, achieving social equity from past institutional impact arguably requires more than tethered reliance upon the actions of a biased legal system to trigger access to Legislative benefits.

The Subcommittee Recommendations may not fully consider many social equity outcomes. An individual may not have had the fortune of a recorded legal offense but might have, for example, been excluded from gainful employment because of past cannabis prohibitions. Imagine a military veteran applicant who was previously discharged from duty due to medicinal cannabis use. Imagine a AIDS patient who was terminated because of a failed drug test and, consequently, faced chronic unemployment or underemployment. Imagine a lawyer who is denied status as an attorney because

of past cannabis use. Imagine an ordinary citizen who has been ostracized or subject to other sociological tools of arrested development because of an affinity for cannabis prior to decriminalization. Frankly, there are other possibilities of ordinary citizens who have, for whatever reason, avoided interaction with the legal system with regard to their cannabis history but who have suffered equally debilitating institutional impacts. As such, the Subcommittee may not have fully considered sufficiently broad repercussions and may have unnecessarily tethered access to Social Equity Applications to one's offender status.

Compounded Socioeconomic Impact

Restricting resale of Social Equity licenses denies applicants the full economic opportunity attendant to a cannabis license. The Subcommittee appears to prefer a continual allotment of Social Equity licenses, but this can be achieved by less restrictive means. For example, each additional round of licenses can account for any previously sold Social Equity licenses.

Original cannabis license holders will not only have a 10+ year operational head start on Social Equity licensees that will result in tangible disparity in economies of scale but, moreover, many of those original license holders have already sold their licenses to third parties for millions of dollars. To deny this economic opportunity to Social Equity applicants seems to disregard Legislative intent and overlook the socioeconomic impact caused by the delay to market of Social Equity applicants.

Similarly, the Recommendations may not represent a sufficiently exhaustive creative approach that fully addresses the high barrier to entry and resulting compound socioeconomic impact caused by the delay to market of Social Equity applicants. The arbitrary and institutional obstacles originally imposed in cannabis licensing have had a compound impact over the course of time because of the severe distance (viewed in terms of revenue or market share) created from the front of the industry pack and the proposed Social Equity new market entrants who were priced out of the original licenses. Correcting this head start or compound socioeconomic advantage may not be sufficiently addressed by the Recommendations. Consequently, the Commission should consider referring the matter back to the Subcommittee with instructions to expand its membership and/or reconsider.

Conclusion

For the reasons above, I respectfully request that the Commission table the aforementioned recommendations and refer them back to Subcommittee with instructions to expand its membership and/or reconsider.

Sincerely,
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JUSTICE
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November 8, 2021

Cannabis Advisory Commission
Grant Sawyer Office Building, Suite 4200
555 E. Washington Avenue
Las Vegas, NV 89101

RE: Public Comment on CAC Subcommittee Recommendations

Dear Members of the Cannabis Advisory Commission and Director Klimas,

On behalf of the Chamber of Cannabis, we want to thank the members of the Public Health, Public Safety, and Social Equity, Diversity & Inclusion subcommittees for their significant work in developing these recommendations. We want to thank you in advance for considering our written comments regarding the subcommittee recommendations for cannabis consumption lounge regulations.

CAC Public Health Subcommittee Recommendations

Air Quality Recommendations

In reviewing these recommendations, we are challenged by the subcommittee's suggestion that all indoor smoking should be confined to a "Designated Smoking Room". Smoking is permitted in age-restricted stand-alone bars without a requirement of a closed-off smoking area (NRS 202.2483(3)(c)). To require smoking rooms only for lounges would place an additional burden on cannabis lounges that does not exist for similar types of businesses.

During legislative committee hearings it was well documented that cannabis lounges should be required to install air ventilation systems that would mitigate smoke and vapor in these venues. We believe that any regulations to that effect should be implemented, but we are opposed to forcing patrons to smoke or vape cannabis in the equivalent of airport smoking lounges. Unlike airports, restaurants, or other public spaces, cannabis consumption lounges were created for the purpose of allowing cannabis to be consumed in any form throughout the venue. Limiting where smoking or vaping takes place should be a decision made by the cannabis establishment.

The recommendation in 2.(f) that lounges be in freestanding buildings and not in a strip mall conflicts with Assembly Bill 341's requirement that retail lounges be attached or immediately adjacent to existing retail stores, many of which are located in strip malls. Additionally, requiring that lounges be located in freestanding buildings would significantly limit the available locations for lounges and could increase the start-up costs of independent lounges, especially social equity licensees.

We agree with Recommendation 3(b) in mandating the responsibility of air quality monitoring, enforcement and record keeping to the lounge. The lounge should be responsible for documenting that they are meeting the CCB's air quality standards.

Recommendation 4 provides for mitigation of employee exposure to secondhand smoke in lounges. We do not support the requirement in 4(d) that employees wear PPE and furthermore, insist that employee safety concerns around secondhand smoke be treated the same as employees of casinos and taverns where smoking of tobacco products is allowed.

We support Recommendation 5 mandating indoor air quality standards and protocols that reduce risk of cardiopulmonary or acute health effects for workers and patrons while in the lounge. The "how" this is accomplished should be determined by each business and the measure by which these businesses are held accountable should be similar to taverns, casinos, nightclubs and other businesses that allow for smoking of tobacco products.

We support Recommendation 6 mandating that outdoor smoking areas, to the greatest extent possible, have measures in place to remove smoke and that the consumption of cannabis should not be visible from the property line.

We support Recommendation 7 proposing that no tobacco products should be consumed in cannabis consumption lounges.

Health Notices and Disclosure Recommendations

We generally support the recommendations for health notices and disclosures but suggest that all notices and disclosures be made available in a digital format using either a QR code or easily accessible link to a website found on all menus, tabletops, and point of sales.

Recommendation 10(i) suggests requiring a "conspicuously posted" statement warning that secondhand smoke is a health hazard. We do not believe that this signage should be required as the warning would be included in the notices and disclosures already suggested in Recommendation 9.

Ready-to-Consume Product Recommendations

Recommendation 16 proposes limiting the sharing of cannabis products at lounges. This would be impossible to enforce and places the burden of individual responsibility on the business.

While we do believe that each business must monitor for and mitigate over consumption, the sharing of cannabis has always been a part of the cannabis culture.

Recommendation 19 proposes to allow cannabis lounges to purchase bulk products from cultivations and production facilities directly. We support this recommendation as the requirement to purchase cannabis products in bulk from a retailer instead of a wholesaler puts independent and social equity lounges at a disadvantage.

Occupational health and training recommendations

Recommendations 20 and 22 propose logging and reporting requirements for illnesses of patrons or staff. We believe any requirements of this type should be in line with what is required of bars and restaurants. In addition, Recommendation 20 requires that all cannabis lounges log and report any illnesses observed onsite. This is not only onerous, but impossible to regulate or investigate. There is no way to know whether a consumer who may show signs of overconsumption or illness was impacted by cannabis consumed at the lounge.

Recommendation 25 requires that a certified food protection manager be on site at all hours of operation. This should be in line with what is required of restaurants and bars and adjusted based on the type of food served (i.e., restaurant-style meals versus prepackaged snacks). Also, if this recommendation is intended to mitigate confusion on what food is infused versus not infused, then Recommendation 14 addresses this with proper labeling of food items. An expeditor for the kitchen would be all that is required in that case.

Recommendations 28 and 30 suggest temporarily restricting temperature-controlled foods as defined by the FDA while other aspects of food safety regulations are established. We do not oppose this recommendation if it allows for the rest of NCCR 15 to be advanced in a timely fashion.

We agree that ready to consume TCS foods will likely require some extra discussion. If the health districts refuse and/or are not required to inspect facilities where cannabis products are prepared and consumed, this will require the CCB to develop their own set of regulations that mirror health district food and safety regulations. Additionally, Recommendation 31 requires that the CCB inspectors have specialized training in REHS and FD190 certification, which somewhat mirrors what is required of health department inspectors. This implies that the CCB will have to design and develop hiring, training, and employment standards for a new type of inspector/agent that specializes in food and safety regulations.

Recommendation 30 should be modified to only permit customers to use devices in lounges that are purchased on site or rented from the lounge. It's readily known that these types of devices can be cleaned and sanitized in between uses. Other states allow for cleaning and re-use, and there are multiple ways to clean and sanitize products, including ultrasonic cleaners and 99% Isopropyl Alcohol, alcohol wipes provided to customers, removable mouthpieces, and custom dishwasher racks for glass devices.

Cannabis lounges should be required to submit SOPs for approval to the CCB outlining their plans for cleaning and sanitizing devices between uses. Allowing customers to rent devices would create a potential additional revenue stream for lounges and the opportunity for customers to learn about and test out new devices. Additionally, we expect the CCB will provide for violations, fines, and other disciplinary actions for cannabis lounges that do not meet the requirements.

CAC Public Safety Subcommittee Recommendations

Reporting of Medical Incidents to the CCB

The committee recommends that a licensee must report, within 48 hours, any medical incident stemming from a customer's consumption of cannabis that necessitated medical treatment. This is challenging given the difficulty in ascertaining whether a medical incident, episode, or underlying condition was triggered by cannabis. In the case of overconsumption where a customer requests medical assistance, but is not in any harm, it is understandable that the licensee would want to log a record of that incident, but we do not support the requirement that they be required to notify the CCB.

Leaving with unused product

We understand that AB 341 requires that all cannabis products purchased in a cannabis consumption lounge must be consumed on-site. In the case of a vape pen, concentrate, or flower product that is not completely consumed by the customer, we believe that the responsibility of not leaving with the unused product should be on the consumer. During the deliberations of the subcommittee, it was mentioned several times that the intent of allowing a customer to leave with unfinished product was in line with guidelines and policies to encourage responsible consumption.

Understanding the intent of the statute, we would, however, support the CCB providing for a schedule of violations, penalties and fees for a cannabis licensee who knowingly oversells to a customer for the intent purpose of leaving the premises with the product.

Law Enforcement Temporary Suspension of License

We do not agree with this recommendation and believe any incident requiring a law enforcement or medical response should be handled with as little disruption to the business as possible and in cooperation with the licensee. Any prescribed time allotment for a temporary suspension should be determined at the local level, not by the CCB.

Quantity and Potency Limits

We do not support potency limits or a limitation on THC for products given most flowers and concentrates preferred by consumers at retail stores often contain high percentages of THC.

Regarding the quantity of cannabis products sold at consumption lounges, we think that there should be further deliberation and consideration based on consumer profiles and the number of guests in a party. For example, if a person comes to a lounge by themselves, but is interacting with other guests at the venue and wants to purchase cannabis products to share, how should the lounge proceed in terms of sales? If a larger party comes to a lounge and wants to share flower or concentrates, may the lounge sell a larger format of the product, such as a half ounce of flower, a large format cannagar, or 2 grams of concentrate for their dab rig?

CAC Social Equity, Diversity and Inclusion Subcommittee

Recommendation III defines social equity applicants as persons who have a residency requirement in Nevada. We do not support this recommendation as it is written given there are numerous individuals who reside in Nevada today that were negatively impacted by the failed policies of cannabis prohibition, over-policing, and other harmful policies that disproportionately impacted certain communities all over the country. Understanding that it would be difficult to try and identify what areas or zip codes would qualify in every state, we recommend that the CCB allow social equity applicants from other states where the following applies:

1. The state has a legal adult-use cannabis program;
2. The state has a definition for social-equity applicants that meets or exceeds Nevada's definition; and
3. The state has clearly defined geographic designations that meet or exceed Nevada's geographic designations.

Regarding Recommendation IV, we are unclear what the term "application stacking" means. We suggest not adopting a recommendation that limits an applicant from applying more than once with the understanding that if they are part of more than one application that is approved for a

provisional license by the CCB that they must divest from any ownership that would qualify them for more than one license. There are a number of reasons that an individual may want to participate in more than one application and to limit their opportunity would be contradictory to the spirit of the legislation given that AB 341 only limits ownership, not opportunity.

Once again, thank you for the extensive work and deliberations made by the subcommittees, especially given the abbreviated timeline for the work. We recognize that many of the considerations made likely would have benefitted from more time together. We appreciate the opportunity to provide these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scot Rutledge". The signature is fluid and cursive, with the first name "Scot" and the last name "Rutledge" clearly distinguishable.

Scot Rutledge
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