

1 **BEFORE THE CANNABIS COMPLIANCE BOARD**
2 **STATE OF NEVADA**

3 STATE OF NEVADA, CANNABIS
4 COMPLIANCE BOARD,

Case No. 2022-101

5 Petitioner,

6 vs.

7 PHYSIS ONE, LLC,

8 Respondent.
9

10 **COMPLAINT FOR DISCIPLINARY ACTION**

11 The Cannabis Compliance Board of the State of Nevada (the "CCB"), by and through
12 counsel, Aaron D. Ford, Attorney General of the State of Nevada, and L. Kristopher Rath,
13 Esq., Senior Deputy Attorney General, having a reasonable basis to believe that
14 Respondent Physis One, LLC ("POL" or "Respondent") has violated provisions of Chapters
15 678A through 678D of the Nevada Revised Statutes ("NRS"), and the Nevada Cannabis
16 Compliance Regulations ("NCCR"), hereby issues its Complaint, stating the CCB's charges
17 and allegations as follows:

18 **JURISDICTION**

19 1. During all relevant times mentioned in this Complaint, POL held, and
20 currently holds, the following licenses:

21 ID	22 License	23 Last Issued / Renewed	24 Address
25 C073	26 Medical Cultivation 27 23270793294513307743	28 6/30/2021	[REDACTED]
RC073	Adult-use Cultivation 48570745986570139944	6/30/2021	[REDACTED]

26 2. During all relevant times mentioned in this Complaint, POL is and was
27 registered as a Domestic Limited Liability Company in the State of Nevada. The Nevada
28 Secretary of State lists the managers of POL as Clayton K. Hurst and Barbara J. Hurst.

1 The point of contact with the CCB for POL is Clayton K. Hurst.

2 3. As POL holds its licenses with CCB, it is subject to NRS Title 56 and the
3 NCCR for the violations asserted herein. Therefore, POL is subject to the jurisdiction of the
4 CCB and subject to discipline pursuant to NRS 678A through 678D and the relevant
5 provisions of the NCCR.

6 4. Pursuant to NRS 678A.500 and 678A.510(1), the CCB's Executive Director
7 has transmitted the details of the suspected violations of POL to the Attorney General and
8 the Attorney General has conducted an investigation of the suspected violations to
9 determine whether they warrant proceedings for disciplinary action. The Attorney General
10 has recommended to the Executive Director that further proceedings are warranted, as set
11 forth in this CCB Complaint. The Executive Director has transmitted this recommendation
12 and information to the CCB. Pursuant to NRS 678A.510(2)(b), the CCB has voted to
13 proceed with appropriate disciplinary action under NRS 678A.520 through 678A.600.
14 Pursuant to NRS 678A.520(1), the CCB's Executive Director has authorized service of this
15 Complaint upon Respondent.

16 **FACTUAL ALLEGATIONS**

17 5. CCB incorporates all prior Paragraphs as though fully set forth herein.

18 6. On or about August 19, 2021, CCB agents conducted a routine inspection and
19 audit of the POL medical and adult-use cannabis cultivation facility at [REDACTED]
20 [REDACTED], Nevada (the "POL Facility"). The CCB agents for this
21 inspection were Erica Scott, Marvin Taylor and Christine Shoemaker (the "CCB Agents").

22 7. During the course of this inspection/audit, the CCB Agents found that the
23 POL Facility was unable to provide and was not maintaining destruction logs as required
24 by NCCR 6.080(6)(d)(9). Also, the POL Facility was unable to provide and was not
25 maintaining harvest logs as required under 6.080(6)(d)(8).

26 8. In addition, the CCB Agents found that the POL Facility violated seed-to-sale
27 tracking requirements because it was unable to reconcile its inventory with the information
28 it had inputted into the seed-to-sale tracking system. More specifically, the POL Facility

1 listed 12 cannabis plants in METRC as located in a “Z_Room”. However, there was no such
2 “Z_Room” located within the POL Facility and the POL Facility employees could not locate
3 the subject 12 cannabis plants within the POL Facility. POL’s owner, Clayton K. Hurst,
4 admitted that the “Z_Room” was a virtual room he created in METRC and when the POL
5 Facility was doing inventory and could not find cannabis plants, those missing plants would
6 be placed into this virtual room while an investigation was done to attempt to locate them.

7 9. During the course of their audit/inspection, the CCB Agents also observed that
8 the POL Facility was not maintained in a cleanly manner. There was dirt and debris on
9 every part of the floor and stairs that could be easily tracked into all rooms where all the
10 doors were open, and the CCB agents observed visibly soiled utensils in the packaging
11 room, in violation of NCCR 9.085,10.055(2)(e)(10), and 10.060.

12 10. The CCB agents found improperly stored cannabis at the POL facility.
13 Specifically, cannabis pollen¹ was found stored in mislabeled containers in the break room
14 freezer allowing for potential contamination, in violation of NCCR 4.055(1)(a)(8), 10.035(2),
15 and 10.055(2)(a).

16 11. Lastly, the CCB agents found additional improper conditions and regulatory
17 violations during their inspection/audit, including:

- 18 a. Multiple containers of pesticide and fertilizers all open at the same time
19 within the POL Facility, allowing for the potential of contamination of
20 cannabis and/or cannabis products, in violation of NCCR 10.055(2)(a);
- 21 b. A failure to keep plants and bagged or boxed components at least 15
22 inches off the floor and suitably spaced to permit cleaning and
23 inspection, in violation of NCCR 10.035(3) and 10.055(2)(c); and,
- 24 c. A failure to maintain cleaning logs as required under NCCR
25 10.040(2)(c) and (3).

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27
28 ¹ Per NRS 678.085: “Cannabis” has the meaning ascribed to the term “marijuana” in NRS 453.096. NRS 453.096 states that “marijuana means all parts of any plant of the genus Cannabis, whether growing or not”.

1 **VIOLATIONS OF LAW**

2 12. CCB incorporates all prior Paragraphs as though fully set forth herein.

3 13. As to licenses C073 and RC073, Respondent POL violated NCCR
4 4.050(1)(a)(3) & (14) and NCCR 6.080(6)(d)(9), for failing to keep required records and
5 failing to meet the requirements for disposal of cannabis waste. Specifically, as set forth
6 in Paragraph 7, above, POL failed to maintain proper destruction logs and was unable to
7 provide any destruction logs to CCB agents when requested. This is a Category III
8 violation, which carries a civil penalty of up to \$10,000. NCCR 4.050(2)(a)(1).

9 14. As to licenses C073 and RC073, Respondent POL violated NCCR
10 4.050(1)(a)(3) & (12) and 6.080(7), by failing to comply with seed-to-sale tracking
11 requirements because it could not reconcile physical inventory with seed-to-sale tracking
12 information it had entered into METRC. Specifically, as set forth in Paragraph 8, above,
13 POL listed 12 cannabis plants in a virtual room in METRC that could not be located in the
14 POL facility on the date of the aforementioned inspection/audit. This is a second Category
15 III violation, which carries a civil penalty of up to \$30,000 and/or a suspension of not more
16 than 10 days. NCCR 4.050(2)(a)(2).

17 15. As to licenses C073 and RC073, Respondent POL violated NCCR
18 4.040(1)(a)(3), 10.040(2)(c) and (3), for failing to keep required records. Specifically, as set
19 forth in Paragraph 11(c), above, POL failed to keep required records regarding cleaning by
20 failing to maintain cleaning logs and provide them to the CCB Agents on request. This is
21 a third Category III violation, which carries a civil penalty of up to \$90,000 and/or a
22 suspension of not more than 20 days. NCCR 4.050(2)(a)(3).

23 16. As to licenses C073 and RC073, Respondent POL violated NCCR
24 4.050(1)(a)(3) & (14) and NCCR 6.080(6)(d)(8), for failing to keep required records
25 Specifically, as set forth in Paragraph 7, above, POL failed to maintain required harvest
26 logs and could not provide such logs when CCB agents requested them. This is a fourth
27 Category III violation, which carries a civil penalty of up to \$90,000 and a suspension of
28 not more than 60 days. NCCR 4.050(2)(a)(4).

1 17. As to licenses C073 and RC073, Respondent POL violated NCCR
2 4.055(1)(a)(9), 9.085, 10.055(2)(e)(10), and 10.060, for failing to properly wash and sanitize
3 product contact surfaces. Specifically, as set forth in Paragraph 9, above, there was dirt
4 and debris on every part of the floor and stairs that could be easily tracked into all rooms
5 and the CCB agents observed visibly soiled utensils in the packaging room. This is a
6 Category IV violation, which carries a civil penalty of up to \$5,000. NCCR 4.055(2)(a)(1).

7 18. As to licenses C073 and RC073, Respondent POL violated NCCR
8 4.055(1)(a)(8), 10.035(2), and 10.055(2)(a), for failing to properly store cannabis.
9 Specifically, as set forth in Paragraph 10, above, POL improperly stored cannabis in
10 mislabeled containers in the break room freezer allowing for potential contamination. This
11 is a second Category IV violation, which carries a civil penalty of up to \$10,000 and/or a
12 suspension for not more than 7 days. NCCR 4.055(2)(a)(2).

13 19. As to licenses C073 and RC073, Respondent POL violated NCCR
14 4.060(1)(a)(6) and 10.055(2)(a), for failing to ensure it followed processes designed to
15 prevent contamination. Specifically, as set forth in Paragraph 11(a), above, the CCB agents
16 observed multiple containers of pesticide and fertilizers all open at the same time within
17 the POL Facility, allowing for the potential of contamination of cannabis and/or cannabis
18 products. This is a Category V violation, which carries with it a formal warning. NCCR
19 4.060(2)(a)(1).

20 20. As to licenses C073 and RC073, Respondent POL violated NCCR
21 4.060(1)(a)(6), 10.035(3), and 10.055(2)(c) for failing to ensure that all items are stored at
22 least six inches from the floor. Specifically, as set forth in Paragraph 11(b), above, the CCB
23 agents observed that certain items were stored less than six inches above the floor of the
24 facility. This is a second Category V violation, which carries a civil penalty of up to \$2,500.
25 NCCR 4.060(2)(a)(2).

26 **DISCIPLINE AUTHORIZED**

27 Pursuant to the provisions of NRS 678A.600, NCCR 4.020, 4.030, 4.035 through
28 4.060, and 5.100, the CCB has the discretion to impose the following disciplinary actions:

1 **Failure to answer or to appear at the hearing constitutes an admission by**
2 **the respondent of all facts alleged in the Complaint. The Board may take action**
3 **based on such an admission and on other evidence without further notice to the**
4 **respondent. NRS 678A.520(3).**

5 The Board shall determine the time and place of the hearing as soon as is reasonably
6 practical after receiving the Respondent's answer. The Board may assign a hearing officer
7 to conduct the hearing under NCCR 2.070, 4.095, and 4.110. The Board or its assigned
8 hearing officer shall deliver or send by registered or certified mail a notice of hearing to all
9 parties at least 10 days before the hearing. The hearing must be held within 45 days after
10 receiving the respondent's answer unless an expedited hearing is determined to be
11 appropriate by the Board, in which event the hearing must be held as soon as practicable.
12 NRS 678A.520(4). The Chair of the Board or the assigned hearing officer may grant one or
13 more extensions to the 45-day requirement pursuant to the request of a party or an
14 agreement by both parties.

15 Respondent's Answer and Request for Hearing must be either: mailed via registered
16 mail, return receipt; or emailed to:

17 Tyler Klimas, Executive Director
18 Cannabis Compliance Board
19 700 East Warm Springs Road, Ste. 100
20 Las Vegas, Nevada 89119
21 tklimas@ccb.nv.gov

22 If served by email, Respondent must ensure that it receives an acknowledgement of receipt
23 email from CCB as proof of service.

24 As the Respondent, you are specifically informed that you have the right to appear
25 and be heard in your defense, either personally or through your counsel of choice at your
26 own expense. At the hearing, the CCB has the burden of proving the allegations in the
27 Complaint. The CCB will call witnesses and present evidence against you. You have the
28 right to respond and to present relevant evidence and argument on all issues involved. You
have the right to call and examine witnesses, introduce exhibits, and cross-examine
opposing witnesses on any matter relevant to the issues involved.

1 You have the right to request that the CCB issue subpoenas to compel witnesses to
2 testify and/or evidence to be offered on your behalf. In making this request, you may be
3 required to demonstrate the relevance of the witness's testimony and/or evidence.

4 If the Respondent does not wish to dispute the charges and allegations set forth
5 herein, within 30 days of the service of this Complaint, Respondent may pay the civil
6 penalties set forth above in the total amount of \$237,500, and discontinue its operations for
7 97 days during which its license is suspended, on notice to:

8 Tyler Klimas, Executive Director
9 Cannabis Compliance Board
10 700 East Warm Springs Road, Ste. 100
11 Las Vegas, Nevada 89119


12 YOU ARE HEREBY ORDERED to immediately cease the activity described above
13 which is a violation of Nevada law.

14 DATED: August 8, 2022.

15 STATE OF NEVADA, CANNABIS COMPLIANCE BOARD

16
17 By: 
18 Tyler Klimas, Executive Director
19 Cannabis Compliance Board
20 700 East Warm Springs Road, Ste. 100
21 Las Vegas, Nevada 89119

22 AARON D. FORD
23 Attorney General

24 By: 
25 L. Kristopher Rath (Bar No. 5749)
26 Senior Deputy Attorney General
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28 Senior Deputy Attorney General
555 E. Washington Ave, Suite 3900
Las Vegas, Nevada 89101
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Attorneys for the Cannabis Compliance Board

**DECLARATION AND CERTIFICATE OF SERVICE OF
COMPLAINT FOR DISCIPLINARY ACTION
(Service via Mail)**

I, Amber Virkler, hereby certify and affirm that:

1. I am over the age of 18 years old.
2. I am a Board Agent of the Cannabis Compliance Board (“CCB”), as defined in NCCR 1.068.
3. Pursuant to NRS 678A.520 and NCCR 4.075, I have served the Respondent herein with the Complaint for Disciplinary Action (“Complaint”) in the above captioned matter as follows:

By placing a true and correct copy of the Complaint to be deposited for mailing in the United States Mail in a sealed envelope via registered or certified mail, prepaid in Las Vegas, Nevada, to Respondent’s point of contact with the CCB under NCCR 2.050 at Respondent’s address on file with the Board as follows:

Name of point of contact served: Clayton Hurst

Address on file with CCB: [REDACTED]

Date of Service: August 12, 2022

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 12, 2022
(date)


(signature)

cc: Clayton Hurst, [REDACTED]
via First Class Mail