

Nevada Cannabis Advisory Commission

Meeting Minutes November 09, 2021

The Nevada Cannabis Advisory Commission (CAC) held a public meeting at 555 East Washington Ave, Room 4500, Las Vegas, Nevada on November 09, 2021, beginning at 11:00 a.m.

**Cannabis Advisory Commission Members Present:**

Tyler Klimas, Chair

Michael Nikhman

Benjamin Chew

Jennifer Pearson

Aaron D. Ford

George Togliatti

A'esha Goins

Steve Yeager

James Hammer

Melanie Young

Jilliam Nelson

**Chair Tyler Klimas called the meeting to order.** Sara Tajalli took roll. Commissioner Chew, Attorney General Ford, Commissioner Goins, Commissioner Hammer, Commissioner Nelson, Commissioner Nikhman, Director Togliatti, Assemblyman Yeager were present in Las Vegas. Commissioner Pearson and Executive Director Young were present via video connection. Commissioner Kema Ogden was absent. Chief Deputy Attorney General Rosalie Bordelove confirmed that the meeting complied with open meeting law requirements.

**I. Public Comment**

No Public Comment

**II. Introduction of New Member, Assemblyman Steve Yeager**

Chair Klimas provided an introduction to new Commission member and current subcommittee chair for the Public Safety Subcommittee, Assemblyman Steve Yeager.

Assemblyman Yeager stated his appreciation for being added to the Commission and spoke about his experience with cannabis in the legislator. He also stated that he is happy to help the Commission.

**III. Consideration of Approval for Recommendations for from the Cannabis Advisory Commission**

Chair Klimas stated that the recommendations will be taken individually by topic and thanked the subcommittee members for the hard work they put into coming up with their recommendations. He asked the chair of each subcommittee to discuss the process, the meetings, and the recommendations. After each presentation, the Commission will have an opportunity to ask questions and add to or amend the recommendations. After the discussion, the Commission will vote to approve the recommendations to go to the Cannabis Compliance Board.

Chair Klimas reminded the Commission that what is voted on will go to the Board as recommendations. The Board will then direct staff to consider the recommendations as they draft regulations, which will be workshopped to allow input from the public and stakeholders. He wanted to clarify the process and mention that what has been put into the recommendations, along with their discussion at the day's meeting, will go to the Board.

Chair Klimas thanked the subcommittees and their chairs for the work they put in and the twelve meetings that were held to craft these regulations. He felt the process met the standards of transparency and accountability valued of the Board.

#### **a. Subcommittee on Public Health Recommendations**

Commissioner and Public Health Subcommittee Chair, Dr. Jennifer Pearson, gave an overview of how their subcommittee reached their recommendations. She stated that the group had four meetings and introduced the other members of the subcommittee: Dr. Benjamin Chew, from DB Labs; Lauren DiPrete, from the Southern Nevada Health District; Teresa Hayes, from the Nevada Department of Health and Human Services; and Jillian Nelson from Evergreen Organix.

During their first meeting, The Public Health Subcommittee split up their recommendations into domains, which were distributed between the subcommittee members according to their interests and expertise.

Dr. Pearson reviewed the air quality recommendations first and stated the recommendations were drawn from San Francisco and a few other jurisdictions in California and Colorado as well. Dr. Pearson took primary responsibility for this section due to her background in tobacco and cannabis research.

The immediate concerns the subcommittee addressed took into account the consequences of secondhand smoke exposure for medical cannabis users who may have underlying conditions that would be endangered by smoke and workers who would be potentially exposed during the workday without protections. She discussed how the anti-inflammatory benefits that the first-person cannabis smoker receive are not present in the person who is exposed to cannabis secondhand smoke – similarly to tobacco secondhand smoke, which causes a variety of problems including cardiovascular issues. In order to make a consumption lounge safe for people to consume whether they prefer to smoke or those who prefer edibles or non-combustible consumption, creating a designated smoking room is one of the recommendations to reduce exposure to secondhand smoke. This will allow workers and patrons in mind to mitigate cancer and cardiovascular risk.

To reduce risk that the smoke coming from the smoking room does not enter the non-smoking areas, the subcommittee recommends completely separating the smoking room by solid partitions with self-closing entrances that include gaskets, having separate HVAC system for the smoking room to prevent air from re-circulating into non-smoking areas and is directly exhausted outdoors. There should be filtration in place on the outdoor output to eliminate visible smoke and odor, so the air pollution does not affect neighboring businesses. They also recommend that the buildings are freestanding to prevent neighboring smoke to getting into neighboring businesses through shared walls or attic space.

The next recommendation is to mandate work protocols and indoor air quality standards to minimize employee's exposure to secondhand smoke. The subcommittee recommends using the EPA's ambient air quality standards for non-smoking spaces. The subcommittee also recommends not using Nevada's current indoor air quality standards that are used for casinos and bars since they feel they are inadequate to the protection of public health.

The subcommittee would like to see protocols that require limited need for the employees to enter the smoking room and adequate PPE to reduce exposure to secondhand smoke. To avoid the risk of cardiopulmonary or other acute health affects for workers and patrons, they recommend exhaust hoods above all the seating areas and limited capacities. This is to keep in mind those with health risks who can be triggered by levels of secondhand smoke concentration to minimize the risks cardiopulmonary attacks. There are fewer concerns over outdoor smoking areas, but the subcommittee recommends a filtration system that removes physical smoke at the property line for the purpose of keeping the neighbors happy.

Finally, they recommend the prohibition of tobacco smoking and nicotine vaping in the lounges since cigarette smoking is the number cause of preventable death in the United States. All recommendations were approved unanimously unless otherwise noted. Dr. Pearson stopped to take questions.

Commissioner Nihman: asked for clarification regarding the PPE recommendation and wondered if the recommendation was due to Covid restrictions or another factor, which Dr. Pearson responded that the recommendation was to minimize exposure to secondhand smoke, primarily PM 2.5.

Commissioner Goins asked about the recommendation to make lounges free standing buildings to eliminate the risk of air pollution and if it was separate from the recommendation to have separate heating, ventilation and air conditioning systems or if the lounge should absolutely be a freestanding building. Dr. Pearson clarified that the recommendations were separate and the reason behind recommending a freestanding building is the difficulty to protect neighboring businesses that share walls and attics from the air pollution produced by smoke.

Commissioner Nihman asked whether capacity limits should be based on sq. footage or tables. Dr. Pearson said that is depended on the square footage and number of patrons that could be actively smoking at a given time.

Commissioner Goins asked how does the subcommittee sees the consumers being given proper hospitality if they recommend limited interaction in a smoking room? Dr. Pearson provided some options and emphasized the need to protect workers who are exposed to secondhand smoke exposure indoors, especially in NV.

Attorney General Ford asked about current establishments, like cigar bars, being able to allow for smoking indoors while connected to another business and the guidance the subcommittee drew on for recommending a freestanding building requirement and if they recognized that as being a barrier to entry for social equity applicants trying to enter the market. Dr. Pearson replied that the Publish Health Subcommittee does not consider the existing NV statue adequate for the protection of public health. She recognizes that cigar bars currently exist in strip malls. If there is a way to

guarantee that the neighboring business does not have its air quality affected by the business next door. The freestanding requirement comes from prioritizing businesses who do not want their workers exposed to secondhand smoke of the needs of the lounges.

Dr. Pearson continued with Public Health Subcommittee recommendations. The next topics covered was the health notice section of the subcommittee's recommendations. They recommend health notices and disclosures are standardized across the industry and read the recommendations for literature to be distributed when making transactions as well as notices that should be posted in lounges. The subcommittee included formatting and location recommendations to ensure notices are noticeable and legible.

They also recommend the CCB work with other regulatory agencies to provide public education for cannabis. She noted that this section was approved by all except one committee member, who was not present during the vote.

The next section covered was ready to consume products. The committee recommended that larger products, such as chocolate bars, could be broken up into pieces for resale. During the subcommittee's discussion, Dr. Chew noted that modifications may need to be made to seed to sale tracking if this was allowed. The subcommittee also noted that higher concentration medical items could be sold to medical card holders, but oversight would be needed to avoid sharing and overindulgence. Only four out of five members supported this. Once commissioner expressed that the 10mg serving would be a disservice to medical consumers.

For cannabis infused meals, the subcommittee recommends shelf-stable forms of cannabis, most likely in the form of oils, added to a prepared plate to avoid changing the composition of the cannabis due to exposure to high heat. The food should be clearly marked, to indicate the dosage added to the meal and notified that dosage may not be distributed equally. They recommended that sharing should be limited but should not be considered distribution. Since cannabis cannot be removed from the lounge, the subcommittee recommends small portions to avoid waste and overindulgence, which was supported by four of the five commissioners. They believe the prohibition on leftovers should be lifted.

Finally, they felt lounges should be able to buy directly from cultivators and bypass dispensaries for these specialized products.

Commissioners Hammer, Pearson, and Chew discussed the recommendation of allowed direct purchases from cultivators or production and if that would cause the lounges to be pseudo-dispensaries.

Commissioner Goins asked whether the subcommittee considered whether the lounge needs to obtain permission from their supplier if they decide to break up an item into single serving pieces for resale. Dr. Chew clarified that the recommendation was based on mitigating waste and save on costs. Commissioner Goins stated that she thinks it's a great idea but is concerned with the effects on the producer of a product and thinks consideration should be taken into all facets of the industry.

Commissioners Nikhman and Hammer commented that products like edibles should be individually wrapped to make sure that quality is maintained on the product and that producers should revisit how they package their products if they're being sold at lounges.

Next, Commissioner Pearson moved on to recommendations regarding health safety. The subcommittee recommends lounges log and report any illnesses observed on site or reported to the lounge, like regulations currently practiced by restaurants. They recommend that reports be available during inspections and that employee health policy is in a visible area. They also recommend cannabis safety training and certification, including identifying overconsumption and preventing sexual assault. For lounges serving food and beverage, they recommend that staff obtain food handler cards or any other local requirement for working with food. Four out of five commissioners approved the food handler requirement. They also recommend that all lounges serving food should have a certified food protection manager on site and follow all local laws for food safety. The Subcommittee also provided additional recommendations for food safety including awareness of temperature and its effects on food.

The subcommittee recommends that patrons should be allowed to bring in their own empty devices or purchase a device at the lounge to take with them due to difficulty in cleaning devices.

The final recommendations were regarding inspections and the certifications that inspectors should have to qualify to inspect lounges. They also recommend that the CCB and Health Department work in conjunction. Four out of five commissioners approved this, with the commissioner dissenting showing concern for Health Department capacity.

Commissioner Nihman asked who would be responsible for going through recommended trainings and expressed concerns with the cost and time involved. Commissioner Nelson, who is a member of the Public Health Subcommittee, clarified that recommendations are upholding current regulations regarding production and food safety.

Assemblyman Yeager expressed his concerns for the restrictiveness of the public health recommendations and noted that there will be a variety of lounge types so concern for some issues, like secondhand smoke may not be a factor. He also expressed concerns with creating an air quality standard different from current statute. Knowing that the CCB will be refining the recommendations in workshops, he feels comfortable approving the recommendations but recognizes that there needs to be a balance between public health, the viability of the business, and the consumer experience.

Chair Klimas reminded the Commission that they will be voting on what is recommended to the Board and the Board's staff and not on the actual regulations.

Commissioner Nihman expressed concerns how the recommendations would affect the aesthetics and the environment of the lounge but understands the need to protect employees. He wants the lounges to be successful but also workable. Dr. Pearson recognizes the need to balance public health concerns with the need to get the industry off the ground. She would like everyone to give the recommendations a chance before assuming they are unworkable, and she believe that there is a lot of innovation to make them doable.

Chair Klimas reiterated some of the concerns that were brought up during the discussion: the concerns about free-standing buildings and the barriers to social equity; the balance of hospitality and public health; the examination of purchasing agreements and statute limitations; the resale parameters of products; the requirements for staff training, and the air quality standards and how

they align with current state standards. Chief Deputy Attorney General Bordelove clarified different approaches to taking a motion and what can be voted on.

**Assemblyman Yeager made a motion to pass the Public Health recommendations on to the CCB along with the concerns that were expressed by the commission. Director Togliatti seconded the motion.**

Before the vote, Commissioner Goins clarified that the motion was being moved forward with additional comments. Assemblyman Yeager spoke about his experience with consumption lounges in San Francisco and Las Vegas that had effective systems to mitigate smoke and there are innovative models that may be a substitute for separate rooms.

**The vote passed unanimously. Attorney General Ford and Commissioner Ogden were absent for the vote.**

#### **b. Subcommittee on Public Safety Recommendations**

Chair of the Public Safety Subcommittee, Assemblyman Steve Yeager introduced his subcommittee members: Director George Togliatti, Executive Director Shellie Hughes, Assemblyman Tom Roberts, and Detective Josh Garber. They held three meetings. Two where they discussed their topics and heard from experts, and a small work session where they approved their recommendation.

The first topic he discussed was impairment and their recommendations for staff training, the number of initial and supplemental training hours that would be required, and the topics covered in training. Many of the regulations were taken from Colorado and adapted for Nevada.

The next topic was impairment and education that included no alcohol or tobacco in the lounges. They also had educational material suggestions, similar to those suggested by the Public Health subcommittee, that should be given to consumers before consumption. They also suggested reporting of medical incidents to the CCB, so the Board and their staff can identify any issues. Although they recognize that the bill does not allow for the removal of product, they are aware that not being able to remove a product may lead to overconsumption, so they made the provision that if the law were to change, they support the removal of product.

Licenses should have a no tow or ride share partnerships to mitigate impaired driving, and that CCB should come up with a corrective plan for problems stemming from one licensee. Security recommendations are standard with similar establishments, such as bars. He addressed the recommendation for enforcement to temporarily suspend a license if there is a threat to public safety. He said this would be in extenuating circumstances and important to law enforcement to have that ability.

Consumption area recommendations included consumption may not be visible from the outside. If lounge has an outdoor space, the space should be walled off to prevent the product from leaving the area.

They also made recommendations, based off of Colorado on quality and potency limits on products sold. Assemblyman Yeager also acknowledged that medical consumers should be taken into

consideration, but no recommendations were reached. The committee also recommended that water be provided free of charge and without request due to dehydration caused by cannabis consumption.

Commissioner Nikhman brought up concern with the language regarding suspension of a license in the recommendations and felt this was the CCB's responsibility and suggested that a temporary shutdown was more appropriate for law enforcement. Assemblyman Yeager replied that law enforcement would like the ability to shut businesses down until they can reach someone from the licensing board, but ultimately that would be between the CCB and local law enforcement. He continued by saying that local law enforcement already has provisions in place where they can issue temporary suspensions when regulating agencies may not be open. Director Togliatti clarified that the recommendation for a 48-hour suspension came from Metro, who may need to shut things down for an investigation.

Commissioner Nikhman also wanted clarification on the type of water, bottle or tap, that needs to be provided to patrons, which Yeager said is up to the establishments.

Commissioner Nikhman also suggested that disposal of product should be daily and on camera.

Dr. Pearson asked what the intention was behind the potency and quantity limits. Assemblyman Steve Yeager said the Public Safety subcommittee's main concern was with overconsumption, especially with unexperienced tourists. Dr. Pearson discussed the concerns of the Public Health subcommittee about setting limits on potency due to varying tolerances and concentrations of THC in different products. She suggested that training should be in place to guide people as they consume and by setting limits, it may drive people out of lounges. They also discussed the unique demographic of Nevada and their tourist market and the considerations to take when it comes to different types of consumption. Commissioner Nelson stated that 20mg is too restrictive for some users, especially experienced users who consume larger amounts. Commissioner Goins stated that when discussing potency, we should always be considering the new user every single time to prevent overconsumption and impaired driving.

Commissioner Goins also made comments regarding the law enforcement temporary suspension of licensee and would like to see law enforcement not have the authority to suspend licenses but refer issues to the CCB since they have an enforcement body. She was especially concerned about protecting social equity applicants. She doesn't feel that law enforcement should be impeded in doing their job, but the CCB should be the enforcing body for closures and setting timelines. Director Togliatti clarified that the recommendation was given with first responders in mind to be able to shut down a business for an extra amount of time in the event of fire or felony. County code authorizes law enforcement this ability, and they have primary jurisdiction if there's a felony that occurs in a location. Commissioner Goins would like the CCB to make the final decision to whether a business is shutdown. Assemblyman Yeager reiterated that the shutdown would not be for any reason other than immediate urgency and it would be up to the CCB to work with local law enforcement to create guidelines. Commissioner Nikhman stated that the word "suspension" is what he finds problematic and associates it with a gap in business. Togliatti agreed that the verbiage could be updated, and that Metro's concern was with ways in which they approach the business in an emergency.

Chair Klimas reviewed the concerns brought up to the board including bringing attention to the verbiage in the suspension of license recommendation, clarifying the law enforcement role in conjunction with the CCB and the local requirements and ordinances, and the quantity and potency limits at the lounges.

**Assemblyman Yeager made a motion to accept the recommendations with the discussion points brought forth by the commission members. Commissioner Goins seconded the motion,**

**The vote passed unanimously. Attorney General Ford and Commissioner Ogden were absent for the vote.**

### **c. Subcommittee on Social Equity, Diversity, and Inclusion Recommendations**

Commissioner Goins gave thanks to her subcommittee members: Bryan Scott, Dallas Harris, Kema Ogden, and Tina Ullman. The recommendations were all passed unanimously by the subcommittee members.

Commissioner Goins gave an overview of the subcommittee recommendations. The Subcommittee recommends that social equity applicants will be determined by a pass/fail process before submitting their full applications. The application fees will be reduced to 75% for social equity applicants and a 50% reduction for those whose immediate family members have a qualifying cannabis offense. Social Equity applicants must have at least 51% ownership in the business. Applicants must have resided in Nevada for no less than the previous five years in a zip code where 75% of the children are participants in a federal free lunch program, there is a high arrest rate, and at least 20% of the population receives SNAP benefits. Recommendations were based on literature provided by Member Bryan Scott and additional research. Recommendations are consistent with other states' social equity programs. Commissioner Goins has been working with the CCB to help identify the current higher arrest areas. Finally, the applicant would have to have a non-violent and/or misdemeanor cannabis related offense or be an immediate family member identified as a parent, sibling, or child who was formerly convicted of a cannabis related offence and lives in one of the previously identified areas.

The subcommittee recommends prohibitions on application stacking and that social equity licenses must remain social equity licenses. If a transfer of interest is requested after two years, the license must be sold to someone who qualifies as a social equity applicant.

Diversity applicants must obtain certification through CCB approved diversity certification boards. Commissioner Goins clarified that this recommendation is separate from the social equity applicant. Diversity applicants would be identified as women, minorities, veterans, and people with disabilities.

Assemblyman Yeager asked if social equity applicants needed to meet all ownership, zip code, and cannabis related offense requirements, which Commissioner Goins confirmed was true.

Assemblyman Yeager also wanted clarification on the requirements for where the family member was living and the applicant was living, and if consideration was given to the location of the business. Goins clarified that they did not give consideration to where the business will be located to



not restrict social equity applicants any further. Consideration for where people or their immediate family member were living was primarily focused on Nevada residency. They also wanted to ensure that the requirements on residency were not too restrictive.

Assemblyman Yeager commented that the law regarding possession has changed in Nevada, so the misdemeanor offense should be defined as how the offense is currently defined to not exclude those who may have been charged with a felony for the same offense in the past.

Dr. Pearson provided information on where the committee could get the data points on federal free lunch programs. Commissioner Goins clarified that the data they were having trouble finding information on the high arrest areas, which Dr. Pearson replied that she may have sources for that data as well.

Commissioner Nihman commented on the sensitivity of the topic and the need for the social equity companies to succeed and not setting up the licensees for failure. He questioned why the social equity criteria were structured the way they are and why licenses are not being awarded to any qualified minority applicant. He stressed the lounge licensees need to be competitive and the need for skillful people with financial backing. Commissioner Goins clarified that past cannabis policies have been inequitable to black and Latin communities. The criteria set forth is an opportunity to reconcile the trauma to those communities most impacted by these policies. She agrees that there should be education to make a more sustainable market, but we should be building the infrastructure to support those who have been most impacted.

Commissioner Nelson asked for clarification regarding transfers of interest recommendations and whether the license must be transferred to another social equity applicant. Commissioner Goins clarified that the license could go to another applicant type, but the social equity license would be retained by the CCB for distribution to another social equity applicant.

Assemblyman Yeager made a comment that social equity was not clearly defined in the bill, and he feels the work of the social equity committee put in is a great start to bring new people, who have been previously disadvantaged, into the cannabis market. He agrees that it takes more than a license and hopes that the Industry and Legislature can find ways to help in these areas to address prior inequities and diversify the industry.

**Assemblyman Yeager made a motion to pass the social equity recommendations. Dr. Chew seconded the motion.**

**The vote passed unanimously. Attorney General Ford and Commissioner Ogden were absent for the vote.**

#### **IV. Future Meetings**

Chair Klimas stated that he anticipates the Commission will not meet until sometime in the first half of 2022.

The Commission considers issues brought to them by the Board, the Governor, and Legislature. He anticipates topics the commission may be asked to consider in the future are refinement to the regulations of cannabis consumption lounges, issues with market stability, and new licenses. He anticipates the subcommittee on Market Stability meeting in the 2022 as well.

**V. Public Comment**

No public comment

**VI. Adjournment at 1:05 p.m.**