



December 12, 2022

Cannabis Compliance Board  
700 Warm Springs Road, Suite 100  
Las Vegas, NV 89119  
Via email to: [regulations@ccb.nv.gov](mailto:regulations@ccb.nv.gov)

Subject: Proposed Amendments to NCCR 5

Dear Cannabis Compliance Board Members and Director Klimas,

On behalf of the members of the Nevada Cannabis Association, we are writing regarding the proposed amendments to NCCR 5.

During the workshops on the consumption lounge regulations, there was much concern expressed that the proposed changes to the licensing process in NCCR 5 should be limited to lounges only. CCB staff ultimately did decide to limit the proposed changes to the lounge licensing round only, allowing the lounge application process to move forward.

However, now it is being proposed that these license application changes will apply to all future cannabis establishment licensing rounds. The regulations proposing these significant changes have been noticed for adoption without a public workshop. We would ask the Board to consider scheduling a workshop before approving the proposed changes.

Additionally, to the extent that the amendment to NCCR 5.045(1) would authorize the elimination of applications through a lottery, that provision should be revised or deleted. As set forth below, for licenses other than lounges, NRS 678B.250 and 678B.280 require that the Board use criteria of merit to evaluate applications and adopt regulations to determine the relative weight of each criteria. If the Board eliminated non-lounge applications via a random number generator, the Board would not be following the statutorily required process for evaluating license applications. The criteria of merit must be considered for applications for licenses other than lounge licenses, and the regulations cannot circumvent this requirement.

NRS 678B.250(6) requires that when issuing licenses the Board “shall consider the criteria of merit and scoring guidelines set forth in NRS 678B.280 or 678B.324, as applicable.” The statute specifically exempts lounge applications but does not exempt other types of license applications.

**NRS 678B.280**

1. In determining whether to issue an adult-use cannabis establishment license pursuant to NRS 678B.250, *other than an adult-use cannabis establishment license for a retail cannabis consumption lounge or an independent cannabis consumption lounge*, the Board shall, in addition to the factors set forth in that section, consider criteria of merit established by regulation of the Board. (Emphasis added.)



That statute goes on to enumerate what may constitute criteria of merit, such as the prior experience of the owners and key personnel, a plan for safekeeping of products and seed-to-sale tracking, and diversity. Further, the statute requires the Board to “adopt regulations for determining the relative weight of each criteria of merit established by the Board pursuant to subsection 1.”

With respect to lounges only, Assembly Bill 341 did specify that a lottery could take place if there were more applications than available licenses. However, this lottery does not extend to all types of licenses. For licenses other than lounges, there is no statutory authority for the Board to eliminate applications without considering merit.

The CCB has sought to modify both NRS 678B.250 and 678B.280 in the next Legislative Session, specifically to ease these requirements. However, as it stands today, the existing statutory framework requires the Board to use a merit-based evaluation process for applications other than lounge licenses.

Because the lottery utilized for lounge applications is not authorized by statute for other types of licenses and conflicts with other statutory requirements for evaluation of applications, if the Board moves forward it should revise NCCR 5.045(1) to limit it to consumption lounges. Further, we ask the Board to consider addressing this and the rest of the proposed amendments to NCCR 5 at a public workshop.

Respectfully,

A handwritten signature in black ink, appearing to read "L. Martin", written in a cursive style.

Layke A. Martin, Esq.  
Executive Director  
Nevada Cannabis Association

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**From:** David G. <david@inyolasvegas.com>  
**Sent:** Monday, December 12, 2022 7:04 PM  
**To:** CCB Meetings  
**Subject:** Proposed Changes to NCCR 5

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

Dear Members:

On behalf of Inyo Fine Cannabis Dispensary, please reconsider proceeding with revisions to proposed changes to NCCR 5. We are also members of the Nevada Dispensary Association. While that organization has not taken formal action on this subject, several members expressed their intent to align themselves with my sentiment. First, by deleting “consumption lounge” and replacing it with “establishment” throughout the regulation, it has the effect of wholesale changes to the statutory licensing process. Each class of cannabis establishment has subtle differences in how the licenses are to be awarded. Lounges, for example, prospective licensees who meet minimum scoring guidelines are subject to a “lottery” in regulation 5.045. By changing, “consumption lounges” to “establishment,” prospective license processes for cultivation, processing, laboratory, and dispensary would be subject to the same process. Whether this is good policy is not the question. This subtle change is contrary to the merit based system set up by the Legislature in the enabling legislation. With a legislative session coming up, a policy change like this is more appropriate for debate there rather than the change in a subject in a regulatory process.

Because there is not an anticipated round of new licensing, few members of the industry or the general public are paying attention. Nevada’s merit-based system is unique and was crafted with specific intent. It has been thoroughly tested by the court and has been successful in producing operators who contribute to a robust industry in Nevada. To make this definitional change through the regulatory process exceeds the scope of the enabling legislation.

Thank you for your consideration. Please do not hesitate to contact me regarding this issue.

David Goldwater, Partner

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**From:** David G. <david@inyolasvegas.com>  
**Sent:** Monday, December 12, 2022 7:30 PM  
**To:** CCB Meetings  
**Subject:** Proposed Changes to NCCR 12

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

Dear Members:

On behalf of Inyo Fine Cannabis Dispensary, please reconsider proceeding with revisions to proposed changes to NCCR 12. We are also members of the Nevada Dispensary Association. While that organization has not taken formal action on this subject, several members expressed their intent to align themselves with my sentiment. Labeling is an important issue for dispensaries. Dispensaries want to be compliant and provide the public with consistent and accurate labeling that conform with the law.

The proposed regulation change in NCCR 12.065 places the burden of labeling product that has been subject to “treatment” with “any thermal process” on any cannabis establishment, including dispensaries. Adding the responsibility of determining “treatment,” “method of treatment,” and definition of “thermal process,” or “other” processes is not only challenge for dispensaries, but also adds to an already crowded label that is affixed to products as small as a piece of chewing gum.

If the board feels the public should be aware of cannabis that has been treated with heat, radiation, chemical, or other processes, it would be more appropriate to include it in the soils amendment. There, upon customer request, they could learn about the provenance and content of their product. We often have customers ask to see the various reports and we are happy to provide them with it. This labeling responsibility is a significant burden on the dispensary. The definition of “any thermal process” alone is overly broad and ambiguous. Please consider refining the definitions, and if not, placing this disclosure in the soils report, available to the customer upon request, rather than affixed to the label.

David Goldwater, Partner



## **Testimony on Regulation 12.065**

Nevada Cannabis Compliance Board public hearing  
December 13, 2022

Hello, my name is Jill Ellsworth, I'm the Founder and CEO of Willow Industries. I want to start off by thanking the Board and the staff for your work on this important issue – I know it has taken a lot of time and effort to get these regulations where they are today.

We have been engaged every step of the way throughout this process, but as a reminder, Willow Industries is a national leader in cannabis kill-step and decontamination, working here in Nevada and across the country to treat cannabis with ozone.

From the start of this rulemaking process in 2020, we have been supportive of the Board's efforts to improve transparency around cannabis decontamination and remediation, and believe that providing information on product labels was an appropriate and effective way to educate patients and adult consumers.

**We strongly support the current language and ask that it be adopted as written.** In particular, we support the restoration of the language explaining the reason for treatment, which now reads "for the purpose of reducing microbial contamination." This provides more context to the consumer, while remaining neutral and purely factual.

We would also like to reiterate our desire for clarity on the [method of treatment] box. As we have stated previously, our only remaining concern is how the [method of treatment] blank is filled in. We understand that the Board's intention is for something treated with ozone to say "This product has undergone treatment using ozone," and this is how we would want it as well. But since this is not enshrined in the regulation, we want to be sure that this is indeed how it is implemented, as opposed to it becoming "This product has undergone treatment using a chemical process" or some other language that could be misunderstood. **We understand that it is not necessary to add this to the regulation, and that it can be dealt with administratively, so we would be happy for this to be handled in guidance after adoption.**

Again, thank you for your time and consideration of these important issues. We at Willow look forward to continuing to work with the CCB and other stakeholders to promote safety and transparency in the cannabis industry.