



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 that reads "L. Martin". The signature is written in a cursive, flowing style.

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