

Nevada Medical Group, LLC
3375 Pepper Lane
Las Vegas, Nv 89120
Tel 702-910-9197
alexfox@bodyandmind.com



DECEMBER 12, 2022

RE: Labeling Laws

Nevada Cannabis Compliance Board,

As a cannabis licensee I'd like to advise the Board that NCCR regulation 12.065 regarding labeling will negatively impact the cannabis industry; it is misleading to consumers and the labeling requirement becomes overly burdensome. In my belief, if the Board thinks consumers should be made aware of the fact that their cannabis had been treated; our recommendation is that the [treatment] information be added to the licensee's soil amendment as well as the CCB's website to be updated to provide access to this information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alex Fox', written in a cursive style.

Alex Fox

Travis Godon, Chairman
Laurie L. Carson, Vice Chairman
Commissioner Richard Howe
Commissioner Shane Bybee
Commissioner Ian Bullis

1786 Great Basin Blvd., Suite 3
Ely, Nevada 89301
(775) 293-6509
Fax (775) 289-2544

Nichole Baldwin, Ex-officio Clerk of the Board

White Pine County
Board of County Commissioners

WPClerk@WhitePineCountyNV.Gov

December 9, 2022

Nevada Cannabis Compliance Board

Tyler Klimas, Executive Director
Hon. Michael Douglas, Chair
700 E. Warm Springs Rd. 1st floor
Las Vegas, Nevada 89119

RE: For Public Comment CCB Meeting December 13, 2022

Director Klimas, Chairman Douglas;

Michael A. Wheable for the Record:

As County Manager for White Pine County I wanted to first thank the Board, Director Klimas, and his staff for prioritizing the amendment of Regulation 5. I know countless hours of work and research went into this process. I emphatically support the proposed regulation amendments, with only one area of feedback pertaining to the proposed lottery system and non-consumption lounge license types.

Every attorney LOVES a factor test because they serve as a "Rational Basis" for agency justification. NRS 678B.240 and 678B.280 (see reference) outline specific factors the Board must consider when issuing a marijuana license. This statute even directs the Board to assign through regulation, how much weight certain factors should carry in the Board's deliberation. Whereas NRS 678B.327 discusses awarding a consumption lounge license through a lottery system when there are more applicants than licenses available. It is important to note that this statute is applicable to *consumption lounges* only. The proposed amended regulations seem to follow this edict in spirit, however, I am concerned that the proposed Regulations could be interpreted to grant authority to the Agency to utilize a lottery rubric in an insulated shortcut to licensure if more than one *medical establishment, cultivation, or production* applicant applies for an available license. This possibility becomes more probable if a lottery approach is not *specifically prohibited* by regulation.

I urge the Board to read the regulations with an eye toward the legislative policy of *merit*, and amend language where necessary to clarify that the lottery system *shall only* apply to the issuance of cannabis *lounge* licenses. This Board possess decades of combined industry experience and professional judgment for many important reasons: Preeminent of these is the ability to accurately vet all non-consumption lounge applicants consistent with those guiding provisions in NRS 678B ... on the applicant's respective merit.

Respectfully yours,



Michael A. Wheable, Esq.
County Manager, White Pine County

Travis Godon, Chairman
Laurie L. Carson, Vice Chairman
Commissioner Richard Howe
Commissioner Shane Bybee
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Reference only:

NRS 678B.240 Licensing of medical cannabis establishments: Considerations in determining whether to issue license.

1. In determining whether to issue a medical cannabis establishment license pursuant to [NRS 678B.210](#), the Board shall, in addition to the factors set forth in that section, consider criteria of merit established by regulation of the Board. Such criteria must include, without limitation:

- (a) Whether the applicant controls liquid assets in an amount determined by the Board to be sufficient to cover the initial expenses of opening the proposed medical cannabis establishment and complying with the provisions of this title;
- (b) The previous experience of the persons who are proposed to be owners, officers or board members of the proposed medical cannabis establishment at operating other businesses or nonprofit organizations;
- (c) The educational and life experience of the persons who are proposed to be owners, officers or board members of the proposed medical cannabis establishment;
- (d) Any demonstrated knowledge or expertise on the part of the persons who are proposed to be owners, officers or board members of the proposed medical cannabis establishment with respect to the compassionate use of cannabis to treat medical conditions;
- (e) Whether the proposed location of the proposed medical cannabis establishment would be convenient to serve the needs of persons who are authorized to engage in the medical use of cannabis;
- (f) The likely impact of the proposed medical cannabis establishment on the community in which it is proposed to be located;
- (g) The adequacy of the size of the proposed medical cannabis establishment to serve the needs of persons who are authorized to engage in the medical use of cannabis;
- (h) Whether the applicant has an integrated plan for the care, quality and safekeeping of medical cannabis from seed to sale;
- (i) The diversity on the basis of race, ethnicity, gender or veteran status of the applicant or the persons who are proposed to be owners, officers or board members of the proposed medical cannabis establishment, including, without limitation, the inclusion of persons of backgrounds which are disproportionately underrepresented as owners, officers or board members of medical cannabis establishments; and
- (j) Any other criteria of merit that the Board determines to be relevant.

2. The Board shall adopt regulations for determining the relative weight of each criteria of merit established by the Board pursuant to subsection 1.

(Added to NRS by [2019, 3794](#))

NRS 678B.280 Licensing of adult-use cannabis establishments: Considerations in determining whether to issue license for adult-use cannabis establishment other than cannabis consumption lounge.

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. Such criteria must include, without limitation:

- (a) Whether the applicant controls liquid assets in an amount determined by the Board to be sufficient to cover the initial expenses of opening the proposed adult-use cannabis establishment and complying with the provisions of this title;
- (b) Whether the owners, officers or board members of the proposed adult-use cannabis establishment have direct experience with the operation of a cannabis establishment in this State and have demonstrated a record of operating such an establishment in compliance with the laws and regulations of this State for an adequate period of time to demonstrate success;
- (c) The educational and life experience of the persons who are proposed to be owners, officers or board members of the proposed adult-use cannabis establishment;
- (d) Whether the applicant has an integrated plan for the care, quality and safekeeping of cannabis from seed to sale;
- (e) The experience of key personnel that the applicant intends to employ in operating the type of adult-use cannabis establishment for which the applicant seeks a license;
- (f) The diversity on the basis of race, ethnicity or gender of the applicant or the persons who are proposed to be owners, officers or board members of the proposed adult-use cannabis establishment, including, without limitation, the inclusion of persons of backgrounds which are disproportionately underrepresented as owners, officers or board members of adult-use cannabis establishments; and
- (g) Any other criteria of merit that the Board determines to be relevant.

Travis Godon, Chairman
Laurie L. Carson, Vice Chairman
Commissioner Richard Howe
Commissioner Shane Bybee
Commissioner Ian Bullis

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2. The Board shall adopt regulations for determining the relative weight of each criteria of merit established by the Board pursuant to subsection 1.

NRS 678B.327 Licensing of cannabis consumption lounges: Issuance of licenses in local governmental jurisdiction that limits number of business licenses issued to cannabis consumption lounges.

1. The Board shall, for each local governmental jurisdiction that limits the number of business licenses which may be issued to cannabis consumption lounges, determine the number of licenses allocated to the jurisdiction for retail cannabis consumption lounges and independent cannabis consumption lounges.

2. Not more than 50 percent of the licenses allocated by the Board pursuant to subsection 1 may be issued to retail cannabis consumption lounges.

3. Except as otherwise provided in this subsection, at least 50 percent of the licenses allocated to a local governmental jurisdiction pursuant to subsection 1 must be issued to independent cannabis consumption lounges. At least 50 percent of the licenses issued to independent cannabis consumption lounges must be issued to social equity applicants. If there are an insufficient number of social equity applicants to distribute licenses in that manner, the local governmental jurisdiction shall issue business licenses to all qualified social equity applicants and hold the remaining business licenses in reserve for future issuance to social equity applicants.

4. If the number of qualified applicants in a local governmental jurisdiction exceeds the number of licenses allocated to that jurisdiction pursuant to subsection 1, the Board shall issue adult-use cannabis establishment licenses for retail cannabis consumption lounges and independent cannabis consumption lounges in the local governmental jurisdiction to qualified applicants who are not social equity applicants using a separate lottery system for each type of license.

5. As used in this section, "local governmental jurisdiction" means a city or unincorporated area within a county.
(Added to NRS by 2021, 2359)



KIMBERLY MAXSON-RUSHTON
Direct Phone: (702) 832-1900
Direct Fax: (702) 832-1901
EMAIL: krushton@cooperlevenson.com

December 12, 2022

The Honorable Michael Douglas, Chairman
Cannabis Compliance Board
700 E. Warm Springs Road, Suite 100
Las Vegas, NV 89119

Re: NCCR 12.065

Dear Chairman Douglas and Members of the Cannabis Compliance Board,

As the Cannabis Compliance Board ("CCB") is aware the above referenced regulation is scheduled for consideration and possible action at the December 13th Meeting. In response, RAD Source Technologies ("RAD") respectfully reiterates its request that Nevada Cannabis Compliance Regulation ("NCCR") 12.065 be repealed in its entirety as the proposed regulation fails to meet the statutory requirements applicable to cannabis regulations, is not scientifically based and, is overburdensome for the industry as a whole.

Specifically, the proposed regulation does not comport with the statutory provisions set forth in Nevada Revised Statutes ("NRS") 678A.450, 678B.650, 678C.840 as said labeling requirement has not been identified by the Legislature as an area which warrants promulgation of a regulation. Instead, as evidenced by the plain, unambiguous language of NRS 678B.520(1) & 678D.420 the Legislature has identified the information it deems necessary for inclusion on labels for adult use cannabis. Specific to the medical use of cannabis, pursuant to NRS 678C.860, the State is not responsible for the deleterious outcomes from a patient's use of cannabis for medical reasons. Thus, collectively, these statutes evidence the clear legislative intent to limit the inclusion of superfluous information on labels.

Similarly, the proposed regulation evidences a continuing failure to meet the basic noticing standards applicable to promulgating (cannabis) regulations. Specifically, NRS 678A.460(1)(b)(2) & (3) mandate that regulatory notices include a reference to the statutory authority under which the action is proposed and the express terms or summary of the proposed action. As evidenced by the applicable Notice it fails to meet either statutory requirement - there is no reference to an authorizing statute and no informative summary explaining the intent of the proposed action.

If the intent of NCCR 12.065 is to inform consumers that certain cannabis products have been decontaminated for their health and safety then that can be accomplished in a manner that does not require adding a warning label, which is not scientifically supported. An alternative approach, that accomplishes the same objective without overly burdening cannabis licensees and intentionally

The Honorable Michael Douglas, Chairman
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misleading consumers, is for the CCB to define “decontamination¹” and thereafter, maintain information on its website identifying approved processes utilized in Nevada for the consumer’s safety.

Further to the possible intent of NCCR 12.065, if the CCB seeks to ensure that consumers are aware of all possible health risks that could occur from the consumption of cannabis then RAD submits that NCCR 12.065 should be amended to identify the risks associated with consumption of a product containing residual microbes at a level that is not either zero or too few to detect (i.e. “organic”²). As the evidence previously presented shows, treatment processes, such as RAD’s, reduce microbes to zero or too few to detect, thereby preventing the potential re-growth of harmful contaminants (post testing). While RAD takes no position relative to a cultivator’s decision to produce “organic” cannabis it notes the fact that non-treated cannabis is much more likely to develop contaminants (post-testing) and at a faster rate. Thereby, necessitating the inclusion of an expiration date on “organic” cannabis products.

In support of amending NCCR 12.065 to recognize the importance of identifying a shelf life standard for untreated cannabis, RAD submits that effective January 1, 2024, the Colorado Marijuana Enforcement Division will require labels with a “use by” / expiration date not longer than nine months from the harvest or production date, unless shelf stability testing, including but not limited to potency, microbial, and water activity testing, supports a longer shelf life. See, 1 CCR 212-3, Sec. 3.1015.

Further confirmation of this point can be found in the attached test results, which clearly show that non-treated cannabis is more likely to develop microbial contaminants (post-testing) than cannabis which has been decontaminated. Thus, if the CCB’s intent is to (i) ensure the safety of the consumer and (ii) provide consumers with information to help them make an informed decision about their cannabis, NCCR 12.065 must be amended to recognize the scientific differences between treated and untreated cannabis and the health concerns associated with consuming “organic” products.

Over the past two (2) years RAD has presented vast amounts of scientific information evidencing the fact that decontamination of cannabis does not present a health risk to patients or recreational users of cannabis. Thus, it’s clear that NCCR 12.065, *as proposed*, is not intended to be beneficial to the consumer but instead punitive against cultivators who proactively utilize a CCB approved treatment processes to reduce microbial contamination of their cannabis.

For the multiple reasons set forth herein, RAD submits that NCCR 12.065 as proposed lacks statutory authority, is not scientifically based and is not of general applicability as it fails to account for

¹ Pursuant to CCR (Code of Colorado Regulations) 212-3, Sec. 1.115 **Definitions**, “Decontamination” means the process of neutralization or removal of dangerous substances or other contaminants from regulated marijuana without changing the product type of the Regulated Marijuana.

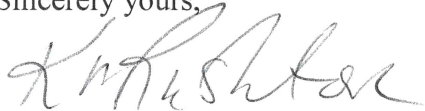
² Pursuant to Washington Administrative Code 314-55-105 – 5(b) **Cannabis Product Packaging and Labeling**, useable cannabis must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

COOPER LEVENSON, P.A.

The Honorable Michael Douglas, Chairman
December 12, 2022
Page 3

the health risks associated with non-treated cannabis. Accordingly, NCCR 12.065 should be repealed as it is otherwise arbitrary and capricious.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Kimberly Maxson-Rushton". The signature is fluid and cursive, with a large initial "K" and a long, sweeping underline.

Kimberly Maxson-Rushton, Esq.

Enclosures

Samples obtained from NV dispensary 8/17/22
Testing performed 8/19/22

Strain Name

Sun God (SG.18.19 Lot 2, Harvested 12/01/2021, Tested 02/18/2022, Pkg 02/19/2022

	From the Pkg	Control	1000	2000
Potency Total potential THC	24.14%	19.28	18.68	(RAD Treated) 18.15
Terpene Limonene mg/g	5.13	2.21	2.29	2.48
Myrcene mg/g	2.16	0.68	0.7	0.76
Linalool mg/g	2.05	0.67	0.64	0.75
Micro Total E/M		p	p	p
Total Enter		p	p	p
Salmonella		p	p	p
E. coli		p	p	p
Aspergillus		p	p	p
Total coliform		p	p	p

Live Fire (LF.2A.19 Lot 1, Harvested 01/12/2022, Tested 03/24/2022, Pkg 03/25/2022

Potency Total potential THC	22.51%	20.71	20.48	18.19
Terpene Limonene mg/g	10.16	3.43	2	4.53
Caryophyllene mg/g	4.29	2.01	0.98	1.89
Myrcene mg/g	2.97	1.11	0.85	1.21
Micro Total E/M		p	p	p
Total Enter		p	p	p
Salmonella		p	p	p
E. coli		p	p	p
Aspergillus		p	p	p
Total coliform		p	p	p

Note: red = failed
p=pass

limits: <1000 CFU

there appears to be decarboxylation with the flowers - uncommon

need micro conditions on the original CoA