

Proposed Changes to NCCR Regulation 1

New

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1.069 “Cannabis Receiver” defined. A “cannabis receiver” means a natural person who is authorized to take possession of, manage the operations of, and perform any other actions necessary for the cannabis establishment pursuant to an order by the Board and who has been issued a cannabis establishment agent registration card for a cannabis receiver from the Board for the cannabis establishment.

1.084 “Disabled” defined. A natural person is deemed to be disabled or to have a disability when said natural person suffers from a physical impairment which prevents that person from competently operating and/or managing a cannabis establishment.

1.112 “Incapacitated” defined. A natural person is deemed to be incapacitated or to have an incapacity when said natural person meets the definition of an “incapacitated person” under NRS 132.175.

Proposed Changes to NCCR Regulation 5

New~~Deleted~~5.170 Death or incapacity of a cannabis establishment owner.

1. If a natural person who holds an ownership interest in a cannabis establishment of 5 percent or more or holds a majority interest in an entity with an ownership interest in a cannabis establishment of 5 percent or more, dies, or becomes incapacitated and/or disabled, which thereby prevents said person from operating and/or managing a cannabis establishment in compliance with Nevada law:

- (a) The cannabis establishment must notify the Executive Director as soon as reasonably practicable of the death, incapacity, or disability of said natural person, but in no event less than 5 business days after discovery of said death, incapacity, or disability. Such notice must include the full legal name of the natural person at issue and a description of the ownership interest held, including the percentage of ownership interest. In addition, the cannabis establishment shall provide proof satisfactory to the Board of the death, incapacity, or disability. On such notice, the Executive Director may seek further information and/or documents to further investigate the deceased or incapacitated person's role in operating and/or managing the cannabis establishment. If the Executive Director determines said individual exercised significant control in operating and/or managing the cannabis establishment, the Executive Director may seek an order from the Board for the cannabis establishment to show cause why a cannabis receiver should not be placed over the cannabis establishment to take possession of, manage the operations of, and take any other actions necessary and authorized by the Board; or
- (b) On the death of any natural person holding an ownership interest in a cannabis establishment of greater than 50 percent, whether directly or indirectly through one or more legal entities, said cannabis establishment must apply to the Board within 7 days of the discovery of the death for approval of a cannabis receiver over the cannabis establishment to take possession of, manage the operations of, and take any other actions necessary and authorized by the Board and/or a court until such time the Board determines such cannabis receiver is no longer needed.
- (c) In cases where a successor or successors, as set forth in subsection (2), have undergone a successful suitability evaluation by the Board within the 6 months prior to the death, incapacity, or disability, the Board, at its discretion, may waive the receivership requirements of this regulation.

2. Within 120 days of the enactment of this regulation, for a natural person who holds an ownership interest in a cannabis establishment of greater than 50%, whether directly or indirectly through one or more legal entities, said cannabis establishment must provide the Board with a plan of succession of the ownership interest on said person's death, incapacity, or disability. Such a cannabis establishment must provide notice of any change to said plan of succession of the ownership interest within 5 business days of such change.

3. If the Executive Director, or in the Executive Director's absence, the Deputy Director, determines there could be an impairment of the health and safety of the public due to the

death, incapacity, or disability of a cannabis establishment owner, the Executive Director, or in his or her absence the Deputy Director, may convene an emergency Board meeting either in person, via telephone, or via video conference, to determine whether to approve an application for a cannabis establishment agent registration card for a cannabis receiver to take possession and/or control of the subject cannabis establishment. If the deceased, incapacitated, or disabled cannabis establishment owner was holding an ownership interest of greater than 50%, it will be assumed that there could be an impairment of the health and safety of the public.

4. Within 21 calendar days of the death, incapacity, or disability of any natural person set forth in this regulation, the cannabis establishment at issue must seek approval for the transfer of the ownership interest from such natural person or their estate to another natural person or entity pursuant to NCCR 5.110, and the natural person or entity proposed to receive the deceased, incapacitated, or disabled natural person's ownership interest must meet all requirements of NCCR 5.110. Depending on the level of ownership interest, the degree of control of the cannabis establishment by the deceased, incapacitated, or disabled natural person, and/or any other factors the Board's Executive Director deems relevant, the Board's Executive Director may take measures to expedite the processing of the transfer of interest, if appropriate and feasible.

5. If the current cannabis receiver over a cannabis establishment has died or become incapacitated or disabled, the cannabis establishment must so notify the Executive Director as soon as reasonably practicable of the death, incapacity, or disability of said cannabis receiver, but in no event less than 5 business days after discovery of said death, incapacity, or disability.

6. Each violation and/or instance of failure to comply with any of the requirements of this regulation is a Category III violation, subjecting the offender and/or offenders to disciplinary action under NCCR 4.

5.175 Placement and appointment of a cannabis receiver.

1. In cases of financial distress, ownership disputes, the death, incapacity, or disability of a cannabis establishment owner, the possibility for impairment to the health or safety of the public, and/or in any other situations the Board finds appropriate, a cannabis establishment or any one of its owners or creditors may request the Board issue an order approving an application for cannabis establishment agent registration card for a cannabis receiver to take possession, control of, manage the operations of, and perform any other actions necessary for the subject cannabis establishment. On request from a cannabis establishment or any of its owners or creditors, the Board may hold a hearing on said request and hear from any owners or other interested persons opposed to the approval of the proposed cannabis receiver. After such hearing, the Board shall decide whether to approve the cannabis receiver's application. The Board may allow for an emergency meeting, if the Executive

Director, or in his or her absence, the Deputy Director, determines there could be an impairment of the health and safety of the public.

2. If the Board receives notice of, or otherwise discovers that, a cannabis establishment:

- (a) Is, or is imminently to be, in a state of financial distress that precludes or may preclude safe operation of the business;
- (b) Is involved in ownership disputes or involved in other situations that prevent the business from operating in compliance with Nevada law;
- (c) Has had a court filing requesting the appointment of a receiver over its operations or a court order for appointment of a receiver to take possession and charge of a cannabis establishment;
- (d) Is the subject of an event or circumstances which could impair the health or safety of the public; and/or
- (e) Has an approved and/or court appointed cannabis receiver who has died or become incapacitated or disabled,

the Board may order placement of a cannabis receiver over the cannabis establishment and/or approve an application for a cannabis establishment agent registration card for a cannabis receiver, if such an application is pending. If such an application is pending, the Board may hold a hearing and hear from any owners of the cannabis establishment and other interested parties. After such hearing, the Board shall decide whether to approve an application for a cannabis establishment agent registration card for a cannabis receiver thereby placing the cannabis receiver over the cannabis establishment. The Board may allow for an emergency meeting if the Executive Director, or in his or her absence, the Deputy Director, determines there could be an impairment of the health and safety of the public. If no such application is pending for Board approval of a cannabis receiver, and the Board determines a cannabis receiver is necessary pursuant to this subsection, any owner of the cannabis establishment or interested party (including a creditor) may propose a person to act as cannabis receiver and that person may file an application for a cannabis establishment agent registration card for a cannabis receiver with the Board pursuant to the NCCR. The Board may then consider approval of such person to receive a cannabis receiver agent card and set a hearing to consider such approval as set forth in this subsection.

3. The Court appointment of a receiver over a cannabis establishment must take place prior to the Board's approval of an application for a cannabis establishment agent registration card for a cannabis receiver, thereby placing the applicant as the cannabis receiver over the cannabis establishment, unless exigent circumstances require the Board immediately approve a cannabis receiver. Should such exigent circumstances exist, then the cannabis receiver, their counsel, or any other interested party must file a petition with the Court for appointment of a receiver within 14 days of the Board's approval of the cannabis receiver. Exigent circumstances may include, but are not limited to, the following: (1) the death, disability, and/or incapacitation of the owner of a cannabis establishment who had significant control over the cannabis establishment; (2) the cannabis establishment is in a state of financial distress that precludes or may preclude the safe operation of the business;

(3) any ownership disputes or other situations that prevent the business from operating in compliance with Nevada law; (3) circumstances which could impair the health or safety of the public; and/or (4) a cannabis receiver previously placed over the cannabis establishment and/or appointed by a court dies or has become incapacitated or disabled.

4. If a court has appointed a receiver pursuant to chapters 32, 78, or 86 of the Nevada Revised Statutes, and/or any other provision of Nevada law, over a cannabis establishment, that receiver must apply for and secure approval from the Board to receive a cannabis establishment agent registration card for a cannabis receiver pursuant to NCCR 5.180, prior to operating the cannabis establishment. If any owner or creditor of a cannabis establishment, or any other person, seeks an order of appointment for a receiver from a court of competent jurisdiction over a cannabis establishment, that moving party or parties must name the Board as an interested party in any such court action and provide notice to the Board of the filing of such action within 14 days of the filing of such action. Any such action filed seeking the appointment of a receiver over the cannabis establishment must request that the order of appointment be subject to the Board's approval of an application for a cannabis establishment agent registration card for a cannabis receiver. The requirements of this section also apply to any binding arbitration proceeding in which an appointment of a receiver is sought. The requirements of this section also apply, even if the parties to any action stipulate to the appointment of a particular person as a receiver.

5. If a court has not yet appointed a receiver pursuant to any provisions of Nevada law and the Board has approved an application for a cannabis establishment agent registration card for a cannabis receiver, any of the cannabis establishment's owners, the person holding the cannabis receiver agent card, or any other interested person, must apply for or make a motion for appointment of the Board's approved cannabis receiver with a court of competent jurisdiction within 14 calendar days of the Board's approval of placement of that cannabis receiver.

6. If the Board does not approve an application for a cannabis establishment agent registration card for a cannabis receiver appointed by the court, the person or party who obtained the court appointment must propose a different natural person for cannabis receiver, that new proposed cannabis receiver must submit an application to the Board for approval and, upon approval by the Board, that person or party who proposed the new cannabis receiver, or the person now holding the cannabis receiver agent card, must apply for their appointment with a court of competent jurisdiction as set forth in subsection 5, above. This process shall be repeated, as needed, until final CCB approval and court appointment of the appropriate cannabis receiver is achieved.

7. If the Board approves an application for a cannabis establishment agent registration card for a cannabis receiver, thereby placing the applicant as cannabis receiver over the cannabis establishment prior to court appointment, and the court subsequently does not approve appointment of said cannabis receiver, the person or party who requested the application and appointment of that cannabis receiver must propose a different natural person for cannabis receiver, that new proposed cannabis receiver must submit an application to the Board for approval and, upon approval by the Board, that person who proposed the new

cannabis receiver must petition or move the court for appointment of the new proposed cannabis receiver. This process shall be repeated as needed until final CCB approval and court appointment of the appropriate cannabis receiver is achieved.

8. If the Board orders the placement of a cannabis receiver pursuant to this regulation and no person has applied for approval of a cannabis receiver agent card, or no person is able or willing to act as cannabis receiver, within 10 calendar days of the Board's order for placement of a receiver, the Board shall hold a hearing to determine if summary suspension of the license is warranted, pursuant to NCCR 4.105, and may suspend the license of the cannabis establishment at issue until such time as a natural person is willing and able to act as a cannabis receiver over said cannabis establishment. If no person is able or willing to act as a cannabis receiver after 90 days from the Board's order of suspension, all licenses of the subject cannabis establishment must be deemed voluntarily surrendered.

9. Prior to holding a hearing to approve the application of a cannabis receiver, the Chair of the Board may issue a conditional approval for a cannabis receiver applicant to receive a cannabis receiver agent card. The Board delegates such conditional approval to the Chair in circumstances in which the cannabis receiver applicant holds a valid certificate of qualification under NCCR 5.195, and/or has been appointed by a Court of competent jurisdiction, and/or has been approved to be a cannabis receiver over one or more licensees in the last two years, and/or when exigent circumstances exist that require the cannabis receiver applicant to begin exercising his duties as soon as possible, and/or in other circumstances that the Chair deems appropriate. Such conditional approval shall be valid until a subsequent regular Board meeting, at which time the Board will hold a vote for final approval. A cannabis receiver with conditional approval may commence his duties as a cannabis receiver on receipt of a temporary cannabis receiver agent card.

5.180 Application and requirements for a cannabis receiver.

1. A person who wishes to act as a cannabis receiver for a cannabis establishment must first apply for a cannabis establishment agent registration card for a cannabis receiver and comply with all requirements for obtaining a cannabis establishment agent card under NRS 678B.340.

2. If the court has appointed a receiver over a cannabis establishment prior to the Board's approval of said receiver, the receiver must notify the point of contact of the cannabis establishment, and all known owners of the cannabis establishment, of the court appointment, before the Board approves an application for a cannabis establishment agent registration card for a cannabis receiver over the cannabis establishment.

3. Prior to the consideration of approval of a cannabis receiver, the Board's agents may conduct a physical inspection, audit, or investigation with or without notice of the subject cannabis establishment to determine whether the cannabis establishment is in compliance with Nevada law.

4. In addition to the procedures in subsection 1, a natural person who wishes to act as a receiver for a cannabis establishment must complete an application on a form approved by the Board, which provides all information required in NRS 678B.355(2)(a) through (g), and

must comply with all requirements of NRS 678B.355, as well as provide the following documents with the application:

- (a) A resume or curriculum vitae updated within one month of submittal which describes and details the proposed receiver's experience as a court appointed receiver and business experience in the cannabis industry in Nevada and/or any other state;
- (b) Proof of liquid assets in at least the amount of \$250,000, proof of professional and/or E & O liability insurance covering the acts and/or omissions of the receiver for his duties as a cannabis establishment receiver, or proof of ability to finance the receivership through receivership certificates or other secure sources of funding;
- (c) Proof that the proposed receiver has notified the point of contact and owners of the subject cannabis establishment of the proposed receiver's application and/or court appointment as a receiver;
- (d) An affirmation that the proposed receiver does not hold an ownership interest in any cannabis establishment in Nevada and that the proposed receiver will not hold a cannabis receiver agent card for more than 10 percent of the cannabis establishments allocable in any one county;
- (e) A list of all other Nevada cannabis establishments over which the proposed receiver has acted as a cannabis receiver, with an affirmation that the new placement as cannabis receiver will not result in any conflicts of interests with any prior or concurrent cannabis receiver placements; and
- (f) An affirmation that the proposed receiver is fully independent and will not retain counsel who has represented the subject cannabis establishment or any of its owners within the past five years.

5. The Board may request and require the proposed receiver to provide any additional documents and/or information to assist the Board in determining the suitability of the receiver.

6. Upon receipt of all the required information and documents, the Board shall set and hold a hearing to consider approval of the cannabis receiver. At the discretion of the Executive Director, said hearing may take place on an emergency basis or may be held during a regularly scheduled Board meeting.

5.190 Duties and responsibilities of a cannabis receiver.

1. A cannabis receiver's duties include but are not limited to the following:

- (a) To take possession and control of the subject cannabis establishment and manage the operations of the cannabis establishment in the best interests of the cannabis establishment;
- (b) To provide monthly reports of the receiver's activities and recommendations to the Executive Director;
- (c) To prepare monthly financial reports and recommendations on disposal of assets, advise of any issues which could be detrimental to the financial health of the cannabis establishment, liquidation, or license surrender, as appropriate;
- (d) To manage and make decisions for any pending litigation involving the cannabis establishment;

- (e) To manage and make decisions regarding any administrative proceedings, including the authority to settle any disciplinary proceedings with the CCB and/or any other regulatory agency;
 - (f) To respond to requests for information and documents from the Board's staff regarding any investigation of regulatory violations and/or transfer of interest requests;
 - (g) To ensure the cannabis establishment complies with Title 56 of the Nevada Revised Statutes, the NCCR, and any other provisions of Nevada law;
 - (h) To facilitate transfer of interest requests necessary to conclude the receivership, and/or other appropriate transfer of interest requests, where applicable;
 - (i) To retain and employ consultants, attorneys, contractors, management companies, and/or any other individuals or entities to assist in operating the cannabis establishment as necessary, provided said individuals obtain prior CCB approvals and/or cannabis establishment agent registration cards when required by law;
 - (j) To ensure that there is adequate cash flow to operate the cannabis establishment in a compliant manner;
 - (k) Any other duties as ordered by a court of competent jurisdiction; and
 - (l) Any other duties set forth in the Board's order approving the application of the cannabis receiver and thereby placing the applicant as cannabis receiver over the cannabis establishment.
2. A cannabis receiver may retain counsel to represent the cannabis receiver but must not retain counsel who has represented the subject cannabis establishment or any of its owners or any of its creditors within the past five years.
3. A cannabis receiver shall remain in place and continue with his or her duties and responsibilities until the Board issues an order discharging the cannabis receiver. Any owner of the cannabis establishment in receivership or the cannabis receiver may apply for discharge of the cannabis receiver at any time, but the Board must approve the removal of the cannabis receiver by a majority vote at a public meeting. If the cannabis establishment license or licenses over which the receiver has been placed are sold or transferred to another person or entity, the cannabis receiver or the new owners of the cannabis establishment licenses may request the Board vote to remove the cannabis receiver from the subject cannabis establishment licenses.
4. The cannabis establishment subject to the receivership is responsible for the payment of all fees and costs of the cannabis receiver, unless a court or the Board orders otherwise and/or designates another person or entity to be responsible for payment of the receiver's fees and costs.
5. A cannabis receiver, as the holder of a cannabis establishment agent card, is subject to all the requirements of Title 56 of the Nevada Revised Statutes and the NCCRs and is subject to disciplinary action for any violations of the statutes or regulations in the same manner as any holder of cannabis establishment agent registration card. The acts or omissions of a cannabis receiver bind the cannabis establishment in receivership and may subject the license(s) to discipline.

6. The Board, or any other interested party, may seek the removal or replacement of a Board-approved, or court-appointed, receiver upon proof sufficient to the Board that the Board-approved, or court-appointed, receiver has not satisfied, or is otherwise unable to satisfy, those duties provided in this section.

5.195 Certificate of qualification for a cannabis receiver.

1. A natural person who wishes to be deemed qualified as a cannabis receiver may apply to the Board for a Certificate of Qualification as a cannabis receiver.

2. To apply for a Certificate of Qualification, a person shall complete a form approved by the Board for this purpose, which provides all information required in NRS 678B.355(2)(a) through (g), as well as the following documents:

(a) A resume or curriculum vitae updated within one month of submittal which describes and details the proposed receiver's experience as a court appointed receiver and business experience in the cannabis industry in Nevada and/or any other state;

(b) An affirmation that the proposed receiver does not hold an ownership interest in any cannabis establishment in Nevada; and

(c) A list of all other Nevada cannabis establishments over which the proposed receiver has acted as a cannabis receiver, if any.

3. Upon receipt of the application materials set forth in subsection (2), above, the Board's staff shall complete a review of the applicant's suitability, after which the Board shall set a date for a hearing, which may take place at a regularly scheduled Board meeting. At said hearing, the Board may question the applicant and shall then vote on whether to award a Certificate of Qualification.

4. A Certificate of Qualification is valid for two years from the date of issuance and may be renewed thereafter every two years on a form approved by the Board.

5. The Board shall list on its website all current holders of Certificates of Qualifications.

6. Should a person who holds a Certificate of Qualification apply as a cannabis receiver over a specific cannabis establishment, said person shall do so via a form approved by the Board and submit the required documents and materials listed in NCCR 5.180(4)(b) through 4(f), as well as an agent card application for a cannabis receiver for the specific cannabis establishment.

7. On receipt of the application and materials set forth in subsection (6), the Board shall delegate approval of the placement of the applicant as a cannabis receiver to the Chair. At the Chair's discretion, the Chair may set a hearing on the application before the entire Board.

8. The Certificate of Qualification is not confidential and may be submitted when any interested party petitions or moves a court for the appointment of a cannabis receiver.

9. The Board may suspend any Certificate of Qualification issued, if the Board files and serves a disciplinary action against the cannabis receiver's cannabis establishment agent registration card and may revoke any Certificate of Qualification issued if the Board

disciplines the cannabis receiver's cannabis establishment agent registration card. The Board may revoke any Certificate of Qualification on application by any interested party and on good cause shown for such revocation.