Nevada Cannabis Advisory Commission – Federal Rescheduling Subcommittee

Meeting Minutes September 15, 2023*

The Nevada Cannabis Advisory Commission's Subcommittee on Federal Rescheduling held a meeting via Zoom September 15, 2023, at 11:30 a.m.

Members Present :

Ashley Balducci, Chair

Emily Berthelot

Mitchell Britten

Shellie Hughes

Andrew Kline

Chair Balducci called the meeting to order at 11:30a.m. and took roll. All members were present via Zoom.

Instructions to join the meeting the meeting via Zoom for public comment were read into the record.

I. Public Comment

Abby Kaufmann 05:01
Hi, thank you. For the record. My name is Abby Kaufman. And based on the discussion that that unfolded over the last subcommittee meeting and the language and the agenda for today's meeting, I just wanted to strongly recommend that the subcommittee reevaluate its interpretation of the legislation that mandated its formation. The recent scientific conclusions and scheduling from the HHS definitely have the potential to impact cannabis operators in Nevada. So I do think this federal development should be a point of consideration, but the primary focus should be on our state and on protecting our cannabis. Unlike President Biden's Oct 2022 directive, which asks the HHS to review how cannabis is scheduled and classified under the CSA section 16 of SB 277 requires that this subcommittee study the removal of cannabis from this type of classification altogether. So the DEA is in final rolling on the recent HHS recommendation will be completely independent of any findings that this subcommittee or any state agency produces. So I really believe that it'd be a better use of the committee's time to focus on scheduling at the state level where meaningful changes are actually possible. In Nevada, we have a Nevada Schedule of Controlled Substances under the NAC. Item five in NAC 453.510 lists cannabis or marijuana as a Schedule I substance. And one year in one day ago today, Nevada District Judge Joe Hardy Jr. ruled that the Nevada Board of Pharmacy

scheduling was unconstitutional. nearly 23 years after Nevadans voted to amend the state constitution to legalize medical cannabis. The Nevada Board of Pharmacy hasn't changed its classification. Yet all three branches of our state's government appear to want this problem solved. All members of the CCB and eight of the 12 members of this advisory commission are appointed by the governor, the highest member of the executive branch. The NAC that classifies cannabis as Schedule I is the codified administrative regulations of Nevada's executive branch. A member of the state's judicial branch has deemed the current classification of cannabis as unconstitutional. Our state's legislative branch has given the members of this subcommittee the power to produce compelling evidence for the removal of cannabis from the NAC all together. So rather than researching and delivering a report on a federal development that is beyond any state's control. I urge this subcommittee to devote its resources to researching the problem in our state so that we can use the findings to implement a meaningful solution that protects cannabis commerce restores justice and benefits our community as a whole. Thank you

Brianna Padilla 08:12
For the record, my name is Bri Padilla. and I serve as the executive director of the Chamber of Cannabis. I wanted to express my gratitude for your considered continued efforts to navigate the complex landscape of cannabis scheduling. And while we understand the need to discuss rescheduling, in light of the recent federal developments, we firmly believe that in the context of Nevada and Nevada descheduling is the mandate that would most benefit our current cannabis businesses and patients, and is the mandate that merits this body's attention and research. Nevada has been a trailblazer and the realm of cannabis regulation, setting an example for a responsible and successful implementation. Since it has developed in our in our state, our industry has generated a substantial revenue for communities while also providing safe access to cannabis for patients and consumers, some of whom rely on it for their well-being. These achievements have been made possible under existing state regulatory frameworks and descheduling cannabis at the federal level would further strengthen our stability or incident industry stability and sustainability. It is important to note that our stance aligns with many national conversations on this issue across the country is there's a growing consensus that descheduling cannabis is the best way forward. This approach acknowledges the realities of cannabis as a legitimate and thriving industry providing economic opportunities and benefiting countless patients with its medicinal properties to scheduling would also eliminate the legal gray areas and challenges that businesses face and will still face. Even if cannabis is rescheduled. As we watch the second public workshop, I look forward to hearing from the first experts brought in to provide their insights on this matter. We are equally eager to hear from our community and industry members whose experiences and perspectives are invaluable in shaping this discussion, and conclusion, we implore you to consider the significant impact that Descheduling cannabis would have on the lives of Nevadans and Nevada's cannabis businesses. It is an important opportunity for us to be able to bolster our state's economy, ensure patient access and align our policies with the prevailing sentiments of the people in our state. We thank you for your dedication to this important work. And we look forward to the discussion today.

Jason Greninger 10:52
I just want to reiterate what Abby and Bri has said, strongly points out that the legislation clearly dictates the direction we need to go here. I'd also like to point out that descheduling will further provide to ensure the continued growth and success the cannabis industry, which is Section 16 B specifically stating that's why we're sitting here. And so the scheduling in the State has already pretty much been mandated. So understand my discussion on rescheduling for federal, but Nevada has spent decades working with laws and regulations outside of federal. So the State has already determined that it is descheduled by constitution. So once again reiterate, we need experts within this industry on the board to help provide information if we're going to achieve Section 16 B and ensure the continued growth and success of this industry. Thank you very much.

Timothy Roberts 12:31
Good Morning. For the record. my name is Timothy Roberta. And the reason I'm speaking today is because I've really been looking into this rescheduling and Descheduling issue. And I've realized that when you start descheduling is just going to place it in the hands of the people who are going to drive it into the ground. We've seen it happening in corporate cannabis now we know that corporate cannabis has to happen, it's going to come in, because they've got the money to back it. But descheduling would recreate an environment where the pharmaceutical companies weren't holding the ball. Classification to a Schedule III drug would literally hand the pharmaceutical industry the ball on cannabis. And firstly, I grow and no tilling soil because I don't use additives. I don't take any medications no interstates. I don't even take NyQuil organic, natural, healthy. That's what I want. I don't want something from a pharmacy. I don't want people to have to take something from a pharmaceutical because I've experienced where that leads. I can't even take NSAIDs because my kidneys and my livers are still messed up. pharmaceutical industry has their place, but I don't think they have their place in the cannabis industry. Once again, my name is Timothy Roberts. Thank you for your time.

II. Introductory Comments and Introductions

Chair Balducci 14:31
Moving on to item two on our agenda, introductory comments and introductions. I just wanted to welcome Dr. Berthelot to our second meeting since she couldn't make our inaugural meeting. And if you could, Dr. Berthelot, could you just kind of give us a brief biography about yourself and introduce yourself to the subcommittee?

Member Berthelot 14:58
Sure. My name is Emily Berthelot. I've been a professor at UNR since 2016. So this is my eighth year as an associate professor. My research tends to focus on disproportionate minority contact with

the criminal justice system, including examining nonviolent drug offenses and the implications that those have had on the on our prison system. I think it's pretty directly related to what we're doing here. So I'm really happy to be here to contribute.

IV. Focus and Scope of Subcommittee Under SB277

Chair Balducci 15:28
Thank you, we're happy to have you. Now moving on to I'm going to take an item out of order. And that's going to be an Item IV - Focus and Scope of Subcommittee under SB 277. I understand based off of the public comments, today, and obviously the last meeting, there are various opinions on what topic should be studied, and what the subcommittee should be doing as far as studying those topics. But the reality is, we're not going to be able to address all topics, it doesn't mean that those topics are any less than significant, or less important, it just means that the subcommittee may need to make recommendations for further studies. Because those topics warrant further study. With that, though, I want you to introduce Senator Dallas Harris, who was kind enough to take the time to meet with us. Senator Harris is the senator for Nevada, district 11. And also the bill sponsor for SB 277. Are you there? Senator Harris?

Dallas Harris 16:40
I am Yes, I don't know why my video isn't working. But oh, looks like it is Hi, hello, everybody.

Chair Balducci 16:52
I was going to say I can see you perfectly. Well, I really appreciate you taking the time to meet with us today. The whole subcommittee is present during this meeting right now. And they may have questions for you. We really want to make sure that we do this right, and that we give a report to the legislator that is what they're looking for. Now, kind of to start off this whole discussion. I was looking at subsection one, and I can tell you, I did go back. And I listened to all the hearings on SB 277 and read the minutes, even went back and read Section 16. In fact, I have it right in front of me. Yeah, and I think the plain language is pretty clear that removed from the list of controlled substances included in Schedule I pursuant to the uniform Controlled Substances Act or, or the federal Controlled Substances Act. And so just because it says Remove, that doesn't mean automatically descheduling, right, it could mean rescheduling to a II, III, IV, or V. But I just want to make sure that my playing reading is, according with your reason.

Dallas Harris 18:12
Okay. So I think that this is obviously like, I didn't know it's going to be such a complicated issue, but it kind of is, right? And I think the main reason that it's complicated is because of the Supreme Court case, which kind of threw everything up in the air. And so the state law already no longer matches the federal law. Right, like we have to just current state of the law, they're no longer mirrors of each other, which I think is what was kind of intended to be. When we had the uniform

Controlled Substances Act. I mean, that's every state generally has got something fairly similar. And so you've got the Supreme Court case, that's kind of further separated our state law from the federal structure. And so I think that then creates two separate questions. Right. One, where does the CCB think we are statewide? I think there's still some discussion on that. Right. Was it completely descheduled? And what impact has is that going to have on the industry has it had on the industry? Okay, so that then we put the state aside. Right. I mean, there's that question. There are things I think that need to be discussed there. Where are we on the state level? Where should we be on the state level? How is that impacting the industry? How is the ambiguity impacting the industry? You know, I'd be more than happy to hear about that. And then we've got the federal question, right. I do agree with your plain reading. It says what would happen if it came off Schedule I. I don't think it says necessarily what had happened if it came off the schedule completely. But that would be included in that question. Right? If it came off a Schedule I, well, if it came off Schedule I, that means it could go to two, three, four, fiver, whatever or off completely. Now, the chances of that admittedly are small. And so I understand that you all don't have lots of time and right, that may not be the most relevant thing for a statewide to like really kind of go down a long whole, like, what would it be like a federal government descheduled tomorrow? Right? Maybe we recommend we need to monitor what HHS is doing. Right? Maybe the recommendation is that for our casino industry, we need to be involved in this discussion a bit more at the federal level, because it impacts them so heavily. Right? Whatever the feedback, I think, is that you're getting throughout the process is all valid and fine. And if you'd like and you want to focus on it seems like what you guys think is the most likely is that it's going to go to three, let's hear, you know, maybe flush that one out the most. How's that going to impact banking? How is that going to impact employment opportunities for folks? Right, what other issues do you think might arise or be resolved? Based upon that? But you know, it's, it really is up to you guys, I personally want to see both a federal and a state discussion, I see them as separate discussions, especially because of that Supreme Court case. And I know there are some folks who think the state discussions more important than some folks who think the federal discussion more important, and I'm not going to pick one of those two in particular. But they are both going to be impacting the industry in different ways.

Chair Balducci 22:14
Thank you for that. I mean, that really helps. I think, you know, we obviously all have an idea of how this study should occur, and what topics we should be discussing. And I think we are dealing with the reality of cannabis moving on the federal Controlled Substances Act from a one to three. And so our focus will be on that. But again, I don't think that's to the exclusion of others. And like I said before, we can certainly recommend further studies on different other types of scheduled if it is rescheduled to something other than a three. So I really appreciate you providing that context. I'm not sure if any of the other subcommittee members have any questions for you. But I did want to open it up before we moved on to any other items on the agenda. All right, hearing none. Is there anything? Any particular topic? Senator Harris, before I have us moving on, that you would like to see in this study? As far as either on the federal or state level?

Dallas Harris 23:32
Yeah. So you know, I'm in the State legislature. And so I think the thing I'm most interested in is like, what can we do? What needs to be fixed? What disasters can we see coming? And how do we clear some of that out of the way ahead of time? What are you hearing is already happening? You know, like, like I mentioned, I keep mentioning this court case, because I feel like it just really made things pretty murky. Maybe there's a recommendation on how to clean that up. Right. So that there's some clarity for the industry. You know, those types of things that I can take action on will likely be most helpful for me. And even on the federal level, right, I'm really mostly interested in how what they're doing on the federal level going to impact what we're doing down here on the States and our and our industry here anyway, right. So new legislative recommendations are always great to come out of a report. That's not always possible, I get that. And not every problem needs to be fixed with a bill either, right? But if there are things that you can identify or that you're hearing are occurring or might occur or likely to occur, when it gets rescheduled, fingers crossed when It gets rescheduled on the federal level. Are we set up? Is the State ready for that to happen? Right now, the federal law has all these rules about banking. Are there some state laws that we might also need to clean up? In the meantime to make way for whatever the federal government might do? Right. Those are the types of things I'd be most interested in.

Chair Balducci 25:28
I appreciate, again, you coming and talking to us and kind of breaking down what it is you envision as far as the study, and we'll try and do our best to make the legislature proud. And, you know, I do appreciate you doing this for us and making sure we're on the right track. So thank you again.

Dallas Harris 25:50
No, well, thank you for asking, not everybody cares, what the legislature what the legislator who wrote the bill thought. So I really appreciate you all seeking my input. I would just encourage you to make sure that you know, I noticed federalism in the name of your subcommittee, but states not like those are both in the legislation. You got I want I definitely want you guys to look at what's happening on both levels to at least some degree.

Chair Balducci 26:23
Okay, thank you.

Dallas Harris 26:26
Awesome. Y'all have a great day. Thanks for inviting me.

III. Presentations from Subject Matter Experts
VI. Topics of Discussion if Cannabis Rescheduled from I to III under the Federal Controlled Substances Act

Chair Balducci 26:28
Thank you so much. I'm going to move on and actually take two items on the agenda together.

Okay, so moving on to items, three and six, which we're taking together because I believe a lot of these topics are going to be covered during the guest speakers' presentation. So I'd like to just kind of take them together. And then anything that we don't really discuss we can discuss as a subcommittee once the speakers have completed their presentation. So beginning with Shane Pennington. I'm going to introduce him first and then when Gillian Schauer logs in will probably pause so I can at least do her introduction and then we can incorporate her into our discussion at that point. Shane Pennington is a partner in the litigation department of Porter Wright Morris and Arthur LLP, where he counsels clients on federal regulatory issues involving a number of industries, including energy pharmaceuticals, controlled substances, aviation and agriculture. He regularly litigates cases concerning federal and state agencies that involve the Administrative Procedure Act, the Controlled Substances Act, and Federal Food, Drug and Cosmetic Act. He is representing companies, scientists, and industry coalitions before the Drug Enforcement Administration, the Department of Health and Human Services, the Food and Drug Administration, the Department of Justice, the State Department and the Securities and Exchange Commission. Shane has published extensively on topics related to administrative law and drug policy including the Private Non Delegation Doctrine, the Single Convention on Narcotic Drugs of 1961, judicial deference to administrative agencies and bureaucratic management, and the limits of presidential power. Shane often provides commentary on administrative law issues to the Yellow Journal on Regulation, notice and comment blog and is a regular, regular contributor to the News From the Circuits column published in the American Bar Association's administrative and regulatory law notes. So with that, I like to thank Shane for taking time from his busy schedule as well for attending this meeting and participating and having a discussion with the subcommittee members and bringing that kind of back on our topics of topics and doing our study here. I think Gillian Schauer just actually joined so I'm going to introduce her as well. Before we start talking on the topic, Dr. Schauer serves as the executive director of the Cannabis Regulators Association, a nonpartisan association of government agencies engaged in cannabis and hemp regulation and policy implementation across 45 states, US territories and Canada, Dr. Schauer has worked in public health and policy for nearly two decades and has a decade of experience working with federal and state agencies on cannabis policy, data monitoring and research translation. Through her federal work. She founded and led the multi-state Collaborative for Cannabis and Public Health from 2014 to 2021 to foster learnings and cultivate best practices for public health across the state with legal cannabis. Prior to working on cannabis policy, Dr. Schauer worked on tobacco control policy. She was the senior editor on the 2020

Surgeon General's report on smoking cessation. Dr. Schauer is an affiliate researcher at the University of Washington and has more than 70 peer reviewed research publications on cannabis and other substances. She has a PhD from Emory University, a Master of Public Health from the University of Washington, and a Bachelor of Science from Northwestern University. And with that, thank you, Dr. Schauer for joining our meeting. And I know your time is limited, so we appreciate you logging in as well to have the discussion with Shane Pennington regarding the topics we'd like to discuss today.

Gillian Schauer 31:10
Thanks, Ashley, happy to be here. Great to see familiar faces.

Chair Balducci 31:15
So I have some committee members as well, who may have questions, but I was going to kind of just kick off with having Shane Pennington give us and high-level view of what the process once. HHS has made this recommendation to Schedule from a I to a II, where do we go from there? And how long do you think this process could take?

Shane Pennington 31:42
Sure. So thanks very much for having me. And I hope everybody can hear me. If not, please let me know. So this is going to be a very high level and I'm happy to go into as much detail as you want. But at a high level, the way it's going to work is, you know now that DEA has HHS's scientific and medical evaluation descheduling recommendation. The next step in the process is DEA will do its own analysis in light of HHS's views, and then it will if it determines that there is substantial evidence to support a shift in cannabis scheduling under federal law. It will initiate the process by publishing a proposed rule in the Federal Register. That proposed rule will kick off a public participation period, which will include a 60-day notice and comment window for interested persons to, you know, let their views be known in writing and to develop the administrative record in that way. It will also include an opportunity for interested parties to request hearings before an administrative law judge. These quasi-judicial hearings are on the record, there, like many trials, that you can put on evidence, cross examine witnesses, and raise objections to the proposed rule, etc. The administrative law judge will then issue findings of fact conclusions of law for any of the hearings that that are granted. And once the notice and comment period, and any hearings that are granted, conclude, there will be an administrative record that will include all the comments, and all the evidence put on and transcripts of the hearings and so forth, which will go to the administrator of DEA. The administrator will then be able to resolve any lingering objections or issues that came up during the, during the ALJ hearings, and will also, you know, make a final decision with respect to cannabis descheduling. And will issue a final rule, that final rule will do a number of things. First of all, it will say what the conclusion is we're moving cannabis to this schedule or that schedule, or we're leaving it in Schedule I, whatever it may be. It will also address significant public comments that arose during the public participation period. And it will weigh in on any findings of fact and

conclusions of law that the DOJ made during the hearing process and resolve any lingering issues there. At that point, there will be a 30-day delay between the time that the final rule hits the Federal Register and is publicly available and the date that it's effective. The Administrative Procedure Act requires that 30-day window to be there and then during that same period of time, anyone who believes that they were aggrieved by the final rule has 30 days to seek judicial review in the United States Court of Appeals for the District of Columbia Circuit or in the circuit court of appeals, where their principal place of businesses is located. And at that point, you know, if they if there is judicial review, I think we're all, you know, roughly familiar with how that goes. And the court could enter an injunction staying the final rule or not. And once judicial review is over, presumably, we will have a change to the status quo, if any, at the federal level.

Chair Balducci 35:25
So am I hearing years or months?

Shane Pennington 35:29
yeah, so the entire process. So if you think of President Biden's directive, which was October 6, 2022, as sort of like the request for cannabis to be rescheduled, I mean, technically, it wasn't, but because, you know, the agency has very particular ways and means that it likes to have those petitions and requests presented. But when you're the President of the United States, you know, I guess it either went on behind the scenes or whatever, there was a request from the President. And from that date to the very end, when you have a final rule in the Federal Register, the average time historically, that that entire process takes is 9.2 years. And then where we are now, where HHS's recommendation has hit, you know, the front office of DEA, from the time of the initial request to HHS's recommendation being transmitted to DEA that normally takes around two and a half years on average. So we are beating that historical average by more than 50%. Because right now, I think it took 11 months, or maybe even it was a little bit faster for HHS to get its part of this review done. And so, you know, you could assume Okay, well, maybe DEA will go at the same clip, right, because the President asked this be done expeditiously. The issue there is that, you know, a lot of what's going to happen next depends on how many comments the agency receives. What do those comments look like? Are they substantive? How many hearings are requested? What sorts of evidence and objections are raised? I mean, because we don't know what those contingencies will look like, because we don't have a crystal ball, it's very difficult to assess ex ante, you know, how long the rest of the process could take? I think it's safe to say that the DEA, and you know, all the agencies involved in the administration, you know, really want this to get done, you know, right. But as quickly as it can get done. And that's about as much as can really be said. There are no statutory deadlines, for example, on this process.

Chair Balducci 37:42
Just pressure from the President. Right?

Shane Pennington 37:47
Unprecedented presidential pressure.

Chair Balducci 37:50
Yeah. Dr. Schauer, did you have anything you wanted to add to that?

Gillian Schauer 37:56
No, I think the only thing I would add is, as you heard, the timeline is uncertain, and could be quite long. And so what we've been doing at the Cannabis Regulators Association is really listening to stakeholders trying to understand what their perspectives are trying to help regulators think about what they should be doing in the field. And I think one of the biggest takeaways that that I have is that that period of time is uncertain the details about exactly what will be in the proposed or final rule. And there could be some big changes between the proposed rule and the final rule are also uncertain. And any regulator will tell you and probably any business owner, that uncertainty is not great for businesses in the short term or long term, especially for small businesses that may be trying to make decisions about new equipment to purchase or, you know, new, you know, fields to plant or whatever it may be. And so I think many regulators are thinking about this in a way where the more certain they can be about what they're doing in their state. And the more they can telegraph that it's business as usual in the state until we have more information that is concrete, the better that will probably be for their market. So I do think it's important that we all go through this exercise and think about all the what ifs, but until we have the concrete data, some of those what ifs may have unintended consequences on state markets, and state regulators are in a position where they can very, I think very simply telegraph. We have a plan in our state, we're going to be proceeding with that plan and tell there's a reason to, to take a different approach. And we don't have those details yet. So we're trying to reckon with the uncertainty and provide some certainty for markets in the interim, if that makes sense.

Chair Balducci 39:44
Did you want to ask Gillian a question?

Member Kline 39:57
I actually want to ask both of them a question if the timing is right. Shane and Gillian are two of the smartest people in this industry. And I think, you know, if we could really hone in on the question that basically was raised as a result of our conversation with the state legislature a few minutes ago, I think it'd be super helpful. And so we've got three buckets, right, we have what if, in fact, the state of Nevada deschedules? And I would really love to hear from both Shane and Gillian on this, but my sense is putting criminal penalties aside, it's probably not going to matter that much. Because we already have a state regulated program. If there was no state regulated program in place, that it would matter a lot. But the regulations are what matter at that point, and those who need to shift. The second question is what happens if there's Descheduling at the federal level? And as we talked

about last time, I'm really hesitant to go down that road, because we're going to need legislation from the federal government to deschedule. And that legislation is going to need to lay out what the responsibilities are of the state legislatures, vis-a-vis the Feds. And we just don't have any idea what that's going to look like. And so to start having a conversation about what happens if we descheduled at the federal level seems to me to be an exercise for tomorrow. And then the bigger bucket, of course, is, you know, what happens if we rescheduled center three? What are the implications on the state? So I'd be super interested to hear from both Gillian and Shane on the first two points, because it may just help us really narrow down our work ahead.

Gillian Schauer 41:48
Go ahead.

Shane Pennington 41:51
Okay, so I got the last two questions, but then, in listening to them, I think I got confused about the first one. So Andrew, if you don't mind, I apologize. But could you just repeat the first question?

Member Kline 42:01
So there's a Supreme Court decision that seems to imply that cannabis, is Descheduled or should be descheduled in the state of Nevada? The question is, how does how does Descheduling at the state level impact the state program? And from my perspective, we have a state program in place we have, you know, our state regulator in place, we have rules in place. And so unless the State regulators decide to change those rules, I don't really see that a lot is going to change, putting aside criminal penalties. We haven't looked at that yet. But I'd be curious to hear from both of you about, you know, whether my view is completely, completely misguided.

Gillian Schauer 42:43
I would concur on that, just from the state perspective, I would concur that there would be little change, I think the change, and probably, you know, the next 15 minutes of conversation will be Shane and I talking about the other two parts of your question.

Shane Pennington 42:59
And my answer was going to be I defer to Dr. Schauer. And, and to you, Andrew, on the impact of Descheduling at the state level, it's just not something that I'm in a position to weigh in on with any kind of expertise. I don't think. Your second two questions on the other hand, fall, right. Right, in the middle of my expertise. So I agree that it would be a bit, you know, we don't know what's going to happen. Again, we don't have a crystal ball. But it does seem for a number of reasons that I'm happy to go into if there's interest, that practically speaking, the likelihood of this administrative process, resulting in a flat Descheduling of cannabis at the federal level, are so remote, that, you know, there's really no utility in digging into that. Right now, except to say, I mean, you know, at a very high level, what that would do, it would mean that the US Drug Enforcement Administration

would no longer have jurisdiction over cannabis, because it would not be a controlled substance. And but what would not change is, is that the Food and Drug Administration at the federal level would still have jurisdiction over cannabis because cannabis qualifies as a drug under the Federal Food, Drug and Cosmetic Act. And arguably, and this is kind of probably where I'll stop, I mean, criminal penalties aside, like Andrew said, Because FDA, the Food and Drug Administration would suddenly be sort of, you know, without its partner, the DEA sort of sharing federal jurisdiction over this very controversial and nebulous area of law, now it would be all by itself and so whenever Congress wanted, you know, some answers from a from a regulator about what the heck's going on out there. With cannabis, they would be they would really, We'd be focused on FDA. And so to that extent, you could imagine, and again, this is some speculation, but you could imagine that FDA has interest in sort of understanding and getting its arms around the cannabis issue, it would become heightened priority for them. Now, it must be said, and this really is the last thing I'll say on this. Because it's an administrative process, there would be no appropriations as a part of it. So as much as you might want to get your regulatory hands, arms around this issue. You know, agencies have limited budgets, they have, you know, staff, they have lots of other things to do, and just sort of taking on, you know, a $30-40 billion nationwide industry that you've been basically ignoring for half a century is a tall order. So as much as they think that they would want to get more involved, if that were to happen, but I don't know how practically they would really do that. It would take some kind of big shift in their in their budget or appropriations from Congress. Now, the rescheduling piece is…

Gillian Schauer 46:11
Can I comment on the descheduling and then we can both talk rescheduling? So absolutely completely agree that descheduling was never going to be in the cards for an eight-factor analysis. I hope you've had lots of presentations on how the eight-factor analysis happens. And Andrew, I know you know this very well, but you have to have, you know, abuse liability potential that's lower than anything on schedule five to deschedule cannabis. And already the published literature that we have shows abuse liability that probably would never have qualified for it in that category. That's the reality of the peer reviewed literature. This is a science-based process. So this was not the mechanism through which to deschedule in my opinion, as a scientist, that said, if descheduling were to happen in some other way, courts, whatever, I do think that that presents a huge change for states, because under any schedule of cannabis, a state program, like what exists in Nevada is still federally illegal. And we can talk about this when we get into Schedule III stuff, but it's still federally illegal. When you have a deschedule. That program then has some federal legality, we open up interstate commerce potential. And I think a lot of the questions around descheduling would be how it happens. And does it come with federal regulation or not? If it comes with federal regulation, I will just say most regulators would like most regulators would like to see federal minimum standards engagement from federal agencies, that would be helpful to most state regulators. If it comes with that. I think that's very different than if it comes safe through the courts with no regulation and states are left to sort of figure out, oh, my gosh, interstate commerce is happening now. And we

aren't ready for it, or we don't have the state systems. So I think Descheduling is what would make the state program federally legal, but how it happens would really have implications for the impacts directly to the state. So let's talk about rescheduling. Shane. Go ahead.

Shane Pennington 48:15
Sure. So just one point on to follow up on what you're saying before I get into Schedule III. I agree that there would be a newfound legitimacy to interstate commerce on some level at the same time. Because cannabis, you know, if you just Descheduled through this administrative process without cannabis products, getting approval for interstate marketing from FDA, under the Food, Drug and Cosmetic Act, which you know, an entirely separate regime is, you know, interstate marketing would have to be limited in some way. And ironically, and this is something I think people don't really appreciate fully. It's just counterintuitive. But it would actually be easier, like FDA would be more concerned, because it's concerned about medical claims and therapeutic claims. It would be more concerned about folks marketing their medicinal cannabis products for the treatment of specific indications in interstate commerce, then it would be about non-medical non therapeutic claims. And so ironically, you would have this, I agree that there would be some, you know, some liberalization for interstate commerce and some room, but I think it would be this counterintuitive world where FDA would be you know, it's would be a lot more comfortable getting involved with medical claims, which would be illegal under the Food, Drug and Cosmetic Act, whereas adult use marketing, you know, they might be concerned about it for policy reasons, but their jurisdiction is less clearly triggered by that and I kind of wanted to see that's been my sense, but it's I'm wondering if you agree.

Gillian Schauer 49:50
Yeah, I guess I think that Descheduling would result in interstate commerce. I don't think there would be a second where somebody would say, you know, maybe this isn't fully aboveboard. I think that would be seen as a common, you know, a removal of the barriers and we would see people try it. And then are there court cases does FDA get engaged as Congress get engaged? I don't know. That's total speculation. But I think what I wanted to share with the committee is really like there is a big difference from the state program between Descheduling and moving to Schedule II, and under Schedule III, just to repeat, unless there is some extensive guidance that we had that I did not know was coming. And we have not seen state cannabis programs would still be federally illegal as they are operated. So that does not change from Schedule I to Schedule III

Shane Pennington 50:39
Absolutely. So what does change and you know, I think that Dr. Schauer, and I should just spend an afternoon talking about all this stuff, it was very interesting, but for your, for your, for the purposes of what we're doing here, staying on topic, Schedule III, the main difference would be that, you know, commerce, business with cannabis products would no longer be in trafficking and a Schedule I or schedule two substance, and therefore it would no longer fall under Section 280E of the

Internal Revenue Code. And that is a tax code provision that basically says, you know, ordinary business tax deductions that basically any, you know, ordinary business in any industry in the United States gets to take and deduct from their taxes. If you're trafficking in a Schedule I or II substance. You don't get those. Because cannabis right now is a Schedule I substance, anything you're you know, basically any business you're doing with it is trafficking, in that Schedule I substance. And so the upshot of this is that the cannabis industry is taxed often at an effective 80% tax rate. There's very inequitable tax treatment. And so removing the cannabis industry from the ambit of this burdensome tax code provision would mean an influx of cash which would have many knock-on effects that we can that we can get into, there would also be criminal justice. consequences that would result as well, because the tax code provision is enforceable through criminal action, it's a felony to defraud the government of taxes, rely on your, you know, cheat, to cheat the IRS, and they'll put you in jail for that. And so it's another kind of misconception, there are no criminal justice implications with scheduled three. It must be said, though, that the criminal penalties at the federal level associated with cannabis related violations would not change if cannabis were rescheduled to Schedule III, because the provision of the Controlled Substances Act that sets those penalties applies to cannabis as cannabis. It doesn't apply to cannabis, if it's in Schedule I or II or three or whatever, it doesn't vary, depending on schedule as it does for many other substances. The last point that I want to hit on is research. I mean, there are a lot of folks anticipating that research will open up. However, recently in it was I think in the last year, there's a new amendment to the Controlled Substances Act, the medical marijuana cannabidiol research expansion act that President Biden signed into law that impose similar cannabis specific requirements on those who want to manufacture or research cannabis. And as a result, because those are cannabis specific and don't turn on scheduling, it turns out that it's not clear that rescheduling would automatically open up research, because the research burdens that cannabis is currently under as a Schedule I Substance, they don't the statute doesn't say that if it's moved to Schedule III or five or whatever, that that they don't apply anymore. It just says if it's cannabis, here are the regulatory burdens. And so I think that that's something that we should, that would be really great, I think for a state or for somebody to get out in front of just to make sure that that gets ironed out.

Gillian Schauer 54:04
Yeah, Shane I was I can talk very briefly because I am a researcher, although not practicing in the traditional sense. I can talk about what changes when something moves from Schedule I to III. But Shane, my question for you is do you know what takes precedent? The changes from the CSA or the congressional act? I have not gotten a sense from that

Shane Pennington 54:25
it amended it amended the Section 823 of the CSA and so and so you know, normally as you know, normally what it says is Schedule I and II substances here are the registration requirements right and then III, IV, V. Okay, yeah, so now there's so now it's so the Act takes precedence

Gillian Schauer 54:40
So normally what happens when a substance moves from one to three, you still have to have a DEA registration. You still have to use DEA approved cannabis. You cannot use the cannabis that's for sale at retail outlets in Nevada for research. You do Not have to go back to DEA when you make a change to your study protocol. So if you decide, oh, you know, we're a year into this study, we want to tweak something right now under Schedule I, you have to go all the way back through DEA for that, you do not have to go back through DEA to do that for a Schedule III product. But you still have to have that DEA registration, you still have to have a DEA product that you're using. The only other you know, potentially substantial change for cost is you no longer have to have the big safe that you store your DEA products in. So that can save some cost on research studies. But the changes are surprisingly nominal. And I do think that there's a tendency to feel like one to three means that boom research has opened up and there's a misunderstanding that it's really still fairly restricted. And DEA is still very much involved.

Shane Pennington 55:52
And it's I mean, I think that this is something that no one really, I can't imagine anyone intended it to be this way. And I think that because there will be a lot of will and sitting like everyone's going to want research to open up. I think that, you know, there are ways DEA could grant exemptions to provide a workaround, or Congress could legislate. And this is the sort of thing that, you know, Nevada, you know, another state and research organizations could get out in front of this by, you know, basically telling, you know, flagging this for DEA and saying like, Hey, can we figure out a way to fix this?

Gillian Schauer 56:30
Shane, if I can jump in on Schedule III, some of the other things that are in my brain that you know, Nevada as a state with this task from your legislature could potentially have some ability to sort of push the envelope on this. We don't know the details of exactly what's going to be rescheduled. I haven't seen the letter. But there are three different things on the schedule, there is tetrahydrocannabinol, or THC, marijuana, and marijuana extract. So there will be major regulatory implications. If only one or two of those are rescheduled and one is not that will be somewhat difficult to navigate. In terms of what that means for changes. I'm also very concerned about potentially having the same cannabinoid in two different places on the schedule based on whether it comes from what we call hemp, or whether it comes from marijuana. That will also be very difficult for regulators if you have say CBN and when it's from cannabis, it's Schedule III, and when it's from hemp, it's unscheduled, or if we were to see has been rumored and I don't have any credibility to these rumors, but if DEA were to come out more boldly and schedule some of these synthetic cannabinoids that are being manufactured from CBD, but exist in trace amounts in the cannabis plant, you know, then you might have that cannabinoid and trace amounts from cannabis at Schedule III, and you know, from hemp, but Schedule I. So that really creates a challenge to implement policy and states. And I think that's an area where CANNRA is thinking actively. If there

is disconcordance with how the schedule looks across the board, that is something that we would probably plan to point out to DEA because it does make it very difficult. So I think those are some of the details I'm really interested in paying attention to the other details would be any guidance about, you know, sort of what happens with the traditional pharmaceutical approach that we've seen FDA take and existing state programs, which do not conform to that approach. I'm not overly concerned that we will see state programs go away, in part because we have so many of them, and they are so established. But how clear will the guidance be? That I think is a bigger question and is another area where I would expect CANNRA to get engaged on behalf of regulators and weighing in that we need specific guidance to provide clarity and certainty for markets and states.

Shane Pennington 58:57
100%. the only the only thing I want to add is just to emphasize that I think, you know, we haven't seen what HHS said and so until you see it, you know, we don't know. Right. That said, we do know what the statute says. And it says that for some for a substance to be in Schedule III, it has to have a currently accepted medical use and treatment in the United States. And it has to have a potential for abuse that's less than substances in Schedule II. So presumably, you know, I think it's a reasonable assumption in inference that HHS concluded that cannabis has apparently accepted medical use and treatment in the United States otherwise it couldn't have made this recommendation, which means that it has found a new path and never before trod the path to make that determination and presumably, what part of that had to have been I would imagine that state medical marijuana programs and you know, doctors recommending cannabis to patients in treatment in the United States under those program qualifies at, you know, at a certain point, once there are this many states and this many 1000s of doctors, you know, that it has, it becomes a currently accepted medical use and treatment. And that be I think that that's safe to assume that something like that is in this letter. If it is then that adds serious federal legitimacy to interstate medical marijuana programs to some extent, which remains to be seen.

Gillian Schauer 1:00:27
Yeah, and I will just add that one of the I have no inside insight into how FDA, you know, reached their decision, or HHS reached their decision. But one of the things that CANNRA did was encourage our state programs to submit any and all data that they had, because traditionally, these reviews are based on the published literature. And there are a lot of reasons and biases behind why the published literature is not representative of everything that's out here, not the least of which is, you know, a state program or the many state programs we have which have collected data and don't always have a chance to publish those data in peer reviewed journals. So I suspect that some of those data may have weighed in, although I have no inside knowledge of that.

Shane Pennington 1:01:09

I suspect you're right. And I mean, where I was where I were, I was going to, you know, I think that this could signal I mean, what I'm imagine is that FDA, the way it normally works is FDA gets data about new drugs and new substances from the pharmaceutical companies that discover and then research and manufacture those drugs, right. But with cannabis, there's been this weird situation where they haven't gotten that clinical trial data, because there's already a market for it at the state level. So no pharmaceutical company is bringing that to them. And because there's no cooperative federalism program, like you normally have in other areas, the states have kind of, it's like FDA and the state programs have not really been coordinating as much as you would normally expect in our system. And the result is that the FDA just doesn't know as much as it probably should. And actually, the states are the ones the state regulators are the ones who have the real knowledge and expertise. And I would imagine that the FDA having presumably concluded that the state regimes are legitimate, at least with respect to medical use, that they are going to, there would be an opening there an opportunity for collaboration that we haven't seen, which would be really, really useful. And something I think that Nevada in other states you should get involved in.

Gillian Schauer 1:02:27
Yeah, and I will just say that CANNRA works very closely with federal partners, including FDA, we hope that you know, they will have more ability to work more closely with us, their hands have been a bit tied by the Schedule I designation. Ashley, what haven't we hit on that you want to make sure we cover other questions from the committee. I'm mindful of time.

Chair Balducci 1:02:49
Well, I've heard quite a bit about the research. We haven't really heard anything about the banking, we didn't touch on taxes and criminal justice system. I'm not sure if you could share anything on banking, or medical or insurance, I think medical and insurance we're looking to like, as far as at least this is what I envisioned. So if any other committee members have visions, things differently, please advise, but you know, will doctors have to prescribe this and how they're going to be regulated. I know, these are a lot of hypothetical questions here. Is there going to be FDA regulated as a food? Or is it going to be regulated as a drug? So I think that's kind of where we're going with those other two topics. Again, if you don't feel comfortable talking about them, that's fine. But if you have some insight on those two topics, we'd appreciate it.

Gillian Schauer 1:03:39
I mean, Shane, I defer to you on banking, in terms of how the FDA should regulate this. CANNRA has a bunch of letters and we've been very active on the cannabinoid hemp issue. And we have pointed out through our letters that we think that cannabis does not neatly fit into any one of FDA's existing pathways, in part because there are aerosolized and combusted products and the breadth of products that are out there for cannabis extends beyond. Also, the way that states are regulating cannabis currently, including the state of Nevada extends beyond what would be available to FDA

through regulation of any of their existing pathways. So state programs already regulate in a way that protects consumer safety with more levers and safeguards, I should say, then say for a dietary supplement. So I don't know what that means for you know, how FDA would regulate or how they would even engage with states. I think that's where I'd like to see more detail about what's being rescheduled, what guidance is coming down, what that means for state programs. And we've been very consistent in telling federal agencies that state regulators will need that guidance to help them sort of shepherd through the transition in their state programs.

Shane Pennington 1:04:56
Yeah, I don't have a lot to add there other than the prescription requirement is generally tied to FDA approval for interstate marketing. And because cannabis doesn't have that, a prescription would presumably still be illegal under federal law in an odd way. However, again, because FDA presumably is recognizing the legitimacy of the state medical programs to the you know that they have a currently accepted medical use and treatment. I think that the recommendations that doctors are currently giving, which aren't prescriptions, but are still the way that they're, you know, recommending it to patients, that would still be fine. In fact, it would have sort of a new sort of federal legitimacy once this, if this goes the way that that we think, but the devil will be in the details there. On banking, nothing will change automatically. FinCEN is the regulator that that put out the guidance under the Bank Secrecy Act, that basically tracks the Cole Memo and says, in short, that, you know, there's a risk that there's certain reporting requirements that financial institutions have to adhere to, if they're going to work with the cannabis industry. Those aren't tied to the to the federal schedule, they're, they're, you know, tied to two other things, basically, to DOJ guidance, that's outdated. And so, you know, I think that we're going to need to get guidance, new guidance from DOJ, and from FDA and so forth. And then that will have to then be taken to FinCEN. And, you know, try to get new guidance on the banking issue before that will be able to change. So that's all you know, many steps down the road.

Chair Balducci 1:06:43
Do any other subcommittee members have any questions for Shane or Dr. Schauer?

Member Britten 1:06:49
I actually do. This is Mitch Britten Shane, you had mentioned that the DEA is going to do their own analysis? Is that limited to the information that HHS handed over? Or will they bring more subject matter into the fold?

Shane Pennington 1:07:05
Yeah, they can bring more subject matter into the fold, they gather all the statute directs them to gather the relevant data. And it doesn't define what that is. But that's up to DEA and then, you know, DEA has special authority over law enforcement considerations that are relevant to the process, whereas HHS has authority over the scientific and medical aspects that apply to the

decision making process. And so you know that different focus means there will be different sort of emphasis in DEA's analysis as compared to HHS.

Member Britten 1:07:41
Thank you.

Chair Balducci 1:07:47
Any other committee members? Question?

Member Kline 1:07:51
Can I just quickly kind of tick through the list that I drafted? I just want to make sure I haven't missed anything. And I also just want to say thank you to both Gillian and Shane to the smartest minds in cannabis and real public servants. And it's just always a pleasure to, to work with you all. So what I got was, I have I have five things on my list, and others may have more, but I just want to make sure I haven't missed anything. How will Schedule III effect research versus Descheduling? THC marijuana, marijuana extracts are scheduled one, what gets rescheduled? And how does that impact the state system? If at all the different treatment of hemp and marijuana, how that impacts the state of Nevada? What happens to you know, what traditional pharma approach, Gillian mentioned? I'm actually just shot Gillian a note about this. But I've drafted an enforcement discretion memo, which I'd like to share with Gillian at some point. And Shane, of course, and then lastly, the criminal justice penalties, but I just want to make sure that we're really sort of focused in on what might be impacting the state in Nevada, and without missing anything, that list.

Shane Pennington 1:09:15
That sounded right to me. The one thing that I don't think we mentioned, but was sort of implied, I guess, is, you know, the devil will really be in the details. So for example, I imagine I haven't looked at Nevada's regime, but I imagine that they define cannabis in a variety of ways of a variety of, you know, nuanced definitions of cannabis, cannabis products, etc. And those probably don't track exactly the federal definitions, I would almost guarantee it. And so this is just another sort of aspect of the problem that Dr. Schauer flagged with, you know, we're really going to have to pay attention to exactly what the federal change applies to and to the extent that it doesn't map neatly on to it The state definitions and terms and jargon. There will be uncertainties there that will need to be addressed.

Gillian Schauer 1:10:07
And that's a big deal. Also, because Nevada's definition of THC includes Delta-8, and has included Delta-8 predating the boom of Delta-8, that's not consistent with, you know, what we might see the federal government do. So I think exploring the implications, there will be important so that Nevada can continue to protect consumer safety. The one thing I think you're missing from your list, Andrew, that's nebulous, but really important is just the impact of the uncertainty of federal policy

on the industry. And I don't think that that should be negated. Because again, that is maybe one of the areas where states can have a little bit more control in saying, here's our plan and our state. And here's how we're going to give you certainty in the market until we have different information. Otherwise, I think there could be a number of years of uncertainty that might be very negatively impacting businesses, especially, you know, small businesses.

Chair Balducci 1:11:10
You know, one thing, Shane and Dr. Schauer you brought up when you were talking about the federal rescheduling, but something we probably need to look at as a subcommittee is to look at the state uniform Controlled Substances Act to see if they're other not just cannabis, but the THC and the extracts to see if any of those are going to get removed with the current pending court case, or if that's maybe something that we need to delve into as well.

Shane Pennington 1:11:44
Yeah, absolutely. I mean, the Farm Bill is up for review at the federal level as well, which hits on many of the same issues from a different angle, because it deals with hemp, which is, you know, the line between hemp and cannabis at the federal level is, is really the root of a lot of the uncertainty or not all of it, because there are other, you know, the tetrahydrocannabinol is and Schedule I, marijuana extract, etc. Those are also issues. But, um, you know, I guess that what I'm trying to say is there, there are going to be many federal changes, not just this scheduling process that we're talking about now, but after that, and around that, that are going to have an impact as well. And I just think it's going to be important for states and stakeholders generally, to get involved in be informed about and participate in those changes, because they are going to have effects.

Gillian Schauer 1:12:39
And there will be consequences if those changes at the federal level again, result in you know, discordance in how cannabinoids are treated. So that's something for Nevada to be aware of.

Member Kline 1:12:53
Sorry. I just thought of one real quick question for Gillian. Are there any other states that have been mandated through the legislature or any other means to take a look at the effect of federal policy on the states like Nevada has that we should be?

Gillian Schauer 1:13:09
I'm not aware of any that have been mandated to look at, say, the implications of rescheduling, although I know many state regulatory agencies are doing that work internally, without legislative mandates. But I'm not aware of any state going through the same process that you all are in Nevada, and I think your process will be very instructive and likely yield information that will also help your fellow states.

Chair Balducci 1:13:33
And I'm sorry, Member Klein question prompted a new question for me. Dr. Schauer, are you aware of any other states that are kind of in the same situation as Nevada, where they're descheduling from their state uniform Controlled Substances Act?

Gillian Schauer 1:13:52
Honestly, I would like to study up on that question a bit more, because I feel like state programs have been set up in the face of you know, scheduling federally and in the state that does not align with the state program. And I don't know how many have come into alignment and how many are still out of alignment. But I do agree with Andrew that I think the implications of aligning them. It's a positive thing to do, but it probably doesn't change the programs that have been set up. But in many cases, those schedules in states are managed by different agencies and offices. And so I wish I had a better answer for you. But that's definitely something we can find out through CANNRA

Chair Balducci 1:14:32
Thank you so much. Unless the committee members have any other questions, we're probably going to wrap up.

Executive Director Hughes 1:14:40
I do have a question. Ashley. I just want to thank you both. This has been very informative for me. I'm the Executive Director for the Nevada Department of Taxation. And I just wanted to get clarification. One of you said that the prescription would still be considered illegal. So here in Nevada, we have an exemption, a sales tax exemption on medicine. So if a doctor prescribes a drug sales, it would be exempt from sales tax. However, currently, cannabis isn't seen as medicine here in Nevada, for those purposes. So if this were to be rescheduled, would either one of you see maybe it falling under medicine in Nevada and be exempt from sales tax.

Gillian Schauer 1:15:40
I mean, I'm curious to hear what Shane has to say. But my read on it is that what happens in state programs and the recommendations that happen are still not prescriptions, because they're not recommending a product that is an approved drug by FDA. And there's a multi-year process that is very costly to go through and get approval for a drug. And moving cannabis from Schedule I to three does not make the products in your state market suddenly approved to drugs. And so it's still a recommendation not a prescription. Now, that said, there could be guidance that interprets, you know, the reach of Schedule III to extend into different types of products. That's the piece that I'm completely unclear on. And I don't think we'll know until we see it. But I wouldn't anticipate that suddenly, overnight, everything in the state markets is deemed an FDA approved drug.

Shane Pennington 1:16:37

Oh, absolutely. I have 100%. I echo an underscore everything that Dr. Schauer said the only thing that I would add is that, again, when you talk about a sales tax exemption applicable to prescriptions, it's possible that prescription when you're saying it, for purposes of state law, could include possibly a legitimate recommendation under you know, a medical program if Nevada were to have one, right. But what we're what we're talking about when we say prescription, and we're talking about prescriptions being federally illegal, we're talking about the nuanced, you know, defined term under federal law of prescription that's related to FDA approval. And so again, doctors could recommend cannabis as medicine under federal law, which they already do. And there would be, I guess, heightened level of federal legitimacy to this if cannabis were rescheduled. I'm just trying to flag that, to the extent prescription has a nuanced definition, under state law that differs from the federal law. It bears on your question. And I think that the bottom line is the state of Nevada would have a lot of authority over how it defines that and how it runs its sales tax exemptions. And it would be independent of what happens at the federal level with this rescheduling.

Executive Director Hughes 1:17:59
Thank you.

Member Kline 1:18:00
It does feel to me, Member Hughes, is that should be number seven. Right? There's enough uncertainty that we need to drill down.

Gillian Schauer 1:18:09
And I also think that's an area to explore for state policy. So a lot of what Shane and I have talked about is sort of the federal landscape and potential implications for states. But I think one of the big unknowns is how might states shift in their policy approach based on the rescheduling? And what might states try to open up in terms of treating cannabis more as a medicine because that is what the rescheduling to Schedule III would mean. So there's a lot of potential to explore new policies that might be beneficial to the state and might fit nicely with a move to Schedule III.

Chair Balducci 1:18:48
Okay, well, thank you again, Dr. Schauer and Shane Pennington for joining us today. It was very helpful, at least for me. And I think for the subcommittee as a whole. We have a lot to think about and obviously digest. But thank you both for taking time out of your busy schedules to be here. And we look forward to, you know, hopefully, digging into some of these topics and consulting with you on them again, because I know that descheduling is going to come up again with the states. So thank you both.

Gillian Schauer 1:19:19
Thanks for having us, Ashley.

Shane Pennington 1:19:21
Yeah. Thanks for having us. I really enjoyed it.

Member Kline 1:19:24
Thank you, guys.

VII. Future Meetings

Chair Balducci 1:19:25
Thank you. We're going to move on to item number seven on today's agenda, which is future meeting. I think we're talking tentatively two weeks, which would fall on September 29. I believe. We'll just make sure. Yes. And we're talking about maybe having another guest speaker at that time. I also wanted to kind of throw out there. I was going to go over because I did this previously, to see kind of what price would be removed from NRS 453, which is Nevada's Controlled Substances Act to see which ones are still pertaining to marijuana, even if it's deschedule. Because it currently it was scheduled as one, but if it's removed, they're still references to marijuana crimes in 453. So what I think I'm going to do is pull that and also NRS 678D has references to 453 that we probably need a look at. If descheduling on a state level is something we're going to explore as well. If anybody else wants to do any of the research, please don't hesitate to, you know, raise your hand. Other than that. Oh, thank you. Dr. Berthelot. Yeah, I mean, your background is criminal justice. So I think you know what I'm talking about. There are certain crimes that are still categorized under just marijuana, as opposed to Schedule I substance under 453 of the Nevada revised statute. So I think it'd be helpful to look at that NRS 678D. And if we find any other criminal statutes referencing marijuana, we probably should compile those so we can look at those and see what recommendations need to be made if marijuana or cannabis is descheduled from the State Control Substances Act. With that, I'm going to move on with item eight, which is public comment.

VIII. Public Comment

Katrina Saunders 1:22:07
My name is Katree Saunders, for the record. I'm representing myself and a longtime patient and longtime patient advocate in the medical cannabis space. I've been affected by the War on Drugs at a state and federal level here in Las Vegas. I think that first and foremost, what needs to be brought up is people's freedom. I have friends that are still affected by the War on Drugs that are still incarcerated. Something would be pressure for them to be released and people's records need to be sealed. I'm still affected by my federal record for federal distribution for helping patients in the state of Nevada. Um, it has affected my job, my children, my family, my livelihood. I also think there needs to be decriminalization and Descheduling so people can have safe access for research that needs to be much studied because the stigma of cannabis has gone on too long. Also, there needs to be reparations for people who have been affected, I think that needs to be brought up as well. When

mentioning all of these Descheduling things, people need to have their lives repaired. There doesn't always need to be so much talk about safe banking and people's lives, other interests brought forth. I know myself; I've tried to participate in the cannabis industry, and I've had laws actively change to exclude me. While I'm just trying to make a living and take care of my kids, I have helped make hundreds of billions of dollars for the state of Nevada. And so I find myself almost 10 years later, having to advocate for myself, just for simple employment opportunities and her right to work in the industry, which should be also I think that people need to take accountability for bad practices in the industry, and that people don't have a hundreds of thousands of dollars to participate and there's not an illicit market. People that have helped build the industry are being actively written out of laws and rules and regulations. You know, when you guys wrote the lounge law, I was ruled out by 5.5%. So I know this is systemic and systematic. And that needs to be addressed as well when you guys are discussing rules and regulations and people breaking federal law. Thank you

Jessica Siewert 1:25:03
I wanted to comment on everyone on the call today, and I just really enjoyed hearing, and I would like to say thank you.

Abby Kaufmann 1:25:21
Yeah, for the record, Abby Kaufmann, I wanted to thank the subcommittee and the guest speakers for their time, it was really valuable to have Senator Dallas Harris, the author of the bill that formed this subcommittee to clarify, and I think that those were very credible, external witnesses brought in, so I really appreciate that committee selection there. And I to reference, in terms of my initial public comment, and I think that this kind of came up, I would really like to see. Basically, what I'd like to see is to look at that bucket one of what happens if we deschedule in Nevada, what that potential impact would be if kind of the worst case scenario happens with that bucket three, with rescheduling and understanding if rescheduling, sorry, descheduling at a state level would provide any additional protections or anything we can do at the state level, to prevent any kind of federal interference or regulation of our existing markets. If that federal you know intervention, on regulation would be detrimental. Or if you know, Schedule III would mean that the DOJ kind of walks back and DOJ via DEA kind of walks back the Cole Memo era regulations and kind of non-enforcement stance that that's essentially what I would really like to see and better understand, you know, what we can do here at a state level, and what topics we need to even research to make that that determination of how those two things go together. So just wanted to clarify the kind of content of my initial comment and thank you for this really productive and informative conversation.

Abad Piza 1:27:26
Hi, my name is Abad Piza. I did join a little late but from what I was able to understand. I guess our best shot because it did feel as though even the definition of medical cannabis isn't really to respect it. So our best shot at this would be to take it upon ourselves to I guess, sue, or take it to the court. Was that understanding correct?

Chair Balducci 1:28:08
So this is a public comment or not really. It's not really an engagement with the committee members at this point. If you want to proceed with your public comment you may/

Abad Piza 1:28:23
Then I based on all the kind of what was already somewhat discussing what I was able to pick up. I'm urging you guys to consider the descheduling instead of rescheduling. Thank you.

Jason Greninger 1:28:46
I would just like to reiterate what Abby Kaufman has said and underscore what she's pointing out and direction. Thank you very much. And thank you for your time, your valuable time today.

IX. **Adjourned at 1:00pm**