

Nevada Cannabis Advisory Commission – Federal Rescheduling/Descheduling Subcommittee

Meeting Minutes November 17, 2023

The Nevada Cannabis Advisory Commission’s Subcommittee on Federal Rescheduling/Descheduling held a meeting via Zoom November 17, 2023, at 11:00 a.m.

Members Present:

Ashley Balducci, Chair

Shellie Hughes

Emily Berthelot

Andrew Kline

Mitchell Britten

Chair Balducci called the meeting to order at 11:04 a.m. and took roll. All members were present via Zoom.

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

I. Public Comment

Katree Saunders joined but reserved her public comment for later.

II. Presentation by Subject Matter Expert.

Items were taken out of order. Chair Balducci introduced the subject matter expert, Ian Stewart, regional manager partner of Wilson Elser and co-chair of the Firm’s cannabis and hemp law practice. He is a member of the advisory board of the International Cannabis Bar Association. He sits on the executive committee of the Los Angeles County Bar Association’s cannabis section and is the chair of NCIA’s risk management and insurance committee. He is one of MG Magazine’s “30 Powerful Cannabis Attorneys You Should Know.” Chair Balducci thanked Mr. Stewart for being there and felt his input would be beneficial for the public and the Subcommittee.

Chair Balducci asked Mr. Stewart to give the audience a high-level view of how cannabis businesses insure themselves and their products. Mr. Stewart remarked that the insurance industry has grown and adapted to the state markets and to the Schedule I problem. Going into 2024, the insurance market is constituted of 30 insurance companies and other underwriting professional companies that write all lines that comprise commercial general liability, product liability, and property, which are the base products. Mr. Stewart stated that it’s key for businesses to have a good insurance broker who knows the cannabis industry because there are products that have significant exclusions and

limitations and are drafted in a way that are not in line with how a company operates or are consistent with state regulations. Specialty line coverage is more available now than it was a few years ago, and they are more expensive than other products and are limited in their coverage. The biggest issue with small cannabis companies is the price; for larger operators the issue is getting the amount of insurance they need, especially on the property side for all their facilities. He expects that rescheduling will be beneficial to the insurance industry and cannabis operators because Schedule I is the reason why large insurance companies aren't willing to operate in the cannabis space due to them being defined as a financial institution under the Bank Secrecy Act. If cannabis is rescheduled, new carriers will be able to enter the market and help drive prices down and create more stability. He continued that Schedule III is still a controlled substance, so there will still be significant underwriting questions.

Chair Balducci also asked Mr. Stewart about what the potential effects would be if the cannabis were to be descheduled on the State level. Mr. Stewart responded that it would be similar to the federal level since most of the institutions are focused on the federal level.

Chair Balducci asked what the effects would be if Congress were to deschedule on a federal level rather than rescheduled by the DEA. Mr. Stewart stated that if marijuana were to be regulated like alcohol, then many insurance companies would jump in quickly; however, there would have to be some sort of regulatory plan in place for the companies to feel comfortable. He stated that insurance companies would have to look at the underwriting, loss history, and other factors, which could cause some short-term uncertainty. He thinks there are a lot of large insurance carriers who are ready to enter the cannabis market on short notice, but they are waiting for descheduling in order to protect their current relationships and the limitations with the Bank Secrecy Act.

Chair Balducci stated that the Subcommittee was also interested in learning whether rescheduling would entice health insurance carriers to cover medical marijuana. Mr. Stewart stated that it is still unknown; however, if it moves to Schedule III then any physician can prescribe an FDA approved [cannabis] drug or recommend non-FDA approved cannabis treatments without fear of losing their DEA license. In insurance, medical groups do not have effective coverage for doctors who recommend cannabis to their patients. If cannabis is descheduled, there may be more medical groups and hospitals developing protocols to allow their physicians to provide medications for medical marijuana. He does not anticipate a quick change since cannabis will still be on the schedule and while not high on the schedule, there is still the potential of violating federal law.

Member Britten and Chair Balducci thanked Mr. Stewart for their time.

III. Meeting Minutes

The September 29, 2023, meeting minutes were passed unanimously with the recommended changes to pages 1, 2, and 3.

IV. Discussion Regarding Outline of Draft Report and Assignment of Tasks

Chair Balducci stated that Member Britten has secured a federal tax subject matter expert to speak at the next meeting. She also proposed a December 15th deadline to review a draft of the report or if the group feels they need another meeting in January to vote on the report before moving it to the Cannabis Advisory Commission (CAC). She also asked if the members needed help with research or if they needed to hear from additional subject matter experts to assist with their work.

Member Britten stated that Member Kline has done a thorough job covering their portion of the report but felt they may need another two or three weeks to polish their information. Chair Balducci asked again what time frame the group needed. Member Britten proposed an additional meeting before they are prepared to turn over a draft report.

Member Kline added that changes to policy were moving quickly including the expiration of the Omnibus Appropriations Bill, the President signing a House bill, and the potential for the DEA to issue a draft rule for rescheduling very soon. Member Britten stated that because of the timeline, it would behoove the Subcommittee to move to January and aim for a February final report. Chair Balducci stated she believed they have the time to extend. Member Britten advised that getting the CAC the report by early March will allow the Subcommittee to turn over the most up to date information because of the anticipated changes to policy.

Chair Balducci proposed a meeting in December to hear from the federal tax expert, a January meeting to discuss the draft report, and then a final meeting in February to make any updates should changes occur before submitting their report to the CAC.

V. Future Meetings

The next meeting of the Subcommittee is scheduled for December 1, 2023, at 10:00 a.m. She also recommended the 12th or the 19th for a January meeting. The February meeting will be scheduled at the January meeting.

VI. Public Comment

Katree Saunders has stated that she has been affected by the War on Drugs at a State level and a federal level since 2010 when she first got indicted for Operation Chronic Problem. She helped over 800 patients before going to prison. When she was released, she helped other businesses but was eventually excluded due to her felonies. She would like to hear about retroactive assistance for those who were affected in such a manner since she feels the State actively made laws to exclude her. As a Black woman she wants her voice to be heard and to be compensated correctly for other people using her intellectual property. She felt discarded by those she helped and the State. She feels the

State needs to totally deschedule cannabis for safe access across the board. She also feels that growing practices should be investigated, because prior to retail legalization, radiation was not used to get products to market. She feels that those affected by the War on Drugs should have a role in discussing federal rescheduling/descheduling instead of just those with accolades. She has been to school for business and entrepreneurship and would like the same opportunity as others to build generational wealth in this industry, which she can't because of her felonies. She feels the Subcommittee should have people like herself involved in the future.

Abby Kaufman, secretary for the board of directors at the Chamber of Cannabis, thanked Mr. Stewart for providing his expertise. She expressed her appreciation in his acknowledgement that descheduling at a state level is still worthwhile. She was hoping to hear the Subcommittee provide an update on their research. She is upset that most of the information collection is being done by one person. She asked that the draft report, including the sources and findings, be shared publicly to ensure objectivity and allow stakeholders to weigh in.

Abad Piza stated that there were people in Nevada who were trying to get cannabis into the Nevada constitution to make it free and legal, not just medicinally. He said those people felt that any use of cannabis is medicinal because it is used to alleviate some kind of symptom or stress. He asked the Subcommittee to look toward investigating the decriminalization of cannabis.

Adjournment at 11:47 a.m.