

Nevada Cannabis Compliance Board

Workshop to Solicit Comments Minutes September 26, 2023

The Nevada Cannabis Compliance Board (CCB) held a public meeting for solicitation of input at 700 E. Warm Springs Rd., Las Vegas, Nevada and 1550 College Pkwy, Carson City, Nevada beginning at 10:00 a.m. on September 26, 2023.

Cannabis Compliance Board Members Present:

Riana Durrett

Deputy Director Michael Miles called the public workshop to order. Senior Deputy Attorney General L. Kristopher Rath and Chief of Inspection and Audit Kara Cronkhite were present on behalf of the CCB. Board Member Durrett joined the meeting via video conference.

The instructions to join the meeting via Zoom were read aloud.

I. Public Comment

There was no public comment.

II. Proposed Amendments and Additions to the Nevada Cannabis Compliance Regulations - Cannabis Independent Testing Laboratory

A. Regulation 5.

B. Regulation 7.

Chief Cronkhite presented the proposed amendments to laboratory analysis requirements and added that she will open the discussion for public comment at different points. If there is a regulation that someone would like to change that is not mentioned, those can be discussed at the end of the meeting. Chief Cronkhite added that proposed language and the source can also be sent in.

NCCR 5.075 includes a proposed change that would allow for independent testing laboratories to be inspected at least biennially rather than annually. NCCR 7.035 includes a proposed change that requires a sales facility to provide a copy of the Certificate of Analysis (COA) to the consumer upon request; this could be electronically or any other medium. Additionally, some language was stricken from NCCR 7.035 as clean up.

There were no public comments.

C. Regulation 11.

Chief Cronkhite stated that NCCR 11.010 makes changes to requirements for the scientific director, allowing an interim director, description of duties and residency requirements, consistent with other types of laboratories regulated in Nevada. NCCR 11.015 is not being stricken; the intent was to add a subsection regarding requirements for a safety program. NCCR 11.020 added a timeline to provide board agents with a copy of the ISO final inspection report. NCCR 11.025 references standard practices and procedures that laboratories are currently using. The references can be used when a standard method is not available or does not fully speak to the process; they do not all have

to be followed at once. NCCR 11.030 clarifies sample collection requirements that are already standard practices in most laboratory settings.

Chief Cronkhite asked for public comment on NCCR 11.010 through NCCR 11.030.

Adam Fulton stated he appeared on behalf of every laboratory in Nevada. Alicia Ashcraft appeared on behalf of G3 Labs and joined the collective comments. Kimberly Maxson-Rushton appeared on behalf of LettuceTest LLC, joined in the collective comments, and appeared on behalf of Citizens for Public Safety Alliance.

Mr. Fulton stated that they sent in a 13-page document that addressed the issues with the proposed regulations. Mr. Fulton asked what the CCB was trying to solve, what issues are being addressed so that the labs can properly evaluate and propose different language that addresses the issues. Mr. Fulton added that some of the proposed changes aren't feasible from a scientific standpoint.

Ms. Ashcraft noted that the document that was provided is a collection of input from all of the labs to address agreement or disagreement. Ms. Ashcraft said it was difficult to propose different language without the context of why the change to the regulation was proposed or what problem was trying to be solved.

Ms. Rushton commented that the regulations refer to periodicals or publications that may conflict with each other or are outdated; it was difficult for a licensee to understand what sections need to be adhered to.

Mr. Fulton stated that all the labs came together and want to work on this with the CCB and make sure that the regulations provide for safety for Nevada and that testing is done pursuant to a scientific method.

Ms. Rushton spoke on behalf of LettuceTest and submitted a letter challenging the residency requirement, citing the privilege and immunities clause and that it is prohibited by the U.S. Constitution.

Mr. Rushton stated that businesses should be given the opportunity to submit an economic business impact statement. Deputy Director Miles responded that this was a preliminary meeting, and everything will follow the APA. Ms. Ashcraft noted that in this industry, small changes could have a large economic impact.

Mr. Fulton asked how the labs could help going forward. Deputy Director Miles responded that there would probably be follow up meetings to go over certain issues before holding a workshop. Ms. Ashcraft commented that it would be helpful to have the context in advance in order to be able to give meaningful input.

Program Supervisor Elizabeth Perez noted for clarification that the directors and staff in different laboratories have asked the CCB for more guidance and clarification and what is expected. The proposed language stemmed from that and trying to give the laboratories something to reference and standardize methods.

Deputy Director Miles and Chief Cronkhite thanked Mr. Fulton, Ms. Ashcraft, and Ms. Rushton for putting together the comments. Mr. Fulton noted that their comments applied to the rest of the

sections of NCCR 11. There was no additional public comment for that section.

Chief Cronkhite stated NCCR 11.045 clarifies the font requirements, delivery methods, changes for R&D testing, and creates a potential pathway for variances on testing requirements. NCCR 11.050 provides a timeline for the validity of COAs, based on the American Herbal Pharmacopeia's recommendation and laboratory finds on THC degradation. NCCR 11.053 was a new section that clarifies the requirements for instrument calibration and quality control. NCCR 11.060 made changes to homogeneity testing for edibles; additional edits may be made to this section based on feedback received. Chief Cronkhite asked for public comment on NCCR 11.045 through NCCR 11.060.

Member Durrett commented that in regard to references to publications, it was difficult as a Board member to determine which of the publications should apply.

Sara Adams appeared on behalf of Planet 13 and recommended adding the word "intended" to NCCR 11.060(3)(b) to allow for the THC potency variance and address concerns of licensees targeting a THC concentration above the prescribed limit.

Amanda Connor appeared on behalf of Curaleaf. Ms. Connor recommended adding language in NCCR 11.060 that clarifies that it is the intended concentration of THC or that the 15% variance was still allowed. As written, it may be interpreted that the 100 milligrams cannot be exceeded at all, which did not appear to be the intent.

Scot Rutledge appeared on behalf of Deep Roots Harvest and Green Life Productions. Mr. Rutledge echoed the comments of Ms. Adams and Ms. Connor, and the written comments submitted by the NCA. Mr. Rutledge commented on NCCR 11.050(2) and thought that the aspergillus issue may be worthy of a workshop and discussion.

Layke Martin appeared on behalf of the Nevada Cannabis Association. Ms. Martin stated that the NCA submitted written comments and echoed the comments of Planet 13. Ms. Martin stated that the variance allowance was smart policy balancing public safety and fluctuations in testing.

Member Durrett commented that she supported the Planet 13 language.

There were no additional comments on NCCR 11.045 through 11.060.

Chief Cronkhite stated the NCCR 11.065 was revised to clarify requirements for pesticide residue analysis. NCCR 11.070 specifies aseptic sampling requirements for the laboratory which is typically standard practice. NCCR 11.075 outlines requirements for remediation treatment and retesting of cannabis. NCCR 11.085 clarifies responsibility of cost for screening or testing. Chief Cronkhite asked for comments on NCCR 11.065 through 11.085.

There were no additional public comments on NCCR 11.065 through 11.085.

III. Solicitation of Input for Possible Amendment to Nevada Cannabis Compliance Regulation 11 or any Regulation Affecting Cannabis Independent Testing Laboratories.

Deputy Director Miles asked for comments on any changes to the laboratory regulations.

Kimberly Maxson-Rushton appeared on behalf of Citizens for Public Safety Alliance and noted that written public comments were submitted. Ms. Rushton recommended reinstatement of the ILAC committee to be the objective body that can discuss scientific issues. Ms. Rushton also recommended a change to NCCR 11.050(7) to remove the language that requires laboratories to submit COAs to the cannabis establishments simultaneously as when submitted to the State. The laboratories should be allowed to give the COAs to the establishments once they have been paid. This will help with collection efforts.

Ms. Ashcraft appeared on behalf of G3 Labs and stated they agreed with Ms. Rushton's proposed change to NCCR 11.050; this would alleviate problems with payment and collection.

Mr. Fulton appeared on behalf of Jennings and Fulton and stated that he agreed with Ms. Rushton's and Ms. Ashcraft's suggestions.

IV. Public Comment

Katree Saunders of Americans for Safe Access addressed concerns with remediation and pesticides. The quality of the medicine in dispensaries is not good for patients. Ms. Saunders does not want to see people's health harmed due to use of pesticides and plant growth regulators by trying to use medicinal cannabis.

Deputy Director Miles noted that additional meetings will be set up to go over the suggestions that were submitted.

V. Adjournment

Meeting adjourned at 11:36 a.m.