

Proposed Changes to NCCR Regulation 1

ISSUANCE OF REGULATIONS; CONSTRUCTION; DEFINITIONS

New

~~{Deleted}~~

- 1.000 Title.
- 1.010 Promulgation, amendment, modification and repeal.
- 1.020 Construction.
- 1.030 Severability.
- 1.040 Definitions.
- 1.050 “Act” defined.
- 1.051 “Address” defined.
- 1.052 “Advertise” and “advertising” defined.
- 1.053 “Analyte” defined.
- 1.055 “Analytical portion” defined.
- 1.057 “Applicant” defined.
- 1.058 “Application” defined.
- 1.060 “Batch” defined.
- 1.065 “Batch number” defined.
- 1.068 “Board Agent” defined.
- 1.070 “CBD” defined.
- 1.073 “Chief Medical Officer” defined.
- 1.075 “Combined cannabis establishment” defined.
- 1.080 “Component cannabis establishment” defined.
- 1.081 “Conditional License” defined.
- 1.082 “Derived” defined.
- 1.083 “Diversion” defined.
- 1.085 “Excise tax on cannabis” defined.
- 1.090 “Extraction” defined.
- 1.095 “Fair market value” defined.
- 1.100 “Foreign matter” defined.
- 1.105 “Growing unit” defined.
- 1.110 “Imminent health hazard” defined.
- 1.113 “Intentionally” defined.

1.114 *“Knowingly” defined.*

- 1.115 “Label” defined.
- 1.120 “Letter of approval” defined.
- 1.125 “Lot” defined.
- 1.130 “Multiple-serving edible cannabis product” defined.
- 1.135 “Packaging” defined.
- 1.137 “Person” defined.
- 1.140 “Pesticide” defined.
- 1.145 “Physician” defined.
- 1.150 “Potential total THC” defined.
- 1.155 “Potentially hazardous cannabis products and ingredients” defined.
- 1.160 “Premises” defined.
- 1.163 “Private Residence” defined.
- 1.165 “Production run” defined.
- 1.170 “Production run number” defined.
- 1.175 “Proficiency testing” defined.
- 1.180 “Proficiency testing program” defined.
- 1.185 “Proficiency testing provider” defined.
- 1.190 “Proficiency testing sample” defined.
- 1.193 “Prospective License” defined.
- 1.195 “Public transportation” defined.
- 1.197 “Ready-to-consume cannabis product” defined.
- 1.200 “Sample protocols” defined.
- 1.205 “Security equipment” defined.
- 1.210 “Seed-to-sale tracking system” defined.
- 1.215 “Separate operations” defined.
- 1.220 “Single-serving edible cannabis product” defined.
- 1.222 “Single-use cannabis product” defined.
- 1.225 “Surveillance” defined.
- 1.230 “Taxpayer” defined.

1.234 *“Unlicensed Activity” defined.*

- 1.235 “Vending Machine” defined.
- 1.240 “Cannabis” interpreted to exclude industrial hemp.

1.245 “Immature cannabis plant” and “mature cannabis plant” interpreted.

1.083. “Diversion” defined. The term “diversion” means the transfer of cannabis or cannabis product from a lawful to an unlawful channel of distribution or use.

1.113. “Intentionally” defined. The term “intentionally” means voluntarily or deliberately, rather than accidentally or inadvertently. The term does not require proof of bad faith, ill will, evil intent or malice.

1.114. “Knowingly” defined. The term “knowingly” means actual knowledge that the facts exist which constitute an act or omission, or such knowledge as an ordinarily prudent person would possess using reasonable care and diligence.

1.234 “Unlicensed activity” defined. “Unlicensed activity,” as used in NCCR 4.200, includes any actions or engagement in a retail transfer of, and./or the offering for sale of, cannabis or cannabis product without obtaining the appropriate license from the CCB, including but not limited to:

1. Engaging in the cultivating, processing, distributing, transporting, or selling or offering for sale of cannabis and/or cannabis product beyond the scope of an active license;
2. Engaging in cultivating, processing, distributing, transporting or selling of cannabis and/or cannabis product without the appropriate operational license; or
3. Misleading the public about the nature of a cannabis-related product or any genus Cannabis sativa L. product that does not conform to NRS 557.160 or violates NRS 557.255.

Proposed Changes to NCCR Regulation 4

DISCIPLINARY AND OTHER PROCEEDINGS BEFORE THE BOARD

New

~~[Deleted]~~

- 4.010 Applicability.
- 4.020 Grounds for disciplinary action.
- 4.030 Imposition of civil penalty; revocation or suspension of license or cannabis establishment agent registration card; corrective action.
- 4.033 Category I Violations.
- 4.035 Category ~~[H]~~II Violations.
- 4.040 Category ~~[HH]~~III Violations.
- 4.050 Category ~~[HHH]~~IV Violations.
- 4.055 Category ~~[HVV]~~V Violations.
- 4.060 Category ~~[VV]~~VI Violations.
- 4.061 Category VII Violations.
- 4.065 Imminent health hazard.
- 4.070 Complaint.
- 4.075 Service of complaint.
- 4.080 Prohibition of ex parte communications.
- 4.085 Delegation to Chair.
- 4.090 Appearance through counsel.
- 4.095 Early case conference and hearing.
- 4.100 Reinstatement of license or cannabis establishment agent registration card: Application; conditions, limitations or restrictions upon reinstatement; denial.
- 4.105 Grounds for summary suspension; notice; request for hearing.
- 4.110 Discovery: mandatory exchanges.
- 4.115 Continuances and recesses.
- 4.120 Burden and standard of proof.
- 4.125 Motions.
- 4.130 Subpoenas.
- 4.135 Disposition of charges: Adjudication by Board.
- 4.137 Settlement of Disciplinary Actions and/or Contested Cases.

4.140 Declaratory orders and advisory opinions.

4.145 Adoption, amendment or repeal of a regulation.

4.150 *Petition for Exemption from Excluded Felony Offense Restrictions.*

4.200 *Actions Relating to Unlicensed Activity.*

**4.010 Applicability.** NCCR 4 shall apply to disciplinary proceedings governed by *Chapters 678A and 233B of NRS* ~~[678A.500 to 678A.640]~~. Unless otherwise ordered by the Chair, this regulation shall apply to all such proceedings that are pending on the effective date of this regulation.

**4.020 Grounds for disciplinary action.**

1. A violation of any of the provisions of Title 56 of NRS or NCCR is grounds for disciplinary action by the Board, including, without limitation, immediate revocation of a license for a cannabis establishment pursuant to *Chapter 678A of NRS* ~~[678A.450 and NRS 678.650]~~.

2. A violation of any of the provisions of Title 56 of NRS or NCCR is grounds for disciplinary action by the Board, including, without limitation, immediate revocation of a cannabis establishment agent registration card.

*3. Progressive discipline under NCCR 4.033(2), 4.035(2), 4.040(2), 4.050(2), 4.055(2), 4.060(2), and 4.061(2), shall be triggered from the "First Notice Date". The "First Notice Date" shall be the date that a cannabis establishment or cannabis establishment agent knew or reasonably should have known of the act or omission that is determined to be a violation, regardless of the ultimate date of that determination or adjudication. The "First Notice Date" may be established via a statement of deficiencies letter from the Board or Board Agents, or through any other competent evidence. Progressive discipline shall apply when the "Second Notice Date" occurs within three years of the "First Notice Date". The "Second Notice Date" shall be the date that a cannabis establishment or cannabis establishment agent knew or reasonably should have known of another act or omission within the same Category of violation as the violation from the "First Notice Date" and is determined to be a violation, regardless of the ultimate date of that determination or adjudication. The "Second Notice Date" may be established via a statement of deficiencies letter from the Board or Board Agents, or through any other competent evidence. The "First Notice Date" and the "Second Notice Date" may fall on the same date, if the violations found are separate and distinct violations within the same Category of violations. An act or omission may be determined a violation via an adjudication, settlement agreement, or failure to respond to a disciplinary action in a contested case.*

**4.030 Imposition of civil penalty; revocation or suspension of license or cannabis establishment agent registration card; corrective action.**

1. The Board may:

(a) Subject to the provisions of NCCR 4, impose a civil penalty of not more than ~~[\$90,000]~~ \$20,000 per violation on any person who fails to comply with or violates any provision of the NCCR and Title 56 of NRS. Such a civil penalty must be paid to the State of Nevada for deposit in the State General Fund;

(b) Except as otherwise provided in paragraph (c), suspend or revoke a license or cannabis establishment agent registration card. If the Board orders the suspension of a license or cannabis establishment agent registration card, the Board shall prescribe the time period of the suspension in the written decision. If the Board orders the revocation of a license or cannabis establishment agent registration card, the Board shall prescribe a period of not less than 1 year and not more than 10 years during which the person may not apply for reinstatement of the license or cannabis establishment agent registration card;

(c) If the Board orders the suspension of a license, a board agent will post a notice of closure at the facility, which may not be removed without approval by a board agent;  
and

~~(e+d)~~ If corrective action approved by the Board will cure the noncompliance or violation but will not be completed within 30 days after issuance of the order, suspend for more than 30 days the license of a cannabis establishment or the cannabis establishment agent registration card of a person who fails to comply with or violates the provisions of the NCCR and Title 56 of NRS.

2. To determine the amount of a civil penalty assessed pursuant to this section, the Board will consider the gravity of the violation, the economic benefit or savings, if any, resulting from the violation, the size of the business of the violator, the history of compliance with the NCCR and Title 56 of NRS by the violator, action taken to remedy the violation, the effect of the penalty on the ability of the violator to continue in business, the mitigating circumstances set forth in S.B. 195 Sec. 3, 2023 Leg., 82th Sess. (Nv. 2023), and any other matter as justice may require.

**4.033 Category I Violations.**

1. The Board will determine a category I violation of the NCCR and Title 56 of NRS as follows:

(a) Category I violations are of such a severity that precludes the continuing operations of a cannabis establishment or the maintenance of a cannabis registration agent card, including, without limitation:

(1) Conviction of an excluded felony offense; or

(2) Diversion of cannabis or cannabis product.

2. Before consideration of the factors described in NCCR 4.030(2), the Board will presume that the appropriate penalty for any Category I violation is revocation of a license or cannabis establishment agent registration card.

4.035 Category ~~III~~ II Violations.

1. The Board will determine a category ~~III~~ II violation of the NCCR and Title 56 of NRS as follows:

(a) Category ~~III~~ II violations are of a severity that make a person ineligible to receive, renew, or maintain a license, including, without limitation:

(1) ~~[Conviction of an excluded felony offense;]~~ Intentionally failing to comply with a Board order or directive;

(2) Operating, working, or volunteering without all required permits, ~~[certificates,]~~ registrations and/or licenses;

(3) Making an intentionally false statement to the Board or Board Agents;

(4) Intentionally destroying or concealing evidence;

~~[(5) Intentionally failing to pay taxes to the Department of Taxation;]~~

~~[(6) 5]~~ Allowing noisy, disorderly or unlawful activity that results in death or serious physical injury, that involves the unlawful use or attempted use of a deadly weapon against another person or that results in a sexual offense which is a category A felony;

~~[(7) 6]~~ Operating a cannabis establishment while the license for the cannabis establishment is suspended or revoked;

~~[(8) 7]~~ Transporting cannabis outside of the boundaries of this State, except where authorized by an agreement between the Governor of this State and a participating tribal government;

~~[(9) 8]~~ Making verbal or physical threats to a Board Agent or Board member;

~~[(10) 9]~~ Failing to immediately admit regulatory or law enforcement personnel with appropriate identification into the premises of a cannabis establishment;

~~[(11) 10]~~ Refusing to allow an inspection or obstructing regulatory personnel or law enforcement officer from performing his or her official duties;

~~[(12) Purchasing or selling cannabis that has not passed the analysis required by a cannabis independent testing laboratory without written approval from the Board;]~~

~~[(13) 11]~~ Purchasing, ~~[or]~~ selling, acquiring, cultivating, producing, or otherwise using cannabis not found in the seed-to-sale tracking system and/or from an unapproved or unlicensed source;

~~[(14) Failure to properly collect taxes;]~~

~~[(15) 12]~~ Transporting or storing cannabis from an unlicensed source, other than patient or consumer samples stored at a cannabis independent testing laboratory;

(13) Any undocumented variance in inventory exceeding 10% of total inventory;

(14) Failure to tag more than 10% of plants and/or packages;

(15) Engaging in grossly negligent, unlawful or criminal conduct relating to cannabis; or

(16) Engaging in an act or omission that poses an imminent threat to the health or safety of the public.

2. Before consideration of the factors described in ~~[subsection 1(a)]~~ NCCR 4.030(2), the Board will presume that the following are appropriate penalties for violations of the NCCR and Title 56 of NRS:

(a) For a category ~~III~~ II violation which is the:

(1) First violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$90]~~ 20,000 and /or a suspension for not more than 30 days or revocation of a license or cannabis establishment agent registration card.

(2) Second or subsequent violation in the immediately preceding 3 years, *a civil penalty of not more than \$20,000 and a suspension for not more than 30 days or revocation of a license or cannabis establishment agent registration card.*  
~~(3) Third or subsequent violation in the immediately preceding 3 years,~~ a revocation of a license or cannabis establishment agent registration card.

~~[(b) Notwithstanding the foregoing, a single violation of NCCR 4.035(1)(a)(1) for diversion of cannabis or cannabis products requires revocation of a license, certificate, and/or cannabis establishment agent registration card.]~~

#### 4.040 Category ~~III~~ III Violations.

1. The Board will determine a category ~~III~~ III violation of the NCCR and Title 56 of NRS as follows:

(a) Category ~~III~~ III violations are violations of a severity that create a present threat to public health or safety, including, without limitation:

(1) Making an unintentional false statement or representation of fact to the Board or Board Agents;

(2) Unintentionally destroying or concealing evidence;

(3) Failing to verify and/or authenticate the age of, or selling or otherwise providing cannabis, ~~or~~ cannabis products, or paraphernalia to, a person who is less than 21 years of age unless the person holds a registry identification card or letter of approval;

(4) Allowing a person who is less than 21 years of age to enter or remain in a cannabis establishment or transport vehicle unless the cannabis establishment is a medical dispensary [or adult-use retail store,] and the person entering or remaining holds a registry identification card or letter of approval;

~~[(5) Permitting sales by a person without a cannabis establishment agent registration card unless that person is deemed to be temporarily registered;~~

~~[(6) Effecting a change in ownership and/or ownership interest without complying with all the requirements of NCCR 5.110 and/or any additional Board guidance and orders regarding transfers of interest.];~~

~~[(7) 5] Allowing noisy, disorderly or unlawful activity that involves use of a dangerous weapon against another person with intent to cause death or serious physical injury;~~

~~[(8) Allowing a person who is less than 21 years of age to work or volunteer at the cannabis establishment.];~~

~~[(9) 6] Failing to cease operation and notify the Board or Board Agents during an imminent health hazard or resuming operation after board required cessation due to an imminent health hazard without approval;~~

~~[(10) Purchasing, cultivate, produce or otherwise use cannabis from an unapproved source;~~

~~[(11) Not properly segregating medical patient retail sales from adult use retail sales.];~~

~~[(12) 7] Operating ~~an~~ unapproved equipment harmful to human health or safety [extraction unit];~~

~~[(13) Selling an amount of cannabis in excess of transaction limits.];~~

~~[(14) 8] Failing to maintain required security alarm ~~[and surveillance systems];~~~~

~~[(15) 9] Any intentional variance from approved procedures in a laboratory;~~

~~[(16) 10] Failing to notify the Board or Board Agents of a loss of possession or control of a cannabis establishment facility within 24 hours;~~

~~[(17) 11] Transferring, moving, or disturbing cannabis or cannabis product which has been quarantined by the Board without Board approval;~~



~~[(18) Failing to renew the cannabis establishment license on time; or]~~

~~[(19) 12] Any violation of NCCR 11.070; [1]~~

(13) Transferring or taking possession of cannabis that has not passed the analysis required by a cannabis independent testing laboratory without written approval from the Board;

(14) Failing to appear before the Board when notified to appear at any Board meeting without notice to the Board and/or without a reasonable excuse for failure to appear;

(15) Unintentionally failing to comply with a Board order or directive;

(16) Failing to have video surveillance cameras in place as required;

(17) Changing quantities and/or weights of cannabis or cannabis products without approval after they have been tested;

(18) Retesting of cannabis or cannabis product without approval;

(19) Failure to maintain a laboratory quality assurance/quality control program;

(20) Any undocumented variance in inventory of over 5% and no more than 10%;

(21) Failure to tag over 5% and no more than 10% of plants and/or packages; or

(22) Failure to comply with NCCR 5.170.

2. Before consideration of the factors described in ~~[subsection 1(a)]~~ NCCR 4.030(2), the Board will presume that the following are appropriate penalties for violations of the NCCR and Title 56 of NRS:

(a) For a category ~~III~~ III violation which is the:

(1) First violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$25,000]~~ 15,000 and/or a suspension for not more than 20 days of a license or cannabis establishment agent registration card.

(2) Second violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$75]~~ 15,000 and/or a suspension for not more than 30 days of a license or cannabis establishment agent registration card.

(3) Third or subsequent violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 and a suspension for not more than 30 days of a license or cannabis establishment agent registration card.

(4) Fourth or subsequent violation in the immediately preceding 3 years, revocation of a license or cannabis establishment agent registration card.

#### 4.050 Category ~~III~~ IV Violations.

1. The Board will determine a category ~~III~~ IV violation of the NCCR and Title 56 of NRS as follows:

(a) Category ~~III~~ IV violations are violations of a severity that create a potential threat to public health or safety, including, without limitation:

(1) Transporting cannabis in an unauthorized vehicle;

(2) Allowing consumption by any person of alcohol, cannabis (except at a consumption lounge or an establishment with a valid liquor license) or other intoxicants on the premises of the cannabis establishment or in areas adjacent to the premises of the cannabis establishment which are under the licensee's control, including, without limitation, a parking lot;

(3) Failing to keep any required records, including seed-to-sale tracking requirements;

(4) Any undocumented variance in inventory of over 2% and not more than 5%;

(5) Failing to follow an approved security plan;

(6) Allowing disorderly activity;

(7) Allowing any activity which violates the laws of this State;

- (8) Failing to notify the Board or Board Agents *in writing* within *the times required in these regulations for any reportable incident, or not to exceed* 24 hours after discovery of a serious incident or criminal activity on the premises of the cannabis establishment;
- ~~[(9) Unintentionally failing to pay taxes to the Department of Taxation;]~~
- ~~[(10) 9] Selling unauthorized products *or using unauthorized ingredients*;~~
- (10) Failing to render waste containing cannabis unusable;*
- ~~[(11) Failing to notify the Board or Board Agents of a modification or expansion of the facilities of the cannabis establishment or a change in equipment or menu of the cannabis establishment;~~
- ~~[(12) Violating packaging or labeling requirements including seed-to-sale tracking system requirements]~~
- (11) Allowing the use of a video surveillance camera that is non-functioning or non-operational in a cannabis establishment [facility];*
- (12) Failing to properly use sanitizer as required;*
- (13) Storing or delivering an unapproved cannabis product or a cannabis product outside the seed-to-sale tracking system;
- (14) Failing to meet requirements for the disposal of cannabis waste;
- (15) Using unauthorized pesticides, soil amendments, fertilizers or other crop production aids;
- (16) Exceeding the maximum serving requirements for cannabis products;
- (17) Exceeding a reasonable time frame for delivery *of cannabis or cannabis products* without approval from the Board or Board Agents;
- ~~(18) Transporting or storing cannabis from an unlicensed source, other than patient samples stored at a cannabis interdependent testing laboratory, or diversion of cannabis or cannabis products; *Any violation of NRS 678C.410(2)*;~~
- (19) Picking up, unloading or delivering cannabis at an unauthorized location;
- (20) Failing to comply with requirements for hand washing and employee hygiene, including, without limitation, using a bare hand on a cannabis product;
- (21) Failing to maintain proper *time/temperature* ~~[of potentially hazardous food or cannabis products;]~~ *control for safety of food or cannabis products;*
- (22) Selling or failing to dispose of cannabis, cannabis products or food items that are spoiled or contaminated;
- (23) Failing to tag cannabis or a cannabis product as required;
- (24) Failing to follow seed-to-sale tracking system requirements while transporting or delivering cannabis or cannabis products;
- (25) Failing to properly update the licensee's point of contact with the Board *within 10 days of any such change*;
- (26) Failure to maintain quality assurance/quality control program in a laboratory; ~~[or]~~
- (27) Failure to maintain updated standard operating procedures ~~[.];~~
- (28) Allowing sales of any products at a cannabis consumption lounge that are not permitted to be sold at a cannabis consumption lounge;
- (29) Allowing the removal of any single-use cannabis products or ready-to-consume cannabis products from a cannabis consumption lounge;
- (30) Permitting the use or consumption of cannabis by any person displaying any visible signs of overconsumption at a cannabis consumption lounge;
- (31) Failing to develop, implement, and/or maintain a plan to mitigate the risk of impaired driving at a cannabis consumption lounge; ~~[or]~~

(32) Failing to maintain a separate room in a cannabis consumption lounge for cannabis smoking, vaping, and inhalation in a cannabis consumption lounge, unless all such activities are prohibited in the cannabis consumption lounge ~~[+]~~;

~~(33) Effecting a change in ownership and/or ownership interest, granting or foreclosing on a security interest, profit sharing, or entering into a management agreement without complying with all the requirements of NCCR, notifying the Board, obtaining approval of the Board, and/or abiding by any additional Board guidance and orders regarding transfers of interest, profit sharing, or management agreements;~~

~~(34) Failing to renew the cannabis establishment license on time;~~

~~(35) Failure to maintain required licenses, certificates, accreditations, or credentials including but not limited to Certified Food Protection Manager and Restricted Use Pesticide Applicator License;~~

~~(36) Failure to tag over 2% and not more than 5% of plants and/or packages;~~

~~(37) Not properly segregating medical patient retail sales from adult use retail sales;~~

~~(38) Operating unapproved equipment;~~

~~(39) Failing to timely respond to a statement of deficiencies notice or letter or any other administrative notice of a violation;~~

~~(40) Failing to timely implement an approved or directed plan of correction;~~

~~(41) Violating regulations on collecting or handling samples for laboratory testing or analysis;~~

~~(42) Improper storing of cannabis, cannabis products or other foods;~~

~~(43) Failing to properly wash, rinse and sanitize product contact surfaces as required;~~

~~(44) Failing to maintain hand-washing facilities that are stocked, accessible and limited to hand washing only;~~

~~(45) Infestation by pests that are not multigenerational or on contact surfaces;~~

~~(46) Failing to tag immature plant batches of up to 150 plants, which do not yet require individual tags;~~

~~(47) Failing to notify the Board or Board agents in writing within 24 hours after the cannabis establishment discovers any cannabis or cannabis product is missing from its physical inventory and completes its investigation;~~

~~(48) Tampering with, disengaging, or otherwise disabling any component of a security system without authorization from a Board Agent, except for maintenance or repair purposes; or~~

~~(49) Failing to maintain quality control unit in a cannabis establishment, other than distribution.~~

2. Before consideration of the factors described in ~~[subsection 1(a)]~~ NCCR 4.030(2), the Board will presume that the following are appropriate penalties for violations of the NCCR and Title 56 of NRS:

(a) For a category ~~[III]~~ IV violation which is the:

(1) First violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$10,000]~~ 5,000.

(2) Second violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$30,000]~~ \$10,000 ~~[and/or a suspension for not more than 10 days of a license or cannabis establishment agent registration card].~~

(3) Third violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$90,000]~~ \$20,000 and/or a suspension for not more than ~~[20]~~10 days of a license or cannabis establishment agent registration card.

(4) Fourth violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$90,000]~~ \$20,000 and a suspension for not more than ~~[60]~~ 20 days of a license or cannabis establishment agent registration card.

(5) Fifth ~~[or subsequent]~~ violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 and/or revocation of a license or cannabis establishment agent registration card.

(6) Sixth violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 and/or revocation of a license or cannabis establishment agent registration card.

(7) Seventh or subsequent violation in the immediately preceding 3 years, revocation of a license or cannabis establishment agent registration card.

#### 4.055 Category ~~IV~~ Violations.

1. The Board will determine a category ~~IV~~ violation of the NCCR and Title 56 of NRS as follows:

(a) Category ~~IV~~ violations create a climate which is conducive to abuses associated with the sale or production of cannabis or cannabis products, including, without limitation:

~~(1) Failing to display or have in the immediate possession of each cannabis establishment agent a cannabis establishment agent registration card or proof of temporary registration;~~ Offering for free or no charge or donating cannabis without a purchase;

(2) Removing, altering or covering a notice of suspension of a license or any other required notice or sign;

(3) Violating advertising requirements;

~~(4) Displaying products in a manner visible to the general public from a public right of way;~~

~~(5) Failing to respond to an administrative notice of a violation or failing to pay fines;]~~

(4) Failing to notify the Board or Board Agents in writing of a modification or expansion of the facilities of the cannabis establishment or a change in equipment or menu of the cannabis establishment;

(5) Violating packaging or labeling requirements;

~~(6) Violating restrictions on sampling;]~~

~~(7) Failing to maintain a standardized scale as required;~~

~~(8) Improper storing of cannabis, cannabis products or other foods;~~

~~(9) Failing to properly wash, rinse and sanitize product contact surfaces as required;~~

~~(10) Failing to maintain hand-washing facilities that are stocked, accessible and limited to hand-washing only;~~

~~(11) Infestation by pests that are not multigenerational or on contact surfaces;~~

~~(12) Failing to properly use sanitizer as required;~~

~~(13) Violating any transportation or delivery requirements not described in another category of violations;]~~

~~(14) Failing to properly~~ and/or timely respond to a Board or Board Agent's request for documentation, information, video, or other records; ~~[or]~~

(8) Any violation of NCCR 11.015(2);

~~(15) Failing to comply with required employee training;~~

~~(16)~~ 10 Failing to offer required consumer education, support materials, warnings, and/or notices to a cannabis consumption lounge consumer;

~~(17)~~ 11 Failing to comply with any laws or regulations related to on-site food preparation at a cannabis consumption lounge; or

~~(18)~~ 12 Failing to comply with ventilation requirements at a cannabis consumption lounge;

(13) Selling an amount of cannabis in a single transaction in excess of transaction limits;

(14) Failing to follow the cannabis establishment's own standard operating procedures;

(15) Allowing any blockage of the view of a video surveillance camera or failing to have operational video surveillance cameras providing a 360-degree view of all rooms and storage areas containing cannabis or cannabis products;

(16) Failure to properly reconcile disposal of cannabis and cannabis products with the cannabis establishment's seed to sale tracking system; or

(17) Failing to include the names and agent card numbers of cannabis establishment agents involved in harvests of and disposal of cannabis on harvest and disposal logs.

2. Before consideration of the factors described in ~~[subsection 1(a)]~~ NCCR 4.030(2), the Board will presume that the following are appropriate penalties for violations of the NCCR and Title 56 of NRS:

(a) For a category ~~IV~~ violation which is the:

(1) First violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$5,000]~~ \$2,500.

(2) Second violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$10,000 and/or a suspension for not more than 7 days of a license or cannabis establishment agent registration card]~~ \$5,000.

(3) Third violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$20,000 and/or a suspension for not more than 10 days of a license or cannabis establishment agent registration card]~~ \$10,000.

(4) Fourth violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$40,000]~~ \$20,000 and/or a suspension for not more than ~~[20]~~ 10 days of a license or cannabis establishment agent registration card.

(5) Fifth violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$80,000]~~ \$20,000 and a suspension for not more than ~~[30]~~ 20 days of a license or cannabis establishment agent registration card.

(6) Sixth ~~[or subsequent]~~ violation in the immediately preceding 3 years, ~~[revocation of a license or cannabis establishment agent registration card.]~~ a civil penalty of not more than \$20,000 and a suspension for not more than 30 days of a license or cannabis establishment agent registration card.

(7) Seventh violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 and a suspension for not more than 60 days of a license or cannabis establishment registered agent card.

(8) Eighth violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 or revocation of a license or cannabis establishment registered agent card.

(9) Ninth violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 or revocation of a license or cannabis establishment registered agent card.

*(10) Tenth or subsequent violation in the immediately preceding 3 years, revocation of a license or cannabis establishment agent registration card.*

#### 4.060 Category VI Violations.

1. The Board will determine a category VI violation of the NCCR and Title 56 of NRS as follows:

(a) Category VI violations are inconsistent with the orderly regulation of the sale or production of cannabis or cannabis products, including, without limitation:

- (1) ~~[Failing to submit monthly tax or sales reports or payments]~~ *Failing to notify the Board or Board Agents in writing of a notice of eviction within 24 hours of the notice;*
- (2) Failing to notify the Board or Board Agents of a temporary closure of the cannabis establishment *in writing* within 24 hours of the closure;
- (3) Failing to post any required signs;
- (4) Failing to notify the Board *in writing* of a change in the name of the cannabis establishment *within 10 days of such name change;*
- (5) ~~[Making a payment with a check returned for insufficient funds;]~~ *Displaying products in a manner visible to the general public from a public right of way;*
- (6) ~~[Failing to comply with any other requirements not described in another category of violations;]~~ *Failing to timely pay civil penalties or fines;*
- (7) Failing to properly *and/or timely* submit quarterly inventory reports, monthly sales reports, or other reports required by the Board *or Board Agents;* ~~[or]~~
- (8) ~~[Failure to pay for all costs involved in screening or testing related to quality assurance compliance checks within 30 days.]~~ *Violating any transportation or delivery requirements not described in another category of violations;*
- (9) Operating a cannabis consumption lounge, or cannabis sales facility, outside of its designated hours of operation or failing to properly post the hours of operation of a cannabis consumption lounge~~;~~<sup>5</sup> or cannabis sales facility;
- (10) ~~[Failing to provide required water service at a cannabis consumption lounge; or (44)]~~ Failing to comply with requirements regarding visibility of consumption from the public at a cannabis consumption lounge;
- (11) Testing lots which weigh more than the legal limit;*
- (12) Any undocumented variance in inventory of over 0.25% and not more than 2%;*
- (13) Failure to tag over 0.25% and not more than 2% of plants and/or packages;*
- (14) Failure to properly affix tags to plants as required;*
- (15) Failing to, and/or the inability to, print a properly time-stamped screen shot from any operational video surveillance camera at the request of the Board or Board agents;*
- (16) Failing to accept or reject into the seed-to-sale tracking system any cannabis or cannabis product delivery within 24 hours; or*
- (17) Failing to comply with any requirements of NCCR 6.082 not set forth elsewhere.*

2. Before consideration of the factors described in ~~[subsection 4(a)]~~ NCCR 4.030(2), the Board will presume that the following are appropriate penalties for violations of the NCCR and Title 56 of NRS:

- (a) For a category VI violation which is the:
- (1) First violation in the immediately preceding 3 years, a warning.
  - (2) Second violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$2,500]~~ \$1,500.
  - (3) Third violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$5,000 and/or a suspension for not more than 3 days of a license or cannabis establishment agent registration card]~~ \$3,000.
  - (4) Fourth violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$10,000 and/or a suspension for not more than 7 days of a license or cannabis establishment agent registration card]~~ \$5,000.
  - (5) Fifth violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$20,000 and/or a suspension for not more than 10 days of a license or cannabis establishment agent registration card]~~ \$10,000.
  - (6) Sixth or subsequent violations in the immediately preceding 3 years, a civil penalty of not more than ~~[\$40,000]~~ \$20,000 for each such violation and/or a suspension for not more than 20 days of a license for each such violation or cannabis establishment agent registration card.

#### 4.061 Category VII Violations.

1. The Board will determine a category VII violation of the NCCR and Title 56 of NRS as follows:

(a) Category VII violations are inconsistent with the orderly regulation of the sale or production of cannabis or cannabis products, though of a less serious nature than category VI violations, including, without limitation:

- (1) Failing to display or have in the immediate possession of each cannabis establishment agent a cannabis establishment agent registration card or proof of temporary registration;
- (2) Failing to comply with any other requirements not described in another category of violations;
- (3) Failing to timely pay taxes or timely file tax returns;
- (4) Failure to pay for all costs involved in Board or Board Agent ordered screening or testing within 30 days of invoice;
- (5) Failing to provide required water service at a cannabis consumption lounge;
- (6) Failing to provide notice to the Board within 10 working days of the date an employee begins employment and/or ends employment with the cannabis establishment;
- (7) Failing to maintain a Visitor Log as required;
- (8) Any documented variance exceeding 0.25% total inventory; or
- (9) Failing to timely pay investigation costs pursuant to NCCR 6.025.

2. Before consideration of the factors described in NCCR 4.030(2), the Board will presume that the following are appropriate penalties for violations of the NCCR and Title 56 of NRS:

- (a) For a category VII violation which is the:
- (1) First violation in the immediately preceding 3 years, a formal written warning.

(2) Second violation in the immediately preceding 3 years, a second formal, written warning.

(3) Third violation in the immediately preceding 3 years, a civil penalty of not more than \$1,500.

(4) Fourth violation in the immediately preceding 3 years, a civil penalty of not more than \$3,000.

(5) Fifth violation in the immediately preceding 3 years, a civil penalty of not more than \$5,000.

(6) Sixth violation in the immediately preceding 3 years, a civil penalty of not more than \$10,000.

(7) Seventh or subsequent violations in the immediately preceding 3 years, a civil penalty of not more than \$20,000 for each such violation and/or a suspension for not more than 10 days of a license for each such violation or cannabis establishment agent registration card.

**4.070 Complaint.** In addition to the requirements of NRS 678A.520(1) (as amended by S.B. 195 Sec. 5, 2023 Leg., 82th Sess. (Nv. 2023)),  the complaint must contain the following information:

1. The date of the violation or, if the date of the violation is unknown, the date that the violation was identified;
2. The address or description of the location where the violation occurred;
3. The section of the NCCR and Title 56 of NRS that was violated and a description of the violation;
4. The amount of the civil penalty that the Board may impose or a description of the action the Board may take for the violation;
5. A description of the payment process, including a description of the time within which and the place to which any civil penalty must be paid if the respondent does not wish to dispute the complaint;
6. An order prohibiting the continuation or repeated occurrence of the violation described in the complaint;
7. A description of the complaint process, including, without limitation, the time within which respondent must serve an answer to the complaint and the place to which the answer must be served; and
8. The name of the Board Agent who performed the investigation.



**4.090 Appearance through counsel.**

1. Parties to proceedings governed by this regulation may appear personally or through an attorney, except that the parties must personally attend any hearing on the merits unless such attendance has been waived pursuant to NCCR 2.
2. When a party has appeared through an attorney, service of all notices, motions, orders, decisions, and other papers shall thereafter be made upon the attorney.
3. When a party is represented by an attorney, the attorney shall sign all motions, oppositions, notices, requests, and other papers on behalf of the party, including requests for subpoenas.
4. An attorney may withdraw from representing a person upon notice to the person or licensee, and the Board. The notice must include the reason for the requested withdrawal. The attorney must notify the person or licensee of an opportunity to object to the withdrawal. If the party or licensee objects to the withdrawal, the person or licensee must so notify the Board *no later than seven days from receipt of the notice*. The Board may deny the request if there may be an unreasonable delay in the case or the substantial rights of the person or licensee may be prejudiced.
5. If the Board finds that an attorney has violated any provision of this section, the Board may bar the attorney from participating in the case or may impose such other sanctions as the Board deems appropriate.
6. A person or licensee subject to a hearing pursuant to this chapter is responsible for all costs related to the presentation of the defense.

**4.095 Early case conference and hearing.**

1. Within 10 days after the respondent answers the complaint pursuant to NRS 678A.520 and demands a hearing or if the Board orders a hearing even if the respondent waives his or her right to a hearing, the parties shall hold an early case conference at which the parties and a hearing officer employed by the Board, ~~[or as permitted by NAC 616C.2753,]~~ or a delegated member of the Board, a panel of the Board, or the Board must preside. At the early case conference, the parties shall in good faith:

(a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, a delegated member of the Board, panel of the Board, or the Board, including the estimated duration of the hearing no later than 45 days after receiving the respondent's answer unless an expedited hearing is determined to be appropriate. *The parties, with the approval of the Chair or Hearing Officer, may agree to extend the 45 day requirement;*

(b) Set dates:

- (1) By which all documents must be exchanged;
- (2) By which witness lists must be exchanged;
- (3) By which all prehearing motions and responses thereto must be filed; and
- (4) For any other foreseeable actions that may be required for the matter;

*The parties, with approval of the Chair or Hearing Officer, may later agree to continue any of these dates;*

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

2. A formal hearing must be held at the time and date set at the early case conference *(or by the approved stipulation of the parties)* by:

- (a) The Board;
- (b) A hearing officer; or
- (c) A panel of three members of the Board.

3. The hearing will be conducted as set forth in NRS 678A.540. If the hearing is held before a hearing officer or panel of the Board, the hearing officer or panel shall issue, within 30 days of the last date of the hearing, findings of fact and conclusions of law for the Board's review pursuant to NCCR 4.135(1).

4. For purposes of NRS 678A.550 and the regulations regarding conduct of a hearing, a Board member shall be deemed present at a hearing when said Board member has reviewed the full written or audio transcript of the hearing and all evidence submitted at the hearing.

**4.100 Reinstatement of license or cannabis establishment agent registration card:  
Application; conditions, limitations or restrictions upon reinstatement; denial.**

1. If a person applies for reinstatement of a license or cannabis establishment agent registration card that has been revoked pursuant to ~~[this chapter]~~ [Title 56 of NRS and these regulations](#), the person shall:

- (a) Submit an application on a form supplied by the Board.
- (b) Satisfy all the current requirements for the issuance of an initial license or cannabis establishment agent registration card.
- (c) Attest that, in this State or any other jurisdiction:
  - (1) The person has not, during the period of revocation, violated any state or federal law relating to cannabis, and no criminal or civil action involving such a violation is pending against the person; and
  - (2) No other regulatory body has, during the period of revocation, taken disciplinary action against the person, and no such disciplinary action is pending against the person.
- (d) Satisfy any additional requirements for reinstatement of the license or cannabis establishment agent registration card prescribed by the Board.

2. The Board will consider each application for reinstatement of a license or cannabis establishment agent registration card submitted pursuant to this section. In determining whether to reinstate the license or cannabis establishment agent registration card, the Board will consider the following criteria:

- (a) The severity of the act resulting in the revocation of the license or cannabis establishment agent registration card.
- (b) The conduct of the person after the revocation of the license or cannabis establishment agent registration card.
- (c) The amount of time elapsed since the revocation of the license or cannabis establishment agent registration card.
- (d) The veracity of the attestations made by the person pursuant to subsection 1.
- (e) The degree of compliance by the person with any additional requirements for reinstatement of the license or cannabis establishment agent registration card prescribed by the Board.
- (f) The degree of rehabilitation demonstrated by the person.

3. If the Board reinstates the license or cannabis establishment agent registration card, the Board may place any conditions, limitations or restrictions on the license or cannabis establishment agent registration card as it deems necessary.

4. The Board may deny reinstatement of the license or cannabis establishment agent registration card if the person fails to comply with any provisions of this section.

5. This section shall not be interpreted to give any party or other person a right to reinstatement of the license or cannabis establishment agent registration card.

**4.105 Grounds for summary suspension; notice; request for hearing.**

1. ~~[If, due to the actions of a cannabis establishment, there could be an impairment of the health and safety of the public, the Executive Director, or the Deputy Director in his absence, will convene an emergency Board meeting telephonically.~~

2.] Pursuant to *and in accordance with* subsection 3 of NRS 233B.127, if the Board finds that the public health, safety or welfare imperatively requires emergency action, the Board may issue an order of summary suspension of the license of a cannabis establishment or a cannabis establishment agent registration card pending proceedings for revocation or other action. An order of summary suspension issued by the Board must contain findings of the exigent circumstances which warrant the issuance of the order of summary suspension, and a suspension under such an order is effective immediately.

~~[3.]~~2. The Board *or its designee* will give notice to a licensee or person that is subject to an order of summary suspension of the facts or conduct that warrant the order and the deficiencies that must be corrected to lift the order. A cannabis establishment whose license has been suspended pursuant to section ~~1~~2 shall develop a plan of correction for each deficiency and submit the plan to the Board for approval within 10 business days after receipt of the order of summary suspension. The plan of correction must include specific requirements for corrective action, which must include times within which the deficiencies are to be corrected. A licensee or person that is subject to an order of summary suspension shall not operate until the Board or its designee has confirmed that the deficiencies identified in the order have been corrected.

~~[4.]~~3. If the plan submitted pursuant to section 3 is not acceptable to the Board or its designee, the Board may direct the cannabis establishment to resubmit a plan of correction or the Board may develop a directed plan of correction with which the cannabis establishment must comply. The Board's acceptance of a plan of correction does not preclude the Board from assessing fines and/or pursuing disciplinary action against the licensee for any violations connected with the suspension.

~~[5.]~~4. A licensee or person that is subject to an order of summary suspension may request a hearing regarding the order within 10 business days after the order is issued. A hearing on the summary suspension must be held within 30 days after that request for hearing.

**4.110 Discovery: mandatory exchanges.**

1. Within 20 calendar days after the service of the answer by the first answering respondent, and thereafter as each respondent answers the complaint, the parties shall confer for the purpose of complying with subsection 3 of this section.

2. Within 5 calendar days after a request for hearing regarding an order of summary suspension, the parties shall confer for the purpose of complying with subsection 3 of this section.

3. At each conference the parties shall:

(a) Exchange copies of all documents and other evidence then reasonably available to a party which are then intended to be offered as evidence in support of the party's case in chief; and

(b) Exchange written lists of persons each party then intends to call as a ~~[material]~~ witness in support of that party's case in chief. Each witness shall be identified by name, if known, position, business address, and a brief description of the purpose for which the witness will be called. If no business address is available, the party shall provide a home address for the witness, or shall make the witness available for service of process. ~~[For the purpose of this paragraph, a "material witness" is a person whose testimony relates to a genuine issue in dispute which might affect the outcome of the proceeding.]~~

4. The investigative file for a case, or any portion thereof, is not discoverable unless Board counsel intends to present materials from the investigative file as evidence in support of the case. The investigative file for the case includes all communications, records, affidavits or reports acquired or created as part of the investigation of the case, whether or not acquired through a subpoena related to the investigation of the person. Discovery of the investigative file is limited to solely those documents the Board Counsel intends to use as evidence in support of its case, as disclosed prior to the hearing.
5. A party may not serve any written discovery on another party, inclusive of interrogatories, requests for production, requests for admissions and/or depositions by written questions.
6. ~~[Pursuant to NRS 678A.530(2), a party may take the deposition of a material witness:~~
- ~~(a) A party who wishes to take a deposition of a material witness must request such a deposition at any early case conference held in the matter or submit a written application at least 30 days before the hearing. The application must:
    - ~~— (1) Set forth the reason why the deposition is necessary; and~~
    - ~~— (2) Be accompanied by the appropriate orders for deposition.~~~~
  - ~~(b) A material witness is a witness who has percipient knowledge of the alleged misconduct of the licensee. If there is any dispute as to whether a particular witness is material, such dispute shall be submitted to the Chair or hearing officer and they shall rule on whether such witness is material.~~
  - ~~(c) The Chair or the hearing officer shall approve or deny the application within 5 days after the receipt of the application.~~
  - ~~(d) If a material witness deposition is allowed it shall be conducted in accordance with the Nevada rules of civil procedure and not last more than one day/seven hours unless good cause is shown.~~
  - ~~(e) Depositions of non-material witnesses may be permitted in two very limited circumstances:
    - ~~— (1) If the potential witnesses resides outside of Nevada; or~~
    - ~~— (2) If the witness is not available to testify during the hearing.~~~~
  - ~~(f) If the parties cannot agree on whether a non-material witness can be deposed, such dispute shall be submitted to the Chair or the hearing officer and they shall rule on this issue, taking into account whether the burden and expense of the proposed deposition outweighs its likely benefit.~~
7. ]It shall be a continuing obligation of the parties to produce documents, witness lists, and other matters governed by this section as such become identified by and available to the parties. A party may amend its responses to the requirements of this section by informing the adverse party that documents previously produced or witnesses previously listed, will not be introduced in that party's case in chief. However, there shall be no supplementation of witnesses or documents after the discovery deadline set at the early case conference (or any extension granted regarding same), unless the proffering party can demonstrate good cause for the failure to timely disclose such supplementation. If such good cause is shown, the opposing party shall be granted sufficient time to disclose witnesses and documents that rebut the new evidence proffered.

**4.130 Subpoenas.**

1. The executive assistant shall issue subpoenas, including subpoenas duces tecum, upon the request of a party, in accordance with this section.
2. Subpoenas may be issued ~~[only for the following purposes:]~~
  - (a) ~~[To compel a nonparty witness to appear and give oral testimony at a deposition as provided by NRS 678A.530(2); and~~
  - ~~(b) ¶~~ **to** compel any person to appear at the hearing on the merits of the case, to give oral testimony alone, or to produce documents or other tangible things.
3. Subpoenas shall be submitted to the executive assistant for issuance on a form approved by the Chair. Concurrently with the submission of the subpoena to the executive assistant, the requesting party shall serve a copy on all other parties to the proceeding, and shall file proof of such service with the Board.
4. Subpoenas will not be issued in blank. A subpoena submitted for issuance must contain the title and number of the case, the name of the person to whom it will be directed, the date, time, and place of the hearing or deposition, and the name and signature of the requesting party or the requesting party's attorney. A subpoena duces tecum must in addition contain a complete description of specific documents or other tangible things that the witness will be required to produce at the hearing.
5. Unless the witness agrees otherwise, a subpoena issued for the purpose provided by subsection 2(b) must be served by the requesting party at least 10 calendar days prior to the hearing or deposition. A subpoena will be issued during the hearing or upon less than 10 days' notice only upon order of the Board for reasonable cause shown by the requesting party.

**4.135 Disposition of charges: Adjudication by Board.**

1. Prior to the adjudication, at least three members of the Board shall review a full transcript of the hearing or the phonographic recording of the hearing, *as well as all admitted exhibits*, to ensure they have heard all the evidence presented and shall review the findings of fact and conclusions of law submitted after the hearing.
2. At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:
  - (a) Board agent or counsel for the Board to present a disciplinary recommendation and argument;
  - (b) The respondent or counsel of the respondent to present an argument, if they wish to, in opposition to or support of the disciplinary recommendation; and
  - (c) The Board may limit the time within which the parties and the complainant may make their arguments and statements.
3. At the conclusion of the presentations of the parties, the Board shall deliberate and may by a majority vote impose discipline based upon the evidence, findings of fact and conclusions of law and the presentations of the parties.
4. If the Board finds that a violation has occurred, it shall by order any and all discipline authorized by ~~[this Chapter]~~ *these regulations* and Title 56 of the NRS.
5. Within 30 days after the conclusion of the adjudication by the Board, the Board shall issue a final order, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4.137 Settlement of Disciplinary Actions and/or Contested Cases.

1. Pursuant to S.B. 195 Sec. 2, 2023 Leg., 82th Sess. (Nv. 2023) and NRS 233B.121(5), the parties to any disciplinary action may agree to resolve a disciplinary action or contested case via a settlement agreement at any time. Settlement agreements may be entered into prior to or after commencement of a contested case and/or disciplinary action or the filing of a disciplinary complaint.

2. Should the parties enter into a settlement agreement, that settlement agreement shall not be effective until approved by a majority vote of the Board at an open meeting.

3. If the parties enter into a settlement agreement after a disciplinary action or contested case has commenced, or have agreed to the primary terms of a settlement, the Board, a panel of the Board, or the Board's appointed hearing officer may enter a stay of the proceedings pending the Board's consideration of approval of a final settlement agreement executed by the parties.

4. In any settlement agreement, the parties may stipulate to the civil penalties to be imposed, any other discipline to be imposed (inclusive of revocation or suspension), the mitigating circumstances present and the appropriate weight of the mitigating circumstances, and any other terms and conditions relevant to the disciplinary action or contested case.

5. In considering a settlement agreement, the Board may approve the settlement agreement, reject the settlement agreement, or remand the settlement agreement back to the parties to determine whether settlement may be reached on different terms. If the parties to the settlement agreement can agree to such different terms, an amended settlement agreement may be noticed for a later Board meeting for consideration of approval.

**4.140 Declaratory orders and advisory opinions.**

1. Pursuant to NRS 233B.120, any applicant for licensure, licensed cannabis establishment, or holder of registry identification card may obtain a determination or advisory opinion from the Board as to the applicability of any provision of chapters 678A through 678D of NRS or any regulation adopted pursuant thereto by bringing a petition for a declaratory ruling before the Board. No other persons or entities may petition the Board for a declaratory ruling.
  2. A declaratory ruling is an extraordinary remedy that will be considered by the Board only when the objective of the petitioner cannot reasonably be achieved by other means and when the ruling would be significant to the regulation of cannabis. The Board will construe any statute or regulation reviewed pursuant to this section in a manner consistent with the declared policy of the State of Nevada.
  3. A petition for a declaratory ruling shall be filed with the Executive Director, together with a nonrefundable filing fee in the amount of \$500.00.
  4. The petition for a declaratory ruling must contain:
    - (a) The name, business address, email, and telephone number of the petitioner;
    - (b) A statement of the nature of the interest of the petitioner in obtaining the declaratory ruling;
    - (c) A statement identifying the specific statute or regulation in question;
    - (d) A clear and concise statement of the interpretation or position of the petitioner relative to the statute or regulation order in question;
    - (e) A description of any contrary interpretation, position or practice that gives rise to the petition;
    - (f) A statement of the facts and law that support the interpretation of the petitioner, along with a table of legal authorities;
    - (g) A statement showing why the subject matter is appropriate for Board action in the form of a declaratory ruling and why the objective of the petitioner cannot reasonably be achieved by other administrative remedy;
    - (h) A statement identifying all persons or groups who the petitioner believes will be affected by the declaratory ruling, including the cannabis industry as a whole, and the manner in which the petitioner believes each person will be affected; and
    - (i) The signature of the petitioner or the petitioner's legal representative.
- The Board may summarily dismiss, with or without prejudice, a petition that does not meet all of the requirements set forth in this paragraph.*
5. A petitioner may not file a petition for declaratory ruling involving questions or matters that are issues in a disciplinary action or ~~[civil penalty action]~~ contested case with the Board in which the petitioner is a party or has a financial and/or ownership interest in a party
  6. The Board will consider a petition for declaratory ruling at the next scheduled Board meeting, provided that the petition is filed with the Executive Director ~~[15]~~20 calendar days prior to that scheduled Board meeting. If the petition is not filed with the Executive Director ~~[15]~~20 calendar days prior to next scheduled Board meeting, the petition will be considered at the following scheduled Board meeting. *The Board may continue these dates for good cause.*
  7. In considering a petition for a declaratory ruling at the Board's meeting, the Board, by majority vote of the members, may take any of the following actions:
    - (a) Dismiss the petition and close the case;
    - (b) Order a hearing with oral argument on the petition and set a date for said hearing, which may be at a subsequently scheduled Board meeting;



- (c) Issue an order permitting any other licensee or applicant to file a brief supporting or opposing the petition. If the Board chooses this option, supporting or opposing briefs shall be due 10 calendar days after the Board meeting during which the petition is considered and any reply briefs shall be due 5 calendar days thereafter. All such briefs must be timely filed and served on the Executive Director and the other parties involved, or will not be considered. Each such brief must be accompanied by a non-refundable filing fee of \$250;
- (d) After hearing the petition and reviewing any additional briefing (if applicable), issue an order granting, denying *(with or without prejudice)*, or granting in part and denying in part, the petition.
8. The petitioner may not obtain judicial review of any Board order entered pursuant to this regulation.
9. The petitioner, or any other party filing a brief under subsection 7(c), may request a waiver of the filing fee pursuant to a showing of financial hardship.

#### 4.145 Adoption, amendment or repeal of a regulation.

1. *Pursuant to NRS 233B.100(1)*, any interested ~~[party]~~ *person* may petition the Board to request the adoption, amendment or repeal of a *Cannabis Compliance Board* regulation ~~[under NCCR pursuant to NRS 678A.460(1)(d)]~~.
2. The Board will construe any such petition pursuant to this section in a manner consistent with the declared policy of the State of Nevada.
3. A petition to the Board to request the adoption, amendment or repeal of a regulation shall be filed with the Executive Director, together with a nonrefundable filing fee in the amount of \$500.00.
4. The petition to request the adoption, amendment or repeal of a regulation must contain:
  - (a) The name, business address, *email*, and telephone number of the petitioner;
  - (b) A statement of the substance or nature of the regulation, amendment or repeal requested;
  - (c) A statement identifying the specific regulation in question;
  - (d) A clearly drafted proposed new regulation to be adopted, a clearly drafted amendment to a specific regulation or a detailed statement of what regulation is to be repealed and why, depending on the specific request;
  - (e) A statement, *with supporting data and evidence*, identifying all persons or groups who the petitioner believes will be affected by the adoption, amendment or repeal of a regulation, including the cannabis industry as a whole, and the manner in which the petitioner believes each person will be affected; and
  - (f) The signature of the petitioner or the petitioner's legal representative.

*The Board may summarily dismiss, with or without prejudice, a petition that does not meet all of the requirements set forth in this paragraph.*

5. A petitioner may not file a petition for adoption, amendment or repeal of a regulation that involves regulations that are issues in a disciplinary action or ~~[civil penalty action]~~ *contested case* with the Board in which the petitioner is a party or has a financial and/or ownership interest in a party.

*6. Pursuant to NRS 233B.100(1), within 30 days, the Board shall either deny the petition in writing stating its reasons for denial, or initiate regulation making proceedings. The Board may delegate to the Chair the decision on whether to deny the petition. The Board may set a hearing on the petition within 30 days of its submission at the next regularly scheduled Board meeting. The Board or its counsel may stipulate with the petitioner to waive the 30-day deadline for a decision on the petition. The petition may be denied with or without prejudice for any reason deemed appropriate by the Board or*

the Chair, including, but not limited to, failure to adequately comply with the requirements of NRS 233B.100(1) and/or this Regulation, the request in the petition is contrary to Nevada law, the request in the petition is moot or is already addressed in an existing regulation or statute or Board process, the request in the petition is contrary to declared policy of the State of Nevada, the petitioner is not deemed to be an interested person, and/or the petition presents insufficient data and/or information for the Board to make a decision. If the petition is denied without prejudice, the petitioner may file a new or amended petition to attempt to cure any deficiencies.

7. For purposes of this Regulation, an “interested person” is defined to be an applicant for licensure, a cannabis establishment licensee, a person directly affected by Title 56 of the NRS and/or the NCCR, and/or a group or association of such licensees (provided that each such licensee member of the group is identified by name and address), applicants, or persons directly affected by Title 56 of the NRS and/or the NCCR.

~~6~~ 8. Except as otherwise set forth in subsections 4 and 6, ~~H~~ in considering a petition for adoption, amendment or repeal of a regulation at the Board’s meeting, the Board, by majority vote of the members, may take any of the following actions:

- (a) Dismiss the petition with no action taken;
- (b) Refer the petition to the Cannabis Advisory Commission for consideration and recommendations, if the petitioner has waived the 30-day requirement for a decision;
- (c) Order a hearing with oral argument on the petition and set a date for said hearing, which may be at a subsequently scheduled Board meeting;
- (d) Issue an order permitting any other ~~[licensee or applicant]~~ interested person to file a brief supporting or opposing the petition. If the Board chooses this option, supporting or opposing briefs ~~[shall be due 10 calendar days after the Board meeting during which the petition is considered and any reply briefs shall be due 5 calendar days thereafter.]~~ must be filed no later than two days prior to the Board’s deadline for a decision. All such briefs must be timely filed and served on the Executive Director and the other parties involved, or will not be considered. Each such brief must be accompanied by a non-refundable filing fee of \$250;
- (e) After hearing the petition and reviewing any additional briefing (if applicable), issue an order granting, denying, or granting in part and denying in part, the petition.

9. Except as otherwise set forth in subsections 4 and 6, prior to considering a petition as set forth in subsection 8, the Board may submit the petition to a Hearing Officer employed by the Board to review the petition and recommend to the Board a course of action to take on the petition. In the Hearing Officer’s review of the petition, the Hearing Officer may communicate with and/or solicit comment from the Board’s staff and/or counsel representing the Board.

~~8~~ 10. The petitioner may not obtain judicial review of any Board order entered pursuant to this regulation.

~~9~~ 11. The petitioner, or any other party filing a brief under subsection ~~7~~ 8(d), may request a waiver of the filing fee pursuant to a showing of financial hardship.

4.150 Petition for Exemption from Excluded Felony Offense Restrictions.

1. Pursuant to S.B. 277 Sec. 4.5, 2023 Leg., 82th Sess. (Nv. 2023), a person convicted of an excluded felony offense may submit to the Board a petition for exemption from restrictions imposed pursuant NRS 678B.210(3)(b), 678B.250(3)(b), and/or 678B.340(6)(a) by submitting a petition to the Board which fulfills the requirements set forth in this regulation.

2. The Board will construe any such petition pursuant to this section in a manner consistent with the declared policy of the State of Nevada.

3. The petition must contain:

(a) The name, residence, business address, email, and telephone number of the petitioner;

(b) The date of conviction for each excluded felony offense;

(c) The date that probation and/or supervised release ended for each excluded felony offense;

(d) Certified copies of the judgment or judgments of conviction for each excluded felony offense;

(e) An explanation as to why the petitioner believes he or she will not pose a threat to the health or safety of the public;

(f) An explanation as to why the petitioner believes he or she will not negatively impact the cannabis industry in this State;

(g) The position, employment, ownership interest, and/or other role petitioner plans to undertake in the cannabis industry in this State, if the petition is granted;

(h) A list of conditions and limitations the petitioner is willing to accept on his or her involvement in the cannabis industry in this State;

(i) The signature of the petitioner or the petitioner's legal representative;

(j) Any other information or documents requested by the Board or Board Agents during their investigation of the petition.

The Board may summarily deny, with or without prejudice, a petition that does not meet all of the requirements set forth in this paragraph.

4. The Board or the Board's Agents may request the criminal history record of the petitioner. To the extent consistent with federal law, if the Board makes such a request of the petitioner, the Board shall require the petitioner to submit his or her criminal history record which includes a report from:

(a) The Central Repository for Nevada Records of Criminal History; and

(b) The Federal Bureau of Investigation.

5. After the petitioner has filed the petition, a Board Agent shall initially evaluate it and undertake any needed investigation. Within 60 days of the filing of the petition said Board Agent will inform petitioner whether any additional documents or information is needed. Petitioner shall provide said additional information or documents to the Board agent within 45 days of any such request. The Board agent shall then have 45 days after submittal of all the requested additional information or documents to conclude the evaluation and investigation.

6. Once the Board Agent has completed the investigation, the petition shall be presented to the Board for consideration at an open meeting on notification to the petitioner.

7. At the time of the Board's consideration, the Board may hear from and question the petitioner, and may go into closed session as required by law.

8. After hearing from the petitioner, the Board may grant the petitioner in its entirety, grant the petition with any terms or conditions as set forth in S.B. 277 Sec. 4.5(4), 2023 Leg., 82th Sess. (Nv. 2023), or deny the petition with or without prejudice. The Board shall issue a final order to petitioner of its decision within 30 days of its decision.

9. The petitioner may not obtain judicial review of any Board order entered pursuant to this regulation.

10. The petitioner may request a waiver of the filing fee pursuant to a showing of financial hardship.

#### 4.200 Actions Relating to Unlicensed Activity.

1. The CCB may issue a notice of violation and an order to cease unlicensed activity to any person who is cultivating, processing, distributing, transporting, or selling or offering to sell cannabis and/or cannabis product, or engaging in an indirect retail sale, without obtaining the appropriate license.

2. In the event that the CCB issues a notice of violation and order to cease unlicensed activity to a person identified in Section (1):

(a) that person must cease all unlicensed cannabis related activity as described in Section (1);

(b) pursuant to NRS 678A.440(11) (amended SB328) and in accordance with NRS 179.1156 to 179.121, inclusive, and NRS 678C.600, the CCB may seize and destroy any cannabis and/or cannabis product found in the possession of a person engaged in the conduct described in Section (1) of this section;

(c) the CCB may affix a copy of such notice of violation and order to cease unlicensed activity on the front window, door, or exterior wall of the location where such activity is taking place. The notice and order shall be within five feet of the front door or other opening to such location where customers enter from the street, at a vertical height no less than four feet and no more than six feet from the ground or floor. When an establishment does not have a direct entrance from the street, the person shall permit the CCB to post such notice of violation and/or order to cease and desist unlicensed activity at its immediate point of entry in a place where potential customers or members of the public are likely to see it;

(d) such notice of violation and order to cease unlicensed activity shall not be removed except when authorized by the CCB. Any removal of such notice of violation and/or order to cease and desist unlicensed activity shall constitute a violation of these regulations and shall be punishable by a fine of up to \$50,000;

(e) the person served with such notice of violation and order to cease unlicensed activity shall also permit the CCB to affix one or more warning stickers at or near the front door or other opening to such location where customers enter from the street advising the public that the business is ordered to stop the unlawful activity and of the public health and safety concerns relating to illicit cannabis;

(f) such warning sticker shall not be removed except when authorized by the CCB. Any removal of the warning sticker shall constitute a violation of these regulations and shall be punishable by a fine of up to \$50,000.

3. The CCB may initiate an administrative proceeding to enforce the order to cease the unlicensed activity and order the financial penalty that the CCB assessed for the violation. The proceeding will be subject to NRS 233B, NRS 678A, and NCCR 4.070 – 4.135 inclusive. Any references to “licensee” and “cannabis establishment” in such sections shall be read to apply to persons subject to enforcement pursuant to this section.

(a) If the CCB has cause to believe that a person has engaged or is engaging in an activity outlined in Section (1), the CCB via the executive assistant may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The CCB may use any documents, records, or materials produced pursuant to a subpoena issued under this section in the course of a civil or administrative action brought pursuant to NCCR 4.200.

(i) The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail. An employee of the CCB may personally serve the subpoena.

(b) Pursuant to NRS 233B.121(5), NRS 678A (amended SB195 Sec. 2) and NCCR 4.137, the parties may enter a stipulation for the resolution of any and all issues at any time. Settlement agreements may be entered into prior to or after commencement of enforcement action identified in Section 3. Should the parties enter into a settlement agreement, that settlement agreement shall not be effective until approved by a majority vote of the Board at an open meeting. A Board-approved settlement agreement shall have the same force and effect as an order issued by the CCB after a hearing.

(c) After the administrative proceeding to enforce an order to cease and desist the unlicensed activity or order the financial penalty, the CCB shall issue a decision based on findings of fact and conclusions of law pursuant to NRS 233B.125 and NRS 678A.590 except as otherwise provided in NRS 233B.121(5). Such decision shall be final and binding when issued.

(d) All parties shall have the right to judicial review of the CCB’s decision pursuant to NRS 233B.130 – NRS 233B.150, inclusive and NRS 678A.610.

4. In addition to the penalties outlined in NRS 678A.650 and NRS 452.553, a person identified in Section 1 who does not hold a license and who, in violation of the provisions of this title:

(a) cultivates, processes, distributes, transports, or sells cannabis and/or cannabis product

(b) advertises the sale of cannabis or cannabis products, or

(c) engages in an indirect retail sale of cannabis or cannabis products

↪ is liable for a civil penalty of not more than \$50,000 to be recovered in an action brought by the CCB.

5. Any money collected as a civil penalty pursuant to Section (4) of this rule must be used to pay the actual cost of prosecution, court costs and costs incurred for the disposal of any hazardous waste in connection with the violation for which the penalty was imposed.

6. Such a civil penalty is not barred by a prior acquittal of the defendant in a criminal action arising out of the same act, transaction or occurrence. A final judgment or decree rendered in favor of the State in any criminal proceeding arising out of the same act, transaction or occurrence estops the defendant in a subsequent civil penalty action from denying the essential allegations of the criminal offense.

7. The Attorney General may bring an action to enjoin a person who engages in any of the conduct described in Section (1) in addition to any action permitted by the CCB outlined in this Rule.

8. In lieu of initiating an administrative proceeding, the CCB may, in its sole determination, issue an administrative fine not to exceed \$20,000.00 to any individual undertaking cannabis related activity as described in Section (1) of this section.

## Proposed Changes to NCCR Regulation 6

## PRODUCTION AND DISTRIBUTION OF CANNABIS

New

~~{Deleted}~~

**6.025 Board authorized to collect fee for costs for ~~[oversight]~~ investigation; hourly rate.**

1. For the ongoing activities of the Board relating to the ~~[oversight]~~ investigation of cannabis establishments pursuant to NRS 678B.390, the Board will collect an assessment from each cannabis establishment for the ~~[time and effort]~~ costs attributed to the ~~[oversight]~~ investigation of the cannabis establishment at an hourly rate established by the Board. ~~Necessary travel accommodations accrued by Board agents, including airfare and hotel stays;~~ An hourly fee for each hour spent by agents of the Board in conducting the investigation, and costs for the travel expenses and per diem allowances (as assessed at the rate established by the State Board of Examiners for state officers and employees generally) of the agents of the Board conducting the investigation will also be billed to the cannabis establishment. ~~[The activities where the hourly rate for time and effort will be charged include, but are not limited to:~~

~~(a) Any type of routine inspection;~~

~~(b) Any type of routine audit;~~

~~(c) Hearing preparation and attendance for Board agents;~~

~~(d) Investigations of complaints submitted to the Board by a consumer, or any other outside individual or entity, if said complaint is substantiated;~~

~~(e) Investigations based on any type of requested transfer of interest;~~

~~(f) Investigations based on any type of requested waiver;~~

~~(g) Investigations based on an application for a new cannabis establishment license; and~~

~~(h) Any other type of inspection, audit, or investigation deemed necessary by the Board.]~~

2. The assessment for ~~[time and effort]~~ investigation costs will be based upon the hourly rate established for the Board agents as determined by the budget of the Board. Licensees will be notified of any fee changes.

3. ~~[Cannabis establishments and its agents will not be billed for an investigation regarding an application for a registration card. Furthermore, cannabis establishments will not be billed for Petitions filed pursuant to NCCR 4.140 or 4.145.~~

4. ~~As used in this section, "substantiated" means supported or established by evidence or proof.]~~

Prior to the commencement of an investigation, the Board shall provide the licensee or applicant an estimate of the anticipated costs of the investigation. A request for any action identified in NRS 678B.390(5) will initiate the Board's obligation to provide such an estimate.

4. The Board is required to provide a licensee or an applicant an itemized list of the costs incurred in the investigation. All such costs shall be due 60 days after receipt of the CCB Invoice. Failure to pay such costs upon the due date is a Category VII violation pursuant to NCCR 4.

5. A licensee or an applicant may request from the Board documentation, prepared by the Board or its agents conducting the investigation, relating to the costs of the investigation by sending an email request to [ccbtimeandeffort@ccb.nv.gov](mailto:ccbtimeandeffort@ccb.nv.gov).

6. A licensee or an applicant may appeal to the Board any itemized cost, or a licensee or an applicant may request a reduction of the total amount charged for the investigation if the total amount charged exceeds the estimate of the anticipated costs provided to the licensee or applicant by 25 percent or more.