



May 13, 2024

Cannabis Compliance Board
700 E. Warm Springs Road, Suite 150
Las Vegas, NV 89119

Via email to regulations@ccb.nv.gov

Subject: Chamber of Cannabis Input on NCCR 1,4,6 for Workshop (5/14/24)

Dear Cannabis Control Board Members and Staff,

Our organization is pleased to see the CCB begin the process of aligning our industry's regulations with the sensible statutory changes that were signed into law during Nevada's 82nd Legislative Session.

Understanding that many of the proposed revisions are necessitated by Senate Bills 195, 277, and 328, the Chamber of Cannabis commends the Board for introducing regulatory language that serves to:

- Require consideration of mitigating circumstances for regulatory violations.
- Reduce the amount and types of activities for which the CCB may charge cannabis establishments.
- Establish a process by which a person may petition for an exemption from certain provisions related to excluded felony offenses.
- Provide for the investigation of unlicensed cannabis activities.
- Begin addressing contract enforcement.

In the proposed changes to NCCRs 1,4,6 that the CCB published on April 15, 2024, the members of our organization's Commerce Committee identified several opportunities for improved clarity and points of confusion regarding:

- **Level of specificity**- in definitions (esp. "Diversion"), meaning of "timely", definition of "paraphernalia", direct references and external sources, inventory variations, business days or calendar days.
- **Consistency**- "Board Agent" vs "Board agent" vs. "board agent", cannabis product vs. cannabis products, use of "and/or" when outlining penalties.
- **Alignment with Statutes** - accounting for dual licenses, inclusion of unauthorized Board activities.

In addition to these general notes, the Chamber of Cannabis is pleased to provide the CCB with recommendations for the Board to reduce or eliminate the potential adverse effects of these regulations, to further clarify definitions, to appropriately define violations, and to lessen the economic burden of these regulations on holders of a cannabis establishment license in general, as outlined below.

KEY:

Regulation X

NCCR X.XXX

~~GCB Removal~~

CCB Addition

Chamber Addition

~~Chamber Removal~~

Comments & Suggestions

Regulation 1: Definitions

1.083. “Diversions” defined.

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

Given the severity of violations involving the diversion of cannabis or cannabis product as outlined in NCCR 4.033, we would like to see more specificity in this definition, similar to NCCR 1.234 for “Unlicensed Activity”.

Another suggestion we received was to introduce subcategories of diversion. A few points of consideration and topics to address in this definition include:

1. *Is there a definition for lawful or unlawful? If so, include reference to this.*
2. *If cannabis or cannabis products was obtained through a lawful channel, what are the post-sale limitations?*
3. *Can the operator cover the cost as a donation?*
 - a. *In 2020 California passed SB-34, or the Dennis Peron and Brownie Mary Act, to allow cannabis businesses to contribute tax-free cannabis to low-income medicinal patients.*
 - b. *In NCCR 4.055 , “Offering for free or not charge or donating cannabis without a purchase;” is a Category V violation.*
4. *Post-transfer from a lawful retail establishment, can the purchaser gift/give the cannabis or cannabis product?*
5. *Are private events lawful channels of distribution or use?*
6. *If the answer to 3-5 is no, then is it truly reasonable to classify these specific scenarios as a Category I Violation?*

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.

*We appreciate the introduction of this definition to provide clarity for the violations in Category II. That said, with the current language, our members have expressed concerns that the language is still subject to interpretation. We suggest including specific requirements for what the term **does** require proof of and/or language outlining how intention is determined.*

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.

We would like the CCB to expand upon the difference between intentionally and knowingly. The proposed changes do not include use of the word “knowingly” outside of the introduction of the definition.

1.125 “Lot” defined

1. The flowers from one or more cannabis plants of the same batch, in a quantity that weighs **no more than 15 pounds (2,268 6,804 grams)-or-less**;
2. The leaves or other plant matter from one or more cannabis plants of the same batch, other than full female flowers, in a quantity that weighs 15 pounds (6,804 grams) or less; or
3. The wet flower, leaves or other plant matter from one or more cannabis plants of the same batch used only for extraction, in a quantity that weighs 125 pounds (56,700 grams) or less within 2 hours of harvest.

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 the** 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.

Regulation 4: Disciplinary And Other Proceedings Before the Board

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” **as defined in paragraphs (a)-(d).**

(a) 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~~ **shall** be established via a statement of deficiencies letter from the Board or Board Agents, or through any other competent evidence.

(b) Progressive discipline shall apply when the “Second Notice Date” occurs within three years of the “First Notice Date”.

(c) 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” **as defined in subsection (a)** and is determined to be a violation, regardless of the ultimate date of that determination or adjudication. The “Second Notice Date” ~~may~~ **shall** be established via a statement of deficiencies letter from the Board or Board Agents, or through any other competent evidence.

(d) 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.

(e) 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.

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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, as well as the following mitigating circumstances, as set forth in S.B. 195 Sec. 3, 2023 Leg., 82th Sess. (NV. 2023):

(a) The licensee or registrant self-reported the violation to the Board or an agent of the Board.

(b) For a violation committed by a licensee, the licensee has:

(1) Submitted to the Board a plan to correct the violation which has been approved by the Board or deemed approved; and

(2) Taken action to correct the violation.

(c) The licensee or registrant has made a good faith effort to prevent violations from occurring, including, without limitation, by:

(1) Providing regular training to the employees of the licensee or registrant which has been documented and which was provided before the commencement of an investigation by the Board concerning the violation; or

(2) Establishing, before the commencement of an investigation by the Board concerning the violation, standard operating procedures that include procedures which directly address the conduct constituting the violation.

(d) The licensee or registrant has cooperated in the investigation of the violation in such a manner as to demonstrate that the licensee or registrant accepts responsibility for the violation.

(e) Any other mitigating circumstance established by the Board by regulation exists.

→ For the purposes of subparagraph (1) of paragraph (b) of subsection 2, if a licensee has submitted a plan to correct a violation and the Board does not take action to approve or reject the plan within 30 days after the date on which the plan was submitted, the plan shall be deemed to be approved by the appropriate agent of the Board.

4.033 Category I Violations.

See input for 1.083; Additionally, a few of our members found it surprising that there is no civil penalty included for Category I Violations.

4.035 Category II Violations.

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

(a) Category 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:

→ See comments for NCCR 1.113

(2) Operating, working, or volunteering without all required permits, ~~certificates,~~ registrations and/or licenses as outlined in NRS XXX / NCCR XX;
→ Subparagraph (35) of paragraph (a) in Section 1 of NCCR 4.050 describes "Failure to maintain required licenses, certificates, accreditations, or credentials including but not limited to Certified Food Protection Manager and Restricted Use Pesticide Applicator License;" as a Category IV violation.

- How are these two activities different from one another?

- Please reference: (1) the specific permits, registrations, and licenses that are required OR (2) the statutes and regulations that outline these required

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

→ See comments for NCCR 1.113

(4) Intentionally destroying or concealing evidence;

→ See comments for NCCR 1.113

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

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

(8) 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) Making verbal or physical threats to a Board Agent or Board member;

(10) Failing to immediately admit regulatory or law enforcement personnel **with appropriate identification** into the premises of a cannabis establishment **after personnel have presented appropriate identification**;

(11) 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 **the cannabis establishment's** total inventory;

→ *Please specify whether this applies to 10% of ALL inventory for the vs. 10% of all METRC inventory vs. 10% of inventory for each product category.*

(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.

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4.040 Category ~~[H]~~ III Violations.

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

(a) Category ~~[H]~~ 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]~~ 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 ;

→ *Define paraphernalia OR remove.*

(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;

→ Per SB277, as of January 1, 2024, the Board is not issuing or renewing any medical cannabis establishment licenses (with a few exceptions); this language does not reflect the new dual-license dynamic.

~~[(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;
- *With the inclusion of the word “establishment” there is no need for the word “facility”*
- ([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; [.]
- (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;
- *If “intentionally” does not require proof of bad faith, ill will, etc; and is something that is not accidental or inadvertently, “intentionally” means accidentally or inadvertently. Is an inadvertent accident really a Category III (former Category II)?*
- (16) Failing to have video surveillance cameras in place as required;
- (17) Changing quantities and/or weights of cannabis or cannabis products without approval **from Board or Board Agent** after they have been tested;
- (18) Retesting of cannabis or cannabis product without approval **from Board or Board Agent;**
- (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%;
- *Please specify whether this applies to X-XX% of ALL inventory for the vs. X-XX% of all METRC inventory vs. X-XX% of inventory for each product category.*
- (21) Failure to tag over 5% and no more than 10% of plants and/or packages; or
- (22) Failure to comply with **regulations regarding the Death or incapacity of a cannabis establishment owner, as outlined in NCCR 5.170.**
- ...

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;
→ *Please clarify the intention here and the type of activity/exception the new language would allow.*
- (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%;
→ *Please specify whether this applies to X-XX% of ALL inventory for the vs. X-XX% of all METRC inventory vs. X-XX% of inventory for each product category.*
- (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) 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 violation of NCCR 6.085 in a cannabis establishment [facility];
- (12) Failing to properly use sanitizer as required in NCCR 10.075;
→ *Please specify the type of sanitizer and/or where the requirements are outlined. Since NCCR 10.075 requires sanitation procedures to be documented, this seemed like the most appropriate regulation to cite but we are uncertain of the full intention of this language.*
- (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, from the time that a delivery vehicle leaves the cannabis retail establishment, without approval from the Board or Board Agents;
- *This is problematic because it does not define or quantify a “reasonable time frame”. In some instances, a delivery driver is not available to make the delivery. If the concern is regarding cannabis products being in transit too long, the language should specify that this applies from the time the delivery vehicle leaves the establishment, rather than from the time the order is placed by the consumer.*
- (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) ;
- *Is this the intended statute to reference? NRS 678C.410 (2): “A medical cannabis dispensary and a medical cultivation facility may acquire usable cannabis or cannabis plants from a person who holds a valid registry identification card, including, without limitation, a designated primary caregiver. Except as otherwise provided in this subsection, the patient or caregiver, as applicable, must receive no compensation for the cannabis. A patient who holds a valid registry identification card, and the designated primary caregiver of such a patient, or the designated primary caregiver of a person who holds a letter of approval may sell usable cannabis to a medical cannabis dispensary one time and may sell cannabis plants to a cultivation facility one time.” Unclear if/how this is impacted by dual licenses.*
- (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/ and 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 [business/ calendar] 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; ~~for~~
- (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;
- Please consider simply mentioning the specific NCCRs that these actions are in violation of and rewording this in its entirety for the sake of clarity. This likely is also inclusive of Board Agents which complicates the current language further.
- (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;
- Subparagraph (2) of paragraph (a) in Section 1 of NCCR 4.035 describes “Operating, working, or volunteering without all required permits, ~~certificates,~~ registrations and/or licenses” as a Category II Violation. **How is this different?**
- (36) Failure to tag over 2% and not more than 5% of **mature** plants and/or packages;
- **Include language to differentiate this with subparagraph (46) for immature plant batches.**
- (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 **within X business days**;
- (40) Failing to **timely** implement an approved or directed plan of correction **within X business days of receiving approval or direction of plan**;
- (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 **all surfaces that the product is in contact with surfaces** as required in NCCR 10.075;
- (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;
- **Keep as long as sub paragraph (36) differentiates this type of plant.**
- (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.

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4.055 Category [IV] V 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 ;

→ *See comments for NCCR 1.083 on "Diversion." What if the product was purchased and then donated? What if the post-purchase donation was made by the purchaser? Clarification needed.*

(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;

→ *Do these types of activities also require approval? Or is notification sufficient? If notification, what is the timeframe for which notification must be made?*

(5) Violating packaging or labeling requirements;

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

([7]6) Failing to maintain a standardized scale as required;

→ *We received feedback that delays with the NV. Dept. of Agriculture issuing new stickers to certify calibrators each year have led to regulatory enforcement. Is there any way to ensure this type of delay from a government body does not lead to a violation?*

~~[(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]7) Failing to properly **and/or timely** respond to a Board or Board Agent's request for documentation, information, video, or other records **within X business days**; [or]

- (8) Any violation of NCCR 11.015(2);
- (~~15~~9) 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.

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4.060 Category [V] 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 [business/calendar] 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 any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.
 → Consider defining "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 within XX [business/calendar] days of invoice;
- (7) Failing to properly and/or timely submit quarterly inventory reports, monthly sales reports, or other reports required by the Board or Board Agents within X [business/calendar] days of due date; [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[,]or cannabis sales facility;
- (10) ~~[Failing to provide required water service at a cannabis consumption lounge; or (11)]~~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%;
 - Please specify whether this applies to X.XX-X% of ALL inventory for the vs. X.XX-X% of all METRC inventory vs. X.XX-X%% of inventory for each product category.
- (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 screenshot 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.

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 **within 30 [business/calendar] calendar days of payment due date or filing deadline;**
- (4) Failure to pay for all costs involved in Board or Board Agent ordered screening or testing within 30 **[business/calendar]** 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 [business/calendar]** 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

→ Please specify whether this applies to X.XX-X% of ALL inventory for the vs. X.XX-X% of all METRC inventory vs. X.XX-X%% of inventory for each product category.

(9) Failing to ~~timely~~ pay investigation costs pursuant to NCCR 6.025 within 30 [business/calendar] days of invoice.

(10) Failure to pay for goods and services rendered from another cannabis establishment in accordance with payment terms, as verified by the Board or Board Agent.

4.090 Appearance through counsel.

...

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 license 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 of the objection no later than seven [business calendar] 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.

....

4.095 Early case conference and hearing.

1. Within 10 [business/calendar] 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 [business/calendar] 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 pre hearing 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.

→Please specify the definition of timely in subsection 1(e) of NCCR 4.095.

...

4.110 Discovery: mandatory exchanges.

...

6. ~~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, and in accordance with subparagraphs (a)-(c).

(a) 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, so long as amendments to responses are submitted before the discovery deadline (or any extension granted regarding the same violation) .

(b) ~~However, there shall be no supplementation of witnesses or documents a~~After the discovery deadline set at the early case conference (or any extension granted regarding the same violation), there shall be no supplementation of witnesses or documents 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.

4.137 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, **so long as the terms of the agreement, and any modification of those terms are discussed and approved at a meeting of the Board.**

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, **and any modifications of the terms of the agreement,** shall not be effective until approved by a majority vote of the Board at an open meeting.

3. During any meeting in which the terms of a settlement agreement are approved or modified, the Board shall state the determination of the Board as to whether any of the mitigating circumstances outlined in NCCR 4.030(2) exist. If the terms of a settlement agreement impose a civil penalty, the statement from the Board must specify the weight given by the Board to each mitigating circumstance in determining whether to approve or modify the amount of the civil penalty.

~~3~~ 4. 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~~ 5. 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.

4.145 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.*

~~7~~ 2. *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.*

→ *We suggest that proposed subsection (7) be re-ordered so that the definition of “interested person” immediately follows the introduction of that language in subsection (1).*

~~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.~~

→ *We suggest that the proposed subsection (2) be appended to subsection 1.*

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.~~

→ *If the CCB will not remove the filing fee, we would like petitioners to be able to request a waiver of the filing fee as they are able to do with the filing fee for filing a brief in subsection 11. We have proposed this in subsection 12 as an alternate solution for our suggestion for subsection 3.*

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

→ *Please specify what constitutes supporting data and evidence.*

(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 **business/calendar** days, the Board shall either deny the petition in writing stating its reasons for denial, or initiate regulation making proceedings. The Board may also take the following actions in the same 30-day period:

- (a) 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 **business/calendar** days of its submission at the next regularly scheduled Board meeting.
- (b) The Board or its counsel may stipulate with the petitioner to waive the 30-day deadline for a decision on the petition.
- (c) The Board may deny ~~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:
 - (i) ~~Failure to adequately comply with the requirements of NRS 233B.100(1) and/or this Regulation,~~
 - (ii) ~~The request in the petition is contrary to Nevada law,~~
 - (iii) ~~The request in the petition is moot or is already addressed in an existing regulation or statute or Board process~~
 - (iv) ~~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~~
 - (v) ~~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. If, pursuant to subsection 7(c), the petition is denied without prejudice, the petitioner may file a new or amended petition to attempt to cure any deficiencies. ~~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 NCGR, 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 NCGR.~~

[6]8 . Except as otherwise set forth in subsections 4 and 6, [I] 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 **business** days prior to the Board's deadline for a decision. All such briefs must be timely filed and served ~~on~~ **to** 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.

12. The petitioner may request a waiver of the filing fee under subsection 3, pursuant to a showing of financial hardship.

→ If the CCB will not remove the filing fee as suggested in subsection 3, we would like petitioners to be able to request a waiver of the filing fee as they are able to do with the filing fee for filing a brief in subsection 11.

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, address of residence, ~~business address~~ employment status (including job title and name of employer), email, and telephone number of the petitioner;

→ Unclear as to why a business address is necessary, especially in a world of remote working. It may make more sense to require the employer's name and petitioners' job title instead of business address.

(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, as attachments;

→ *What is the process to obtain certified copies of judgments? Why must they be certified? Would the court case numbers be sufficient?*

(e) An explanation as to why the petitioner believes ~~he or she~~ they 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~~ they 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 **[calendar/business]** 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 **[calendar/business]** days after ~~submittal~~ submission 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 **shall issue a final order to the petitioner of its decision within 30 [calendar/business] days of such decision. The Board's decision may:**

(a) ~~g~~Grant the petitioner in its entirety;

(b) ~~g~~Grant the petition with any terms or conditions **that the Board deems necessary to preserve the public health and safety or mitigate the impact of the granting of the exemption on the cannabis industry in this State. Such conditions and limitations may include, without limitation, conditions and limitations on the conduct of the petitioner in the cannabis industry in this State and the cannabis-related activities in which the petitioner is authorized to engage.** ~~as set forth in S.B. 277 Sec. 4.5(4); 2023 Leg., 82th Sess. (Nv. 2023);~~ or

(c) ~~d~~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.~~

→ *Why not?*

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

→ *There does not appear to be a filing fee associated with the filing of this type of petition, nor should there be. As such, there is no need to outline a process for a waiver of the filing fee.*

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 products, 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) ~~t~~That person must cease all unlicensed cannabis related activity as described in Section (1);

(b) ~~p~~Pursuant to NRS 678A.440(11), ~~(as amended by SB328, 2023 Leg., 82th Sess. (Nv. 2023),~~ 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) ~~t~~The CCB ~~may~~ shall 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 **all public points of entry** ~~the front door or other opening to such a 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,~~ **and** in a place where potential customers or members of the public are likely to see it;

(d) ~~s~~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) ~~t~~The person served with such notice of violation and order to cease unlicensed activity ~~shall also~~ **must** permit the CCB to affix one or more warning stickers at or near **all public points of entry** ~~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) ~~s~~Such warning sticker shall not be removed ~~except when~~ until removal is authorized by the CCB. Any ~~unauthorized~~ 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 (1) of this regulation.

(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 a 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) ~~e~~Cultivates, processes, distributes, transports, or sells cannabis and/or cannabis products;

(b) ~~a~~Advertises the sale of cannabis or cannabis products; or

(c) ~~e~~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. Any remaining funds will be _____.

→ *SB328 does not appear to require that these penalties be put towards the General Fund. If legislation is required to re-allocate the fees and fines that licensees pay, this provides a potential opportunity for the CCB to take steps to develop a fund to help support the social equity consumption lounge licensees.*

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 stops 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.

Regulation 6: Production & Distribution of Cannabis

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

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 a reasonable hourly rate established by the Board ~~Necessary travel accommodations accrued by Board agents, including airfare and hotel stays, An hourly fee~~ The cannabis establishment will be billed 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 reasonable hourly rate established for the Board agents ~~as determined by the budget of the Board.~~ Licensees will be notified of any fee changes.

→ *It does not seem fair for costs incurred by the industry to be based upon the Board's budget. These costs should be based upon the amount of time and effort required to investigate. SB195 states that the hourly rate must be reasonable.*

~~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 from the Board 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 [business/calendar] days after receipt of the CCB Invoice. Failure to pay such costs upon the due date is a Category VII violation pursuant to NCCR 4.061.

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. **The Board shall make the requested documentation available to the licensee or applicant within XX [business/calendar] days of receiving such request.**

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.

We look forward to a productive workshop and, as always, appreciate the opportunity to contribute to the regulatory environment in which we operate.

On behalf of the Chamber of Cannabis and our members, thank you for your thoughtful consideration of the suggestions outlined in this document.

Highest regards,



Abby Kaufmann

on behalf of the Commerce Committee

Chamber of Cannabis

secretary@cofclv.org

Tuesday, May 14, 2024

Cannabis Compliance Board
700 Warm Springs Rd, Ste 100
Las Vegas, NV 89119

Via email to: regulations@ccb.nv.gov

Re: Solicitation of Input on NCCR 1, 4, and 6.

Dear Cannabis Compliance Board and Director Humm,

On behalf of Green Thumb Industries, Inc. (“GTI”), I respectfully submit these written comments in response to the proposed permanent regulations issued by the Nevada Cannabis Compliance Board (CCB) to NCCR Regulations 1, 4, and 6, regarding proceedings before the Board and disciplinary actions. We have carefully reviewed the proposed regulations and wish to offer our feedback on a few key topics, which are crucial for fostering compliance and fairness within the cannabis industry:

I. NCCR 1.083 “Diversions” defined.

We respectfully request clarification on the definition of "diversion" to specify what actions would constitute a violation. Understanding what constitutes diversion is crucial for compliance. For example, would inadvertently dispensing more cannabis in a transaction than allowed be considered a diversion by way of a “transfer of cannabis or cannabis product from a lawful to an unlawful channel of distribution or use?” Would selling to an underage person or selling medical products to recreational customers fall under the definition of diversion? Clarifying these scenarios would provide much-needed guidance to industry participants and would help prevent unjust disciplinary actions and excessively severe penalties for minor or inadvertent violations.

II. NCCR 4.020 (3): First Notice

We respectfully request the determination of the "First Notice Date" be adjusted to be the date of ultimate determination or adjudication rather than the date a cannabis establishment had knowledge or reasonably should-have-known.

The determination of the "First Notice Date" presents challenges under the current policy and could lead to unfair outcomes. It would be more equitable for the First Notice Date to coincide with the date of ultimate determination or adjudication. This adjustment ensures that parties are informed of violations at a point when they can adequately respond and rectify any issues.

III. NCCR 4.035(2)(a)(2), 4.040(2)(a)(3), 4.050(2)(a)(4), 4.055(2)(a)(5)(6)(7):

We appreciate the CCB taking the necessary step to reduce fines. However, the concept of progressive discipline remains extreme. Nevada should prioritize compliance over fines, recognizing that fostering a culture of compliance is paramount for the industry’s long-term success. The automatic imposition of

suspensions for second or subsequent violations, as outlined in these sections and other similar sections, is unduly harsh. Instead of mandating suspension, the language should be revised to offer the option of a fine, a suspension, or both for subsequent violations. This approach aligns better with the goal of fostering compliance without overly punitive measures, while still giving the DCC the authority and flexibility to take appropriate disciplinary actions.

We recommend the following revision to all relevant sections:

Replace "[fine] and a suspension" with "[fine] **and/or** a suspension" to provide flexibility in disciplinary actions for subsequent violations.

* * *

We value the collaborative approach taken by the CCB in soliciting feedback from stakeholders. By addressing these concerns and implementing the suggested revisions, the CCB can create a more effective and fairer regulatory framework that promotes compliance and responsible business practices within the cannabis industry. Should you require any further clarification or information, please do not hesitate to contact us.

Best Regards,

Tiffany Newbern-Johnson
Director of Government Affairs

Silver State Government Relations



Principals

Will Adler – will@ssgr.us
Sarah Adler – sarah@ssgr.us

Associates

Morgan Biaselli – morgan@ssgr.us
Alex Tanchek – alex@ssgr.us

May 13, 2024

Dear Staff of the Cannabis Compliance Board,

On behalf of GTI Nevada, I write with profound frustration regarding the continued neglect of the "lot size" definition in NCCR 1.125 and its impact on Nevada's cannabis testing program. Despite our formal request on January 30 and April 30 workshops, this crucial topic is again absent from the agenda for this May 14 workshop.

Nevada's outdated lot sizes—five pounds for flower and 15 pounds for trim—set over a decade ago, lag behind more progressive approaches in other legal markets. This not only stifles businesses with undue economic strain but also fails to justify why these arbitrary limits persist.

The silence on this issue is unacceptable. Two years have passed since the Sierra Cannabis Coalition petitioned for change, yet the CCB has shown no significant effort to engage with industry stakeholders on this critical matter.

Moreover, the high costs of recreational cannabis, driven by excessive testing expenses, push consumers toward the black market. Untested cannabis products found outside retail cannabis stores pose a far greater risk to the health cannabis consumers of Nevada as illicit market cannabis lacks any safety testing. The goal should be to provide Nevadans with the cleanest cannabis experience possible, but one that is something which is affordable to consumers, as that will ensure the greatest health to the most cannabis consumers. This risk can be mitigated by making legal cannabis more affordable and accessible through sensible regulation.

The consumers of cannabis in Nevada deserve an explanation for this continued omission and the immediate inclusion of "lot size" in the May 14 workshop agenda. GTI Nevada will continue to petition the Cannabis Compliance Board as necessary to ensure this matter is addressed. The integrity of Nevada's cannabis market depends on it.

All the best,

Will Adler
Principal
Silver State Government Relations