Coalition for Patient Rights: Administration
Post Office Box 750865
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Managed By: MSO
www.COALITIONFORPATIENTRIGHTS.org

POSITION STATEMENT:
Labeling Cannabis With Compassion For Patients Rights

The Coalition for Patient Rights (CPR) is committed to advancing the rights of all patients in the pursuit of accessing safe and effective medical cannabis treatments. From the heartbeat of our patients,

CPR finds that labeling of products is paramount to providing medical quality products for treatment, and that no form of irradiation or remuneration after detection is acceptable. The point of testing for these items was to remove them for public safety reasons. Failed products should be removed from consumption as clearly indicated by the need to test for them in the first place. The solutions is NOT to irradiate and sell the dead biomass of bacteria or fungi.
Without science to support this action, it is unethical and unacceptable.

CPR supports the addition to the regulations for labeling, specifically:

"If the cannabis was treated with any process approved by a Board Agent for the purpose of reducing or eradicating microbial contamination at any time postharvest, a disclosure of the type of treatment process used" be on the label. 12.030 (f), 12.035 (k), 12.040 (h), 12.045 (l).

Our position is based on current empirical data that cannabis is also used for medical reasons and treatment by the ***majority*** of the "adult use" population. For patients to use cannabis safely, proper labeling is paramount. All consumers must be aware of any treatment of their cannabis, including any potential for biomass in their products from unwanted bacterial or fungi cells.

CPR would like to state that killing the biomass of bacteria and or fungi and selling it anyway, is unethical, and an unacceptable solution to positive detection, on a public safety issue. The testing regulation was put in place to protect the public safety. This becomes a complete failure if the solution for public safety is allowing the same biomass for consumption with remunerative or prophylactic irradiation; or any other treatment.

Thank you
/Jason Greninger/
PR Coalitions for Patients Rights
Legislative & Congressional Outreach Coordinator

May 15, 2024

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

Submitted via email to regulations@ccb.nv.gov

Subject: Public Comment & Workshop Input for May 2024 CCB Meeting

Dear Executive Director Humm and CCB Board Members,

I will likely be unable to attend this month's public CCB meeting and, therefore, am writing to share our organization's feedback on today's hearing and to provide general public comment.

Firstly, on behalf of the members of our organization, thank you for the diligent and thoughtful work you have put into the first set of regulatory changes under the APA. The CCB's consideration of industry input is evident and appreciated, particularly in regards to the following NCCRs as outlined in the notice of today's hearing:.

- 5.140 - Lowering cost of replacement agent card, from $75 to $40
- 6.010 - Increasing the daily purchase limits to align with the provisions of SB277 that the Chamber of Cannabis advocated for in the last legislative session
- 6.120 / 12.070 - Consolidating guidances into regulation for clarity and to reduce the risk of unintentional violations due to conflicting information
- 7.050 - Increasing the delivery limits to 12.5 ounces from the originally proposed increase to 10 ounces; this final change is more aligned with the new purchase limits and will improve efficiency
- 12.030 - 12.045 (inclusive) – Requiring labels to disclose the type of treatment process used if cannabis was treated for microbial contamination at any time postharvest (eliminating the need for 12.065)

Since the initial March 2024 workshop regarding these regulations, our Committee has identified one potential area of concern in 12.015(1a). Objectively the purpose of this disclosure is directly tied to consumer safety. The current language helps ensure that consumers do not over consume by informing them that the effects may take up to two hours. We believe that, in light of new technology that allows for faster-acting effects, it may be equally important to make the consumer aware of the potential for immediate effects. Or at least an indication that the onset times vary significantly.

Lastly, and independent of today's hearing, I urge the CCB to continue exploring ways to clarify, reduce, and improve annual agent card costs by reducing the number of card categories. During the past few workshops, the topic of agent cards has been identified as a significant concern. Understanding that the fees charged for an agent card are largely dictated by statute and somewhat out of the CCB's hands, the CCB does have regulatory authority to revise NCCR 5.150.

Currently, the cost of an agent card is $150 per category and each card is valid for 2 years. If you are applying for multiple categories of cards such as cultivation, production, and dispensary, you must apply for a card for each category at $150 each.

There are currently EIGHT different categories of agent cards in our state. This limits employer's hiring capabilities, discourages cross-training, and prevents agent card holders from gaining a comprehensive understanding of the supply chain without taking on a significant expense each year.

We cannot expect to attract and retain talent if many of our neighboring states do not subject their agents to this redundant and costly practice.

- Oregon OLCC - Marijuana Worker Permit
- Colorado DOR - MED Employee License
- Arizona ADHS - Marijuana Facility Agents (with 2nd category only for labs)

The CCB has indicated that it is actively looking into the potential consolidation or creation of a uniform card category. We would appreciate an update regarding the timeline for this decision and what the industry can do to help move this forward.

Thank you,

Abby Kaufmann
Chamber of Cannabis
secretary@cofclv.org

TISHA R. BLACK
JAMES L. WADHAMS

C. JOSEPH GUILD III
J. RUSTY GRAF

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May 15, 2024

Sent Via Electronic Mail
regulations@ccb.nv.gov

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

Cannabis Compliance Board
3850 Arrowhead Drive, Suite 100
Carson City, NV 89706

Re: **Comments on Proposed Amendments to Regulations [NCCRs] 4, 5, 6, 7, 12, and 13**

Dear Chair Guzman Fralick, Board Members, and Executive Director Humm:

In conjunction with the Cannabis Compliance Board's (CCB or Board) "Notice of Hearing for the Adoption of NCCR 4,5,6,7, 12 and 13" setting a hearing for May 16, 2024 and inviting public comments, the law firm of Back & Wadhams (B&W) hereby submits its comments to the regulations as permitted and required for the CCB to consider pursuant to NRS 233B.061(1). B&W reserves the right to provide further comments (as permitted by NRS 233B.105, inter alia) to the Legislative Counsel Bureau (LCB) in conjunction with the LCB review of the proposed regulations as required by NRS 233B.063 and NRS 233B.0633 and NRS 233B.064.

In the event the CCB fails, refuses or declines to incorporate the comments and suggestions herein, B&W respectfully requests pursuant to NRS 233B.064(2) that the CCB "issue a concise statement of the principal reasons for and against [the proposed regulations'] adoption, and incorporate therein its reason for overruling the consideration urged against its adoption."

Notwithstanding the foregoing, B&W's comments on the proposed regulations are as follows:

NCCR 4.065(2): B&W has no comment on the proposed revisions to this regulation.

NCCR 5/140(4): B&W supports the reduced application fees, as fees charged by the CCB should merely offset actual regulatory costs rather than serve as a source of revenue (i.e. a tax) for the CCB.

NCCR 6.101, 7.025 and 7.050: B&W supports the revisions to conform the regulations to statutory standards and limitations.

NCCR 6.080(8)(c): Although B&W supports the apparent goal the regulation seeks to address, we note the lack of a specified time for the licensee to conduct the referenced investigation. We respectfully suggest that language be added indicating a that an investigation conducted by management personnel may take a reasonable amount of time, in the judgment of the licensee under the circumstances, and that the results of such investigation be reported withing 24 hours of the conclusion of that investigation.

NCCR 6.080(8)(c), 6.120(2), and 6.120(3): the use of the term "appropriate board agent" used in the proposed revisions to these regulations needs to be defined. Perhaps using the definition as follows: ""appropriate board agent" means the board agent designated by the board for the purposes of approval, notice, or review for the purposes of licensee compliance with Regulations 6.080(8)(c), 6.120(2), and 6.120(3)."

NCCR 6.085(1)(a): B&W suggests that the proposed language "secured with accompanied written standard operating procedures for security measures" is grammatically incorrect and imprecise, and that the language be replaced with "secured according to the cannabis establishment's approved standard operating procedures for security".

NCCR 6.120(1)(c)(3): The proposed regulation revision directly regulates licensee speech, and therefore must directly further a compelling governmental interest and burden no more speech than is necessary. The proposed language does not articulate what interest is purported to be served by the revisions and provides no standards or guidance as to who determines and/or is responsible for making the determination of the percentage of "persons who will attend that event are less than 21 years if age". As proposed, the revisions are improperly vague and standardless, and provide little guidance for licensees seeking to comply with the regulation. Accordingly, B&W respectfully suggests the proposed regulation be withdrawn and that additional public workshops address the issues raised herein. In the absence of such withdrawal, B&W respectfully requests that the board "pass upon" the constitutional validity of the proposed regulation in accordance with NRS 233B.110(1).

NCCR 6.120(1)(d): B & W has no comment on the proposed revision to this regulation.

NCCR 6.120(2) and (3): B & W has no comment on the proposed revision to this regulation other than the comments set forth above regarding the need to define the term "appropriate board agent".

NCCR 6.120(4): Please see comments above with regard to the proposed amendments to NCCR 6.120(1)(c)(3); like the previous section, this proposed regulation mandates an analysis be performed with proffering any standards, definitions or guidelines. Rather, it announces a very vague goal, and leaves it to the licensee to provide a compliant analysis despite the lack of standards, definitions or guidelines. The proposed regulation is so vague as to make it nearly impossible for a licensee to demonstrate compliance, and equally impossible for the Board to establish non-compliance. B&W respectfully suggests this provision be withdrawn, like the proposed revisions to NCCR 6.120(1)(c)(3), and that additional workshops be held to address the shortcomings of this proposed regulation.

NCCR 7.030(1)(a) and 12.015(5)(c): Like the other commercial speech provisions discussed above, these proposed regulations directly regulate commercial speech, i.e. product branding and trade dress, in a way that is vague and ambiguous. In addition, the proposed revisions to NCCR 7.030(1)(a) and 12.015(5)(c) are actually inconsistent and conflict, because proposed NCCR 12.015(5)(c) contains an exception for licensee "logos" not contained in NCCR 7.030(1)(a). A similar exception for "fruit" exists in the proposed revisions to NCCR 12.070(6)(a), and is not referenced in the proposed revisions to NCCR 7.030(1)(a) and 12.015(5)(c). As a regulation of speech, the proposed regulations must burden no more speech than is necessary to advance a compelling governmental interest. One would be hard pressed to identify a compelling interest that would justify a ban on products branding that features a mascot, balloon, or fruit. In essence, the proposed regulation is overbroad and so vague (and subject to scattered exceptions in the proposed regulations) as to fail to alert licensees just what branding or trade dress would violate the regulation, leaving licensees to seek advisory opinions from the CCB (which may just be another name for prior restraints of commercial speech) to assure compliance with the poorly drafted regulation. Again, B&W respectfully suggests the proposed regulations be withdrawn and that additional public workshops address the issues raised herein. In the absence of such a withdrawal, B&W respectfully requests that the board "pass upon" the constitutional validity of the proposed regulations in accordance with NRS 233B.110(1).

NCCR 12-010 through 12.050: B&W has no comment on the proposed revisions to this regulation.

NCCR 13.010: B&W respectfully suggest the term "risk to public safety" needs to be defined, as the term is so vague as to fail to specify the situations in which a licensee must act, and gives such broad discretion to the board as to make potential violations subject to the whims and unfettered discretion of the board.

B&W thanks the board for the opportunity to comment upon these regulations. Should the board have any questions or concerns, they may be directly to Rusty Graf (RGraf@BlackWadhams.Law) or to Paul Larsen (Plarsen@BlackWadhams.Law).

We thank you for your anticipated review and consideration of these comments.

Sincerely,

BLACK & WADHAMS

/s/ Paul E. Larsen

Paul E. Larsen, Esq.
PLarsen@BlackWadhams.Law

JRG:ar

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KIMBERLY MAXSON-RUSHTON
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FILE NO.

May 15, 2024

Adriana Guzman Fralick, Chair
Nevada Cannabis Compliance Board
700 E. Warm Springs Road, Suite 100
Las Vegas, Nevada 89119

Re: Proposed Regulations 12.030, 12.035, 12.040 and 12.045

Dear Chair Fralick:

Please accept this correspondence on behalf of RAD Source Technologies, Inc. ("RAD") in response to the recent addition of new language to proposed Cannabis Compliance Board ("CCB") Regulations 12.030(1)(f), 12.035(1)(k), 12.040(1)(i) and 12.045(1)(i).

RAD Source Technologies

For over twenty years RAD has been the industry leader in manufacturing renewable, non-isotope, ionizing radiation products utilized in various applications worldwide. Specific to the cannabis industry, RAD is the developer of the RS 420 Line of X-ray Irradiators, which are safe, well studied and widely used, world-wide in decontaminating cannabis. The RS 420 Line of equipment also operates within parameters prescribed by the U.S. Food and Drug Administration to treat food products and is a safe alternative to gamma source irradiators.

Procedural History of NCCR 12.065

In 2020, the CCB, attempted to promulgate NCCR 12.065, which mandated that product labels include a warning about irradiation of cannabis. Specifically, on May 29, 2020, the newly formed CCB published the initial (draft) regulations relative to Nevada's cannabis industry. Included in the notice was an invitation to interested persons to submit comments to the proposed regulations on or before June 9, 2020. CCB Regulation 12.065 was not included in the initial (draft) regulations.

On June 18, 2020, a regulatory workshop was held whereby the initial (draft) regulations were consider in anticipation of the initiation of the CCB, effective July 1, 2020. NCCR 12.065 was not included in the regulations noticed for consideration, nor was there any discussion about it during the workshop.

On or about July 3, 2020, the CCB published the "*final* Proposed Regulations of the Nevada Cannabis Compliance Board set for Consideration and Adoption on July 21, 2020." CCB Regulation 12.065 was published for the first time and noticed to the public "for final adoption."

On July 7, 2020, the Eighth Judicial District Court entered an Order Granting Rad Source Technologies, Inc. Petition for Writ of Mandamus wherein the Dept. of Taxation and its successor agency were directed to cease all actions intended to prohibit RAD from operating in Nevada's cannabis industry.

Thereafter, on July 21, 2020, the CCB considered and adopted NCCR 12.065.

On August 19, 2020, RAD submitted a letter to the CCB requesting adherence to the District Court Order and the repeal of NCCR Regulation 12.065. See, attached Exhibit 1.

On December 1, 2020, consistent with the terms of a Settlement Agreement entered into by and between RAD and the State, RAD submitted a Petition to Repeal or Amend NCCR 12.065.

On December 18, 2020, the CCB suspended NCCR 12.065 pending further workshops on the regulation. See, attached Exhibit 2.

As the CCB is aware, NCCR 12.065 was the subject of much discussion and debate between 2020 and 2022. However, on December 28, 2022, the Legislative Commission objected to the Regulation, thereby precluding it from being enacted. See, attached Exhibit 3. Eighteen (18) months later, the language *originally proposed* in NCCR 12.065, having been deemed unlawful pursuant to a District Court Order, is (finally) being repealed.

Procedural History of Proposed CCB Regulations 12.030, 12.035, 12.040 and 12.045

In October 2023, following the passage of Senate Bill ("SB") 328, the CCB noticed a workshop to consider possible changes to CCB Regulation Chapter 12 – Labeling. The draft regulations, proposed in anticipation of the October workshop, did not contain the language recently added (in May 2024) to Regulations 12.030, 12.035, 12.040, and 12.045.

In January 2024, the CCB held a workshop to Solicit Input on Regulation. As the meeting minutes reflect there was minimal discussion regarding proposed changes to CCB Regulation 12.

In March 2024, the CCB held a second regulatory workshop to consider proposed changes to CCB Regulation Chapter 12 – Labeling. Similarly, the draft regulations published by the CCB and

discussed during the March workshop did not contain the newly added language in Regulations 12.030, 12.035, 12.040, and 12.045, which are currently before the Board for consideration and adoption[1].

Nevada Administrative Procedures Act

Pursuant to Nevada law, a state agency must afford all interested persons a reasonable opportunity to submit information, orally or in writing, expressing their views and opinions about a proposed regulation. Nevada Revised Statute ("NRS") 233B.061(1). To meet this legal requirement, a state agency shall conduct at least one regulatory workshop prior to adoption of a permanent regulation. See, NRS 233B.060 and 233B.061. See, attached Exhibit 4.

In this instance, the CCB has yet to hold a workshop to consider the newly proposed "remediation" language. As a result, interested persons, such as RAD, have not had the opportunity to participate in the rulemaking process as authorized pursuant to Nevada's Administrative Procedure Act (NRS 233B). Since the law does not allow the CCB to hold a workshop on the same day as the hearing to approve substantive regulations, RAD respectfully submits that Regulations 12.030, 12.035, 12.040 and 12.045, as proposed, are not ripe for final adoption.

Conclusion

In conclusion, my clients and I would like to thank the CCB for your consideration of the procedural concerns raised herein. As always, RAD welcomes the opportunity to participate in regulatory workshops and continue the dialogue about its X-ray irradiation technology, which is widely used by organizations such as the American Red Cross, Mayo Clinic and the FDA's National Center for Toxicological Research, as well as by medical facilities and universities worldwide for the safety of patients and consumers.

Sincerely yours,

/s/ Kimberly Maxson Rushton

Kimberly Maxson Rushton, Esq.

cc: J. Humm, Ex. Dir.
W. Hartman, RAD
G. Terry, RAD
E. Hone, Esq.

[1] It should be noted that none of the written comments submitted to the CCB in October 2023, January 2024, or March 2024, in response to the proposed changes to Regulation Chapter 12, requested that this "new" language be added.

RAD SOURCE TECHNOLOGIES

EXHIBIT 1

MAY 15, 2024

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FILE NO. 98001/00172

August 19, 2020

Mr. Tyler Klimas, Executive Director
Nevada Cannabis Compliance Board
555 E. Washington Avenue, Suite 4500
Las Vegas, NV 89101

Re: RAD Source Technologies, Inc.

Dear Director Klimas:

On behalf of my client RAD Source Technologies, Inc. ("RAD Source") we respectfully submit this letter as a request that the Cannabis Compliance Board ("CCB") adhere to the attached Court Order and immediately lift the (now deemed) *unlawful moratorium* and allow the use of RAD Source's RS 420 Line in Nevada's cannabis industry.

As the CCB is well aware, on June 24, 2020, the District Court specifically found that *"[i]onizing radiation is a safe, widely utilized, and well-studied process that is used in marijuana decontamination, sterilization....and agriculture, among others."* Based on the Findings of Fact, the Court ordered the now CCB, formerly Dept. of Taxation – Marijuana Enforcement Division to not interfere with, block or otherwise prohibit licensed marijuana establishments from using the RS 420 Line. The Court further ordered the CCB cease and desist mandating that the RS 420 Line meet Food & Drug Administration requirements ("FDA"). Yet, despite the unambiguous language of the Order the CCB continues to withhold its approval/authorization of the product.

Further prohibiting the operation of the RS 420 Line are the new requirements, which the CCB has imposed *following receipt of the Court's ruling*. Specifically, the requirement that RAD Source's customers file a Material Change form for a product used prior to moratorium (thus, no material change pursuant to the Court Order) and mandating the inspection and approval of products used in conjunction with RS 420 Line.

To this point I refer you to the attached letter from True Liberty Bags. Bags produced by True Liberty are used in conjunction with RS 420 Line and meet FDA standards. Recently, the CCB unilaterally determined that it is necessary to approve the use of the bags, and more specifically to approve the bags for use in x-ray decontamination and sterilization despite: (1) the CCB already having

information showing the bags were approved for gamma irradiation; and (2) provisions of the Court Order expressly stating that there is no difference between gamma and x-ray irradiation. In short, the CCB's actions regarding the bags ignore both basic science *and* an issue already decided by a court in favor of RAD Source. Thus, in addition to the fact that the approval of bags is a new requirement,[1] RAD Source submits that the failure to timely approve said bags is evidence of the heightened restrictions the state continues to impose on the RS 420 Line. As a result of the state's actions, RAD Source has been directly and negatively impacted.

Although RAD Source and its counsel have spent a significant amount of time and effort explaining the science behind the RS 420 Line and the safe use of it in the cannabis industry, we'd welcome the opportunity to meet with you and members of the CCB. ***Our goal is to work with the state and to serve as a partner with the CCB to ensure the safety of cannabis produced in Nevada.***

Due to the concerns raised herein, as well as other issues articulated in a prior letter dated August 7, 2020, and attached hereto, RAD Source requests that the CCB take the following immediate actions: (i) issue an industry notice advising applicable licensees that the use of ionizing radiation technology is not prohibited nor deemed unsafe for use in the cannabis industry; (ii) grant written approval to each cannabis licensee requesting permission to use RS 420 Line in order for them to do so without fear of disciplinary action; and, (iii) open a regulation workshop to address CCB Reg 12.065. As noted previously in multiple written correspondences to the CCB and its counsel, the regulation was not properly nor timely noticed pursuant to NRS 678A and, as currently written, it fails to meet the legal standard of general applicability.

On behalf of my client, we appreciate your consideration of this request and more importantly, your immediate attention to the attached Court Order. As noted, my client and I welcome the opportunity to meet with you and members of the CCB to introduce you to RAD Source and further explain its products. We are confident that a discussion of this nature will lend itself to the CCB having complete confidence in RAD Source and its products.

Sincerely,

Kimberly Maxson-Rushton, Esq.

Enclosures
cc: M. Douglas, Chair
W. Hartman
G. Terry

[1] "New" meaning that the CCB did not previously require approval for products such as this, nor is there is any applicable law (NRS 678A-D and CCB Regulation) prohibiting the use of these bags.

ORDG
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

RAD SOURCE TECHNOLOGIES, INC., a Florida Corporation, Plaintiff, vs. THE STATE OF NEVADA *ex rel.* DEPARTMENT OF TAXATION, MARIJUANA ENFORCEMENT DIVISION, Defendant.	Case No.: A-19-805074-W Dept. 29 **ORDER GRANTING RAD SOURCE TECHNOLOGIES, INC.'S PETITION FOR WRIT OF MANDAMUS**

This matter came before the Court for hearing on January 15, 2020 and January 22, 2020 on Plaintiff RAD Source Technologies, Inc. ("RAD Source")'s *(1) Motion for Order to Show Cause Why a Writ of Certiorari, Mandamus, and/or Prohibition Should Not Issue; (2) Alternative Motion for Preliminary Injunction; and (3) Application for Order Shortening Time* (the "Motion"). Having fully reviewed the Motion as well as the exhibits and declarations attached thereto; the opposition filed by the Defendant The State of Nevada *ex rel.* Department of Taxation, Marijuana Enforcement Division (the "Department") and the exhibits thereto; the reply in support of the Motion filed by RAD Source the exhibits and declarations attached thereto; all evidence and argument presented at the January 15, 2020 and January 22, 2020 hearings; RAD Source's *Response to February 4, 2020 Minute Order* filed February 20, 2020 and the exhibits thereto; and

RAD Source's *Amended Complaint and Petition for Writ of Certiorari, Mandamus, Prohibition, Declaratory Judgment, Intentional Interference with Contractual Relations, and Intention Interference with Prospective Economic Advantage* filed December 12, 2019, and good cause appearing, the Court makes the following Findings of Fact and Conclusions of Law and enters an Order granting RAD Source's Petition for a Writ of Mandamus:

FINDINGS OF FACT

1. RAD Source is a private company that was founded in 1997 and which develops and manufactures renewable, non-isotope, ionizing radiation products worldwide.

2. RAD Source's patented and proprietary QUASTAR® technology produces high output X-ray radiation efficiently and reliably for a wide variety of irradiation applications including blood, cell and tissue, insects, biological research, and viral inactivation.

3. RAD Source's equipment is utilized in these various applications throughout the United States and worldwide.

4. Currently, RAD Source's equipment resides in hundreds of major pharmaceutical labs, healthcare institutions, and renowned universities worldwide. RAD Source's client list includes the American Red Cross, the Mayo Clinic, and the U.S. Food and Drug Administration's National Center for Toxicological Research.

5. Irradiation is the process by which an object is exposed to radiation, i.e., energy transmitted in waves or streams of particles. Types of electromagnetic radiation include visible light, radio frequency, microwaves, infrared light, ultraviolet light, X-rays, and gamma rays.

6. Ionizing radiation is a term describing the effect of removing electrons from an atom. FDA and USDA regulations allowing the use of ionizing radiation for pathogen reduction, antimicrobial decontamination, and phytosanitary treatment do not distinguish between gamma or x-ray produced ionizing radiation. In short, it is widely understood and accepted that gamma and x-ray irradiation are functional equivalents.

7. Ionizing radiation is a safe, widely utilized, and well-studied process that is used in marijuana decontamination, sterilization, blood transfusion, immunology and oncology research, and agriculture, among others.

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8. X-ray irradiation technology is accepted by the American Red Cross, the Mayo Clinic, and the U.S. Food and Drug Administration's National Center for Toxicological Research, as well as by medical facilities and universities throughout the United States and the world.

9. Ionizing radiation is recognized as a safe and effective method to treat food for human consumption by FDA, the World Health Organization (WHO), the Centers for Disease Control and Prevention (CDC), and the U.S. Department of Agriculture (USDA).

10. Irradiation is beneficial for prevention of foodborne illness, preservation, control of insects, delay of sprouting and ripening, and sterilization.

11. Ionizing radiation, and in particular X-rays, will not cause any of the irradiated products to become radioactive or leave any radioactive residue.

12. RAD Source is the developer of the RS 420 Line of X-ray Irradiators, which are used for the safe and effective treatment of marijuana.

13. Title 21, Chapter I, Subchapter B, Part 179 of the Code of Federal Regulations ("C.F.R.") specifically uses the term, and permits, "ionizing radiation" for food treatment. The regulation further sets forth the operational parameters for X-ray equipment that is approved for use on food. RAD Source's RS 420 machines are fully compliant with these parameters.

14. Within the United States, the RS 420 Line has been used to treat marijuana in many state-regulated marijuana markets outside Nevada.

15. The RS 420 machines conform to federal safety and operational guidelines for cabinet X-ray devices, and are surveyed for emission safety on two occasions before being put into use.

Public Health and Safety Concerns Related to Untreated Marijuana

16. Given the multiple steps involved in harvesting, drying, processing, and packaging marijuana, it can be difficult to maintain perfectly sterile conditions throughout the entire marijuana production process. In order to ensure the safety of the product ultimately

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delivered to the consumer, growers utilize decontamination processes in the everyday processing of marijuana product and in converting quarantined product into safe, useable product.

17. Moreover, just like cultivating any other crop, marijuana is subject to a wide range of potential contaminants including yeast, mold, insects, and other pathogens.

18. The most concerning pathogen in the marijuana industry is Aspergillus. There have been documented cases of medicinal marijuana patients who have died from aspergillosis, a condition caused by inhaling Aspergillus spores. The Department recently issued a public health and safety advisory warning concerning the presence of Aspergillus in Nevada marijuana, highlighting the importance of this issue and the significance of potential impact on the health and safety of Nevada citizens and consumers.

The RS 420 Line Was in Use in Nevada for Two Years Before the Department Imposed a "Moratorium" on the Use of the Machines

19. From March 2017 through March 2019, Nevada marijuana growers utilized the RS 420 Line in everyday processing of marijuana to reduce yeast, mold (e.g., Aspergillus), and other pathogens and in converting quarantined product into safe, useable marijuana product.

20. In March 2019, without any prior notice to RAD Source, the Department informed RAD Source customers they were not allowed to continue using the RS 420 Line of equipment.

21. RAD Source immediately and consistently engaged in communications with the Department to try to resolve any concerns the Department may have regarding its technology.

22. On April 9, 2019, Dave Witkowski, DOT Inspector II, communicated to RAD Source a list of six criteria that the Department required in order to approve the use of irradiation instrumentation utilizing ionizing radiation to treat marijuana and marijuana products.

23. The following week, the Department acknowledged that RAD Source had addressed all but one of the six criteria to its satisfaction. The single remaining item the Department required was certification from the U.S. Food and Drug Administration ("FDA") or a letter of exemption from FDA (the "FDA Requirement").

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The Single Remaining Item on the Checklist, the FDA Requirement, Is Impossible to Obtain

24. Marijuana and anything made from marijuana, such as edible marijuana products, do not constitute "food" regulated by FDA.

25. Marijuana is a controlled substance under the Controlled Substances Act ("CSA") and its production, possession, and distribution are federally proscribed. 21 U.S.C. § 801 *et seq.* Therefore, it is not possible for RAD Source, nor any end user or any other party, to obtain FDA approval for devices used to process marijuana.

26. In its effort to appease the Department, RAD Source reached out to FDA to inquire as to the possibility of obtaining some form of certification or letter of exemption per the Department's request and requirement for the same. In response, a representative of FDA informed RAD Source that: (i) the request being made by the Department is impossible as marijuana products do not constitute food; and (ii) FDA, as a federal agency, will not review or issue any certification or letter of exemption on a marijuana product because it is not legally permitted under federal law.

27. RAD Source had multiple discussions with Department representatives and counsel, in person and over the phone, and providing documentation explaining (1) marijuana is not a "food" and therefore is not subject to FDA oversight, and (2) as marijuana is a federally controlled substance, it is impossible to satisfy the FDA Requirement.

28. However, the Department continued to prohibit the use of the RS 420 Line based on the FDA Requirement.

29. The FDA Requirement is not embodied, or in any way referenced, in any Nevada Revised Statute or Nevada Administrative Code provision. Instead, the Department appears to have created the FDA Requirement outside of the Department's standard process of enacting rules and regulations and outside of the procedures required under Nevada's Administrative Procedures Act, as codified in NRS Chapter 233B.

30. The Department has not required other marijuana treatment processes or equipment to meet the FDA Requirement.

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CONCLUSIONS OF LAW

1. "A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion." *Nevada Yellow Cab Corp. v. Eighth Judicial Dist. Court in & for Cty. of Clark*, 132 Nev. 784, 787, 383 P.3d 246, 248 (2016) (quoting *Humphries v. Eighth Judicial Dist. Court*, 129 Nev. 788, 791, 312 P.3d 484, 486 (2013)). For a writ to issue, generally a party must not have "an adequate and speedy legal remedy." *Id.*

2. The Department is prohibited under Nevada law from creating regulations that make the operation of recreational marijuana establishments unreasonably impracticable. NRS 453D.020(1); NRS 453D.020(3); NRS 453D.200(f).

3. The Department violated NRS 453D.200(f) and failed to perform acts which the law compels it to perform by prohibiting the use of the RS 420 Line without any justification, hearing, or notice.

4. Additionally, the Department violated NRS 453D.200(f) and failed to perform acts which the law compels it to perform by creating impossible standards for RAD Source to meet, namely requiring FDA certification or an FDA letter of exemption in order to lift the ban on the RS 420 Line.

5. To the extent the Department's actions were an exercise of discretion, the Department has acted arbitrarily and capriciously by banning RAD Source's RS 420 Line, which is a safe and effective method for treating marijuana.

6. To the extent the Department's actions were an exercise of discretion, the Department has acted arbitrarily and capriciously by requiring RAD source to meet impossible and inapplicable requirement of obtaining FDA certification or FDA letter of exemption before approving the RS 420 Line for treating marijuana.

7. To the extent the Department's actions were an exercise of discretion, the Department has acted arbitrarily and capriciously by applying different standards to similarly situated competitors.

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8. Additionally, when an agency engages in conduct that constitutes the making of a regulation, it must adhere to the notice and hearing requirements set forth under NRS 233B.060 and 233B.061. *S. Nevada Operating Engineers Contract Compliance Tr. v. Johnson*, 121 Nev. 523, 528, 119 P.3d 720, 724 (2005).

9. An agency engages in prohibited ad hoc rulemaking when it promulgates standards of general applicability that effect policy without complying with the Nevada APA. *See Las Vegas Transit Sys., Inc. v. Las Vegas Strip Trolley*, 105 Nev. 575, 780 P.2d 1145 (1989); NRS 233B.038.

10. The Department's self-defined "moratorium" on ionizing radiation technology is in violation of Nevada's Administrative Procedures Act because the moratorium was enacted in violation of NRS Chapter 233B.

11. RAD Source was denied a right to appeal the Department's decisions and actions. Therefore, there is no plain, speedy, and adequate remedy in the ordinary course of law to correct the Department's failure to perform the acts required by law or to correct the Department's arbitrary and capricious use of discretion.

12. If any of the Conclusions of Law are properly findings of fact, they shall be treated as thought appropriately identified and designated.

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ORDER

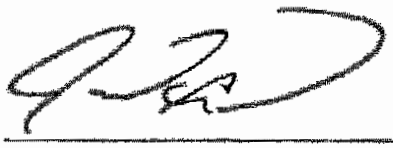
IT IS HEREBY ADJUDGED ORDERED AND DECREED that Plaintiffs' Petition for Writ of Mandamus is GRANTED. The Department of Taxation is hereby ordered to (1) immediately lift the prohibition on the RS 420 Line and allow the RS 420 machines to return to operation, and (2) cease and desist from requiring the RS 420 Line to meet the impossible FDA Requirement.

DATED this 7th day of July 2020.

DISTRICT COURT JUDGE
DEPARTMENT 29

Prepared and submitted by:

H1 LAW GROUP



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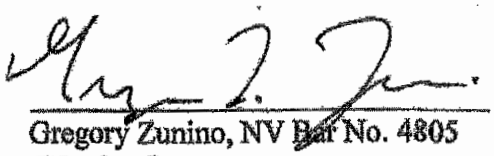
Attorneys for Plaintiff RAD Source Technologies, Inc.

Approved by:

OFFICE OF THE ATTORNEY GENERAL



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August 15, 2020

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Jennifer Díaz
Owner

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August 7, 2020

Via Email

Gregory Zunino
Deputy Solicitor General
100 N. Carson St.
Carson City, NV 89701
GZunino@ag.nv.gov

RE: *RAD Source Technologies, Inc. v. State of Nevada, Department of Taxation, Marijuana Enforcement Division*, Case No. A-19-805074-W

Dear Mr. Zunino:

As you know, this firm represents RAD Source Technologies, Inc. ("RAD Source"), the Plaintiff in the above-referenced action against the State of Nevada Department of Taxation, Marijuana Enforcement Division (the "Department") pending in the Eighth Judicial District Court (the "Action"). In addition, attorney Kimberly Maxson-Rushton of Cooper Levenson, who is copied on this letter, represents RAD Source with regard to certain issues arising from recent actions of the Cannabis Compliance Board (the "CCB") discussed further below.

The purpose of this letter is twofold. First, we want to apprise you of retaliatory actions by the CCB, as successor to the Department, following: (a) the entry of a minute order (the "Minute Order") in the Action on June 24, 2020 indicating the Court therein would be entering a writ of mandamus lifting the arbitrary and capricious "moratorium" on RAD Source's x-ray irradiation machines imposed by the Department in or around March 2019; and (b) the July 8, 2020 entry of the Order Granting RAD Source Technologies, Inc.'s Petition for Writ of Mandamus (the "Writ"). Second, RAD Source proposes a resolution of the Action and all pending issues regarding actions of the Department and the CCB in the hopes that further litigation against the Department, the CCB, and certain employees thereof can be avoided and with the goal of establishing a positive relationship between RAD Source and the CCB on a going-forward basis.

The CCB's Refusal to Abide by the Writ of Mandamus and Interference with RAD Source's Existing and Prospective Customers

It was abundantly clear from the June 24, 2020 Minute Order that an order granting RAD Source's petition for writ of mandamus in the Action was inevitable. At the same time, the Department had approached FlowerOne, one of RAD Source's customers, months earlier to propose a safety study using a RAD Source machine. The results of that study only provided more confirmation of precisely what RAD Source had been demonstrating to the Department since March 2019; namely, that there was no legitimate concern regarding the safety or efficacy of RAD Source's technology. Nevertheless, the Department attempted to fight over the form of the order, and only agreed to the form of the order prepared by our office consistent with the submissions to the Court and the Court's ruling after we brought the FlowerOne Study to your attention.

The Writ was entered by the Court July 7, 2020. However, even after the Department, whose responsibilities shortly thereafter transitioned to the CCB but continued to be directed by the same employees, learned via the Minute Order that it had lost on RAD Source's writ petition, it continued in its efforts to interfere with RAD Source's customers. And those efforts did not cease with the entry of the Writ.

Specifically, on or about June 30, 2020 – after entry of the Minute Order and after the parties agreed to the form of the Writ – RAD Source learned that the Department and in particular Kara Cronkhite (formerly a Department employee, now a CCB employee, and the principal Department employee involved in the RAD Source "moratorium" and the Department's refusal to engage in good faith with RAD Source throughout 2019, thereby necessitating the Action) unilaterally had determined that RAD Source units needed to be "approved" by the CCB prior to use. Irrespective of the Writ or the fact that RAD Source's customers previously had been notified by the Department that "cultivation equipment did not require approval," RAD Source's customers were advised: (1) RAD Source machines could not go back into operation until a material change form was submitted and thereafter the machines were inspected and approved by the Department/CCB; and (2) the customers would need place warning labels on all products treated with a RAD Source machine.

With respect to the attempt to impose a labeling requirement, on June 30, 2020, I sent you an email stating:

> I am advised that Kara Cronkhite sent an email to Flower One this afternoon advising the study was acceptable but now seeking to impose new conditions on the use of RAD Source machines, including a requirement that all product treated with the RAD Source machine have a warning label. Can you please find out what that is about and let me know. Obviously this could have a significant impact on how this matter proceeds.

You promptly responded, stating in part "I suppose that they could impose a labeling requirement by way of a regulation duly promulgated in accordance with the APA. I don't see where they have a good deal of leverage to impose it as a requirement of a litigation settlement." Based upon this response, RAD Source presumed there would be no further attempts to interfere with its customers via a labeling requirement, or at minimum the CCB would follow the proper procedures for implementing regulations that fairly and equally apply to anyone providing remediation and sanitation technology and equipment in Nevada. Unfortunately, as discussed further below, this has turned out not to be the case.

As for the purported form/inspection/approval requirements that exist nowhere within the applicable statutes or regulations and which directly contradict the express and unqualified language of the Writ, on or about July 8, 2020, RAD Source learned that additional customers had been contacted by the CCB and advised that submission of the change form, followed by an inspection and approval by the CCB would be required before the RAD Source machines would be allowed to return to operation. Accordingly, on July 8, 2020, I sent you an email stating, in pertinent part:

> RAD Source is now informed by some of its customers that inspectors are requesting they fill out and submit forms for the RAD Source machines to be inspected and approved. We have reviewed the pertinent statutes and regulations, and don't see anything that could apply. Also, I'm sure you can appreciate how this looks, particularly given the timing, and the potential implications for the litigation. Can you please look into this and advise at your earliest convenience.

On July 9, 2020, you responded to my email, stating, "I have voiced my concerns to the Department. I am going to be in depositions all day today and tomorrow. I have asked Michelle and/or Laena to help out here if this reaches a boiling point." Since that time, we have heard nothing further from the AG's office. RAD Source has been informed, however, that this continues to be an issue, and that the CCB is attempting to hold up approvals – which it has no authority to require in the first instance - over such trivial issues as bags which are commonly used in the industry but which the CCB has stated need to be proven safe for x-ray irradiation (i.e., another example of the CCB and its employees willfully disregarding the findings of the Court in the Action and basic science).

As a direct and proximate result of the "moratorium," the CCB's refusal to allow RAD Source's machines to return to operations, and the continued harassment of RAD Source's existing customers, RAD Source has been unable to make new machine sales since March 2019. There are multiple existing and prospective customers of RAD Source who have indicated they are holding off on purchasing new or additional equipment from RAD Source until they know for certain they will not be targeted by the CCB and subject to disciplinary actions for operating the machines they would like to purchase. Additionally, there is at least one RAD Source customer that has stopped making payments for its machine to RAD Source, specifically indicating that it will not pay for a machine it is not permitted to use. Given the cost of a single RAD Source

machine, the damages RAD Source has sustained over the last sixteen months are in excess of one million dollars.

The CCB's Attempt to Adopt A Regulation Exclusively Targeting RAD Source

On May 29, 2020, the CCB published initial draft regulations pertaining to the Nevada cannabis industry, accompanied by a notice requesting public comments on the proposed regulations pursuant to NRS Chapter 241 by June 9, 2020. On June 18, 2020, the CCB held a regulatory workshop during which the proposed regulations were presented to the members of the CCB. The public notice of the June 18 meeting contained the draft regulations in substantially the same form as those published on May 29, 2020. In particular, the draft regulations published May 29, 2020 and attached to the notice for the June 18, 2020 meeting contained nothing pertaining to labeling of cannabis and cannabis products sterilized and/or decontaminated using radiation, as the Department and CCB understands to be the case for users of RAD Source machines.

Thereafter on or about July 3, 2020 – which followed the entry of the Minute Order, the submission of the Writ to the Court in the Action, and our June 30 email exchange discussed above - the CCB published "final Proposed Regulations of the Nevada Cannabis Compliance Board set for Consideration and Adoption on July 21, 2020," which for the first time included CCB Regulation 12.065.

> Proposed Regulation 12.065 – Cannabis treated with radiation.
> *If any cannabis or cannabis product has been treated with radiation at any time, any and all packaging of the irradiated cannabis or cannabis product must include labeling that contains the following statement: "WARNING: This product contains ingredients that have been treated with irradiation" in bold lettering, along with the Radura symbol as used by the US Food and Drug Administration.*

After learning of proposed CCB Regulation 12.065, RAD Source retained Ms. Maxson-Rushton. On July 20, Ms. Maxson-Rushton sent a letter to the CCB, a copy of which is attached, addressing the multiple procedural and substantive problems with the proposed regulation clearly targeting RAD Source. *See id.*

Ms. Maxson-Rushton's letter and the issues with proposed CCB Regulation 12.065 were discussed in the CCB's July 21, 2020 meeting. Further, both CCB Chair Douglas and CCB Member Neilander expressed concerns about procedural and substantive issues regarding the proposed regulation. Ms. Maxson-Rushton thereafter attempted to further discuss the issues regarding proposed CCB Regulation 12.065 with CCB Counsel, Senior Deputy Attorney General Asheesh Bhalla (copied on this letter).

On July 28, 2020, Ms. Maxson-Rushton sent Mr. Bhalla an email stating in pertinent part:

> Based on the clear statutory language set forth below I don't see how CCB Regulation 12.065 can be included in the "adopted" regulations. The first notice of the regulation was on July 3, 2020, a non-judicial day, which clearly doesn't meet the 30- day noticing obligation nor does it meet the directives set forth in NRS 678A.460(1)(b). Additionally, RAD does not think removal of the term "warning" goes far enough in ensuring the "general applicability" standard for regulations.
>
> **NRS 678A.460 Regulations: Procedure for adoption, amendment and repeal. [Effective July 1, 2020.]**
> 1. The Board shall adopt, amend and repeal regulations in accordance with the following procedures:
> (a) At least 30 days before a meeting of the Board at which the adoption, amendment or repeal of a regulation is considered, notice of the proposed action must be:
> (1) Posted on the Internet website of the Board;
> (2) Mailed to every person who has filed a request therefor with the Board; and
> (3) When the Board deems advisable, mailed to any person whom the Board believes would be interested in the proposed action, and published in such additional form and manner as the Board prescribes.
> (b) The notice of proposed adoption, amendment or repeal must include:
> (1) A statement of the time, place and nature of the proceedings for adoption, amendment or repeal;
> (2) Reference to the authority under which the action is proposed; and
> (3) Either the express terms or an informative summary of the proposed action.

To date, Ms. Maxson-Rushton has received no communication in response to her request for clarification and/or explanation of the subject CCB Regulation.

The Ramifications of the Department and CCB's Actions

As you are aware, but perhaps the CCB does not fully appreciate, among RAD Source's claims in the Action are claims for intentional interference with contractual relations and intentional interference with prospective economic advantage. While RAD Source already had sufficient evidence to prevail on these particular claims based upon the actions of the Department in 2019, the continued intentional actions of the Department and the CCB have further solidified RAD Source's claims. Moreover, the Department, the CCB, its employees are not protected by discretionary immunity for intentional torts or bad faith actions. *See Estate of Sauceda v. City of N. Las Vegas*, 380 F. Supp. 3d 1068, 1086 (D. Nev. 2019) (NRS 41.032 does not shield government actors from liability for intentional torts."); *Jones v. Las Vegas Metro. Police Dep't*, 873 F.3d 1123, 1133 (9th Cir. 2017) (Decisions made in bad faith are not protected under the

immunity statute even if they arise out of a discretionary function). As such, in addition to being in contempt of the Writ – which in and of itself exposes the State to contempt sanctions and an award of RAD Source's attorneys' fees and costs resulting from the contempt - summary judgment on RAD Source's tort claims is warranted and highly likely.

Furthermore, on December 23, 2019, RAD Source served the Department with an Offer of Judgment in which RAD Source offered to accept a judgment dissolving the "moratorium" and a payment of $99,000.00. The first part of the offer already has been ordered by the Court in adjudicating RAD Source's writ petition, and given the damages RAD Source has sustained as a result of the Department and CCB's tortious conduct, it inevitably will obtain a damages judgment in excess of $99,000.00. At that point, the State will be obligated to reimburse RAD Source for its post-offer attorneys' fees and costs. *Arnesano v. State ex rel. Dept. of Transp.,* 113 Nev. 815 (1997); *LVMPD v. Yeghiazarian*, 129 Nev. 760 (2013). Due to the continued actions of the Department and now the CCB, those amounts will be substantial, especially if RAD Source is required to amend its pleadings, add parties, and prosecute its claims to final judgment.

RAD Source's Proposed Resolution

It is in the parties' mutual best interests to establish a positive working relationship and to put an end to the ongoing Action before it escalates. Thus, while the Department dug itself into a hole and it appears the CCB is intent on making the hole deeper, RAD Source is offering the State a way out. Specifically, RAD Source offers to fully and finally resolve the Action and any and all claims arising from or related to the actions of the Department and the CCB as follows:

1. The CCB agrees to withdraw proposed CCB Regulation 12.065 and further agrees: (a) that any proposed notice regarding processes or equipment for the decontamination and remediation of cannabis and cannabis products will be a public notice on the CCB website, and not a CCB regulation; and (b) any proposed notice will be factually accurate and will apply equally to any and all processes or equipment for the decontamination and remediation of cannabis and cannabis products.

2. The Department and the CCB, jointly and severally, will pay RAD Source the sum of $75,000.00 to settle all claims and compensate RAD Source for a portion of its attorneys' fees and costs.

3. Contingent upon compliance with items (1) and (2) above, the parties will mutually release any and all claims and RAD Source will dismiss with Action with Prejudice.

This offer shall remain open for acceptance through **5:00 p.m. PST on Friday, August 14, 2020**. If we have not heard from you by that time, or should you reject this offer, then RAD Source will proceed as it deems necessary and appropriate in the Action.

We look forward to hearing from you.

Sincerely,

Joel Z. Schwarz
H1 LAW GROUP
attachment
cc (via email): Eric Hone
Kimberly Maxson-Rushton
Asheesh Bhalla
Michelle Briggs
William Hartman
George Terry

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EMAIL: krushton@cooperlevenson.com

July 20, 2020

Honorable Michael Douglas, Chair
Nevada Cannabis Compliance Board
555 E. Washington Ave. Ste. 4100
Las Vegas, NV 89155

RE: Proposed Regulations of the Cannabis Compliance Board

Dear Chair Douglas:

Please accept this correspondence on behalf of RAD Source Technologies ("RAD") in response to the recent addition of Cannabis Compliance Board ("CCB") Regulation 12.065 to the proposed draft regulations.

RAD Source Technologies

For over twenty years RAD has been the industry leader in manufacturing renewable, non-isotope, ionizing radiation products utilized in various applications worldwide. Specific to the cannabis industry, RAD is the developer of the RS 420 Line of X-ray Irradiators, which are safe, well studied and widely used in decontaminating marijuana. The RS 420 Line of equipment also operates within parameters prescribed by the FDA to treat food products and is a safe alternative to gamma source irradiators.

Procedural History

Relative to the subject regulation, on or about May 29, 2020 the CCB published the initial (draft) regulations pertaining to Nevada's cannabis industry. Included in the notice was a request that interested parties submit comments to the proposed regulations on or before June 9, 2020. CCB Regulation 12.065 was not included in the initial (draft) regulations.

On June 18, 2020, a regulatory workshop was held whereby the proposed regulations were submitted to members of the CCB in anticipation of the initiation of the CCB's oversight effective July 1, 2020. Included in the meeting notice were the proposed draft regulations, comments submitted on

or before June 9, 2020 and public comments submitted pursuant to Nevada Revised Statute ("NRS") Chapter 241 – **Meetings of Local and State Agencies.** CCB Regulation 12.065 was not in the draft (regulations) attached to the June 18, 2020 Notice of Regulatory Workshop.

Thereafter on or about July 3, 2020, the CCB published the further revised "final Proposed Regulations of the Nevada Cannabis Compliance Board set for Consideration and Adoption on July 21, 2020," which now includes proposed CCB Regulation 12.065. This being an entirely new regulation, not subject to prior review, comment and/or input, RAD respectfully request that adoption be tabled pending further clarification of the regulatory intent and corresponding nexus to NRS Chapters 678A-D. Notice and hearing requirements are not mere technicalities but instead they are essential to the adoption of valid rules and regulations. *State Farm v. State, Comm'r of Ins.*, 114 Nev. 535, 958 P.2d 733, 738 (1998).

Regulation 12: Packaging and Labeling of Cannabis Products

Proposed Regulation 12.065 – Cannabis treated with radiation.
If any cannabis or cannabis product has been treated with radiation at any time, any and all packaging of the irradiated cannabis or cannabis product must include labeling that contains the following statement: "WARNING: This product contains ingredients that have been treated with irradiation" in bold lettering, along with the Radura symbol as used by the US Food and Drug Administration.

Nevada defines a regulation as an "agency rule, standard, directive or statement of general applicability which *effectuates or interprets law or policy*, or describes the organization, procedure, or practice requirements of an agency." NRS 233B.038 (emphasis added). Although exempt from NRS 233B, CCB maintains the obligation of ensuring that the applicability and purpose of a regulation relates (in some way) to the governing statutes and that it be of general applicability. As drafted proposed Regulation 12.065 fails to meet either standard.

The statutory requirements specific to labeling cannabis and cannabis products are primarily contained in NRS 678B.520 and 678D.420. Neither statute requires or even discusses the necessity of labeling in the manner suggested in CCB Regulation 12.065 primarily because the warning isn't used in the cannabis industry but instead is applicable to food and food products as overseen by the U.S. Food and Drug Administration. As the CCB is aware, a Nevada court will not hesitate to declare a regulation invalid when it exceeds the statutory authority of the agency. *State, Div. of Insurance v. State Farm*, 116 Nev. 290, 995 P.2d 482, 485 (2000); *Clark Co. Social Service Dep't v. Newkirk*, 106 Nev. 177, 179, 789 P.2d 227, 228 (1990); *Roberts v. State*, 104 Nev. 33, 37, 752 P.2d 221, 223 (1988).

Moreover, the proposed language is overly broad and inaccurately infers a public safety concern with products treated by irradiation. However, it's been proven that irradiation is beneficial in preventing foodborne illnesses, preservation, control of insects, delay of sprouting and ripening and sterilization that may be present in untreated products for human consumption; whereas, radioactive isotopes (gamma sources) pose an environmental and security risk.

The regulation is also not of general applicability but instead specifically targets RAD and its cannabis customers in Nevada. If the regulatory intent is to alert consumers about the products used by cultivators to ensure public safety then the language must be expanded to include the use of: ozone, ultra-violet lights, gamma sources, Radio Frequency ("RF") Radiation, electromagnetic energy waves, and RF photons. Accordingly, in order for CCB Regulation 12.065 to meet the "general applicability" requirement it must apply equally.

For the reasons articulated herein RAD respectfully requests that proposed Regulation 12.065 be withdrawn from consideration by the CCB until said concerns have been addressed. At a minimum, RAD requests that the proposed language be modified to remove the term "WARNING" as there is no evidence that irradiation is unsafe. Additionally, to avoid confusion and ensure general applicability RAD recommends that the regulation specifically describe the multiple ways in which cannabis or a cannabis product may be "treated with radiation."

Conclusion

In conclusion, my clients and I would like to thank the CCB for your consideration of the comments set forth herein. RAD welcomes the opportunity to have further discussions with the CCB about the RS 420 Line, which is used in many state regulated cannabis markets nationwide. Furthermore, its X-ray irradiation technology is accepted by the American Red Cross, Mayo Clinic and the FDA's National Center for Toxicological Research, as well as by medical facilities and universities worldwide. Without question, ensuring consumer safety is RAD's top priority.

Should the CCB have any questions or require further information / documentation regarding RAD and / or the RS 420 Line, please do not hesitate to contact me.

Sincerely yours,

Kimberly Maxson Rushton, Esq.

cc: T. Klimas, Ex Director
W. Hartman, RAD
G. Terry, RAD

RAD SOURCE TECHNOLOGIES

EXHIBIT 2

MAY 15, 2024

From: Nevada Cannabis Compliance Board [mailto:ccb-noreply@ccb.nv.gov]
Sent: Friday, December 18, 2020 2:58 PM
To: Maxson-Rushton Kimberly
Subject: Solicitation of Input on Proposed Amendments and/or Additions to NCCR 12.065

[redacted]

CANNABIS COMPLIANCE BOARD
STATE OF NEVADA

Solicitation of Input on Proposed Amendments and/or Additions to NCCR 12.065

December 18, 2020

To: All Licensees and Other Interested Persons

Nevada Cannabis Compliance Board Regulation (NCCR) 12.065 requires a label with a Radura symbol, along with a notice, be included on cannabis or cannabis products treated with radiation.

Given the variety of radiation methods being used, the CCB will hold a public workshop on NCCR 12.065 and any other labeling requirements regarding cannabis and cannabis products treated with radiation on January 19, 2021.

The labeling requirement in NCCR 12.065 will not be required until the CCB considers the information gathered at the public workshop.

Solicitation of Input
The CCB requests input from interested parties on **amendments and/or additions to NCCR 12.065** and asks interested parties to submit written suggestions, **specific to regulation NCCR 12.065**, via

email as indicated below. All public input will be considered in preparing the proposed regulation for adoption. **All input received will be posted online after the comment period has ended**.

All regulations of the NCCR are available to view and can be found on the CCB's website at **https://ccb.nv.gov/laws-regulations/.**

The CCB will accept emailed public input until **5:00 p.m. PST on January 4, 2021**. All comments should be emailed to: **regulations@ccb.nv.gov**. Please ensure comments are submitted in PDF or MS Word format.

A formal public workshop will be noticed and held on January 19, 2021. Interested parties will have the opportunity to submit additional public comment during the workshop.

Nevada Cannabis Compliance Board

Carson City Office Location:
1550 College Parkway, Suite 142
Carson City, NV 89706

Las Vegas Office Location:
555 E. Washington Avenue, Suite 4200
Las Vegas, NV 89101

RAD SOURCE TECHNOLOGIES

EXHIBIT 3

MAY 15, 2024

MINUTES OF THE 2021-2022 INTERIM LEGISLATIVE COMMISSION

DECEMBER 28, 2022

The meeting of the Legislative Commission was called to order by Chair Yeager at 1:41 p.m. at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada, and via videoconference at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, Nevada. The meeting was adjourned at 5:44 p.m.

All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMISSION MEMBERS PRESENT IN LAS VEGAS:

Assemblyman Steve Yeager, Assembly District No. 9; Chair
Assemblyman Gregory Hafen, Assembly District No. 36
Assemblywoman Sandra Jauregui, Assembly District No. 41
Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1
Senator Nicole Cannizzaro, Senatorial District No. 6
Senator Scott Hammond, Senatorial District No. 18
Senator Dallas Harris, Senatorial District No. 11

COMMISSION MEMBERS PRESENT IN CARSON CITY:

Assemblywoman Jill Dickman, Assembly District No. 31
Assemblywoman Alexis Hansen, Assembly District No. 32
Senator Pete Goicoechea, Senatorial District No. 19
Senator Ira Hansen, Senatorial District No. 14

COMMISSION MEMBERS PRESENT VIA WEBCONFERENCE:

Senator Roberta Lange, Senatorial District No. 7

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Brenda Erdoes, Director
Roger Wilkerson, Deputy Director
Dan Rushin, Chief Financial Officer
Heidi Remick, Chief Human Resources Counsel
Neil Baker, Deputy Human Resources Counsel
Kevin Powers, General Counsel, Legal Division
Asher Killian, Chief Deputy Legislative Counsel, Legal Division
Nicolas Anthony, Research Director, Research Division

Cesar Melgarejo, Principal Policy Analyst, Research Division
Sarah Coffman, Assembly Fiscal Analyst, Fiscal Analysis Division
Daniel Crossman, Legislative Auditor, Audit Division
Broadcast and Production Services Staff, Administrative Division
Angela Hartzler, Secretary, Legal Division
Jordan Haas, Secretary, Legal Division

OTHERS PRESENT:

Kimberly Maxson-Rushton, Cooper Levenson
Kathy Flanagan, Las Vegas Valley Water District
Nick Puliz, THC Nevada
Rob Slingerland, DEC Ops NV
Salpy Boyajian
Brett Scolari, Strategies 360
Adam Zarrin, Director, State Government Affairs, Leukemia and Lymphoma Society
Sean Sever, Deputy Administrator, Office of Project Management, Department of Motor Vehicles
John Dekoekkoek, Administrative Services Officer, Director's Office, Department of Public Safety
Caroline Bateman, General Counsel, Las Vegas Convention and Visitors Authority
Scott Gilles, Griffin Company
Dave Wuest, Executive Secretary, State Board of Pharmacy
Tyler Klimas, Executive Director, Cannabis Compliance Board
Kara Cronkhite, Chief, Inspection and Audit Division, Cannabis Compliance Board
Leslie Bittleston, Social Services Chief, Division of Child and Family Services, Department of Health and Human Services
Cindy Pitlock, Administrator, Division of Child and Family Services, Department of Health and Human Services
Martin Hefner, Management Analyst, Office of Project Management, Department of Motor Vehicles
Meghan Brown, Deputy Administrator, Division of Plant Health and Compliance, State Department of Agriculture
Bret Allen, Environmental Programs Coordinator, Division of Plant Health and Compliance, State Department of Agriculture
Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry
Jo Malay, Deputy Administrator, Division of Public and Behavioral Health, Department of Health and Human Services
Jennifer Pedigo, Executive Director, Nevada State Board of Veterinary Medical Examiners
Leticia Metherell, Health Program Manager, Division of Public and Behavioral Health, Department of Health and Human Services

Nick Stosic, Deputy Commissioner, Division of Insurance, Department of Business and Industry
Ryan Shane, Deputy Administrator, Division of Forestry, State Department of Conservation and Natural Resources
Mike Dzyak, State Fire Marshal, Department of Public Safety
Dave Brancamp, Director, Office of Standards and Instructional Support, Department of Education

Assemblyman Steve Yeager (Assembly District No. 9; Chair):

Good afternoon, everyone. Welcome to the eighth meeting of the Legislative Commission for this interim. Again, want to welcome those who are joining us here in person in Las Vegas, those who may be joining us in person in Carson City and anyone who might be watching on the internet. This afternoon we have seven members attending here at the Grant Sawyer Building in Las Vegas, four members at the Legislative Building in Carson City and one attending virtually. I think that means we have everybody here. That means we do have a quorum. I will admit that the folks up in Carson City are really, really small on our screen down here so, Senator Goicoechea, I may ask you to help me with managing folks up there if they have questions or helping to tally the votes when we get to that point.

Just a few quick housekeeping matters for folks. If you'd like to testify today, make sure to state and spell your name for the record before testifying. If anyone would like to receive a copy of the Commission's agendas, minutes or reports, you may be added to our mailing list by following the links on the Legislature's website or by providing information to our staff. Contact information for staff is also listed on the legislative website. In addition, we accept written comments, which may be emailed before, during or after the meeting. The information regarding where to send those comments is also on the website and listed on the agenda for this meeting.

That's going to take us to agenda item II, public comment. We'll be accepting public comment at this time from persons present here in the Grant Sawyer Building in Las Vegas, then from those up in Carson City, and then finally anyone wishing to provide comments by phone. If you prefer to wait to speak until later in the meeting, there will be a second period for public comment at the end of the meeting. Please remember that comments will be limited to not more than two minutes per person. I will be timing, so I'll let you know if you get close to those two minutes. We'll start here in Las Vegas. If there's anyone who would like to provide public comment, would ask you to just come forward. I think we have three chairs here, so feel free to go ahead and fill those chairs, and then please just remember to hit that microphone button, identify yourself for the record and provide public comment. Please, go ahead.

Kimberly Maxson-Rushton (Cooper Levenson):

Good afternoon, I'm Kimberly Maxson-Rushton with the law firm Cooper Levenson, appearing on behalf of Rad Source Technologies specific to item V-C, NCCR (Nevada Cannabis Compliance Regulation) 12.065. It's the Cannabis Board regulation. Prior to today's meeting, I did submit written comments and an overview of Rad's position relative to this regulation (Agenda Item II A). I will not belabor that but simply ask the Commission to please consider pulling the regulation and referring it back to the Board. This has been a long, complicated regulatory process, and at the end of the day, there were several members of the cannabis industry, as well as nonmembers such as Rad, that specifically requested that the language that is proposed be added to what we call a soil amendment versus the label of the cannabis product. Again, there is a regulatory history that explains the significance of that, but in brief, it's because that's where individuals would go to look for information about their cannabis product: pesticides that were used and other methods of treatment. In addition to referring it back to the Board and requesting that the language be added to the soil amendment versus the label, I would specifically recommend that the language be amended to say "for your health and safety." We recognize that the Cannabis Board felt it was very important that consumers were aware of the fact of how the cannabis product was treated, but in order to ensure that it's a general applicability and to ensure that individual consumers know that this is for their health and safety and are not misled into thinking that this is something that could otherwise harm them, we would specifically request again that the language say "for your health and safety" and be added to the soil amendment in lieu of the label. With that, Chairman, I'm happy to answer any questions, or I'm happy to come back during the time of your consideration to answer any questions.

Chair Yeager:

Great. Thank you so much for your public comment. Appreciate it. Please, go ahead.

Kathy Flanagan (Las Vegas Valley Water District):

Kathy Flanagan representing the Las Vegas Valley Water District in support of administrative regulation R109-22. The Las Vegas Valley Water District supports NDEP's (Nevada Division of Environmental Protection) effort to broaden the definition of disadvantaged community to include other factors such as disproportionate economic experiences, environmental and health issues, and high rates of unemployment. This revised definition will allow more communities in need to qualify for principal forgiveness loans to make water systems safe, reliant and reliable. In addition, the Las Vegas Valley Water District supports NDEP's implementation of loan origination fees for loan recipients not deemed as disadvantaged. As Nevada experiences an influx of federal aid for water infrastructure projects, it is reasonable for the recipients to financially support the office

tasked with distribution and administration of this assistance. In summary, we support these changes to Chapter 445A of Nevada's Administrative Code and the other revisions outlined in the regulation. Thank you.

Chair Yeager:

Thank you for your public comment. Please, go ahead.

Nick Puliz (THC Nevada):

I'm part owner and operator of THC Nevada cultivation. My comments are related to item V-C as well. I firmly oppose the new label requirements proposed here. With this updated label language, I have a question: what is the difference between pre-harvest microbial decontamination and post-harvest? Why would a bold label be required for just post-harvest treatment? How can we justify that post-harvest treatment is any different and/or more important for the consumer that is needed to go in bold letters directly on every product label? It was already decided that treatment methods were to be disclosed on the soil amendment by yourselves, the legislators, so why should post-harvest treatment be any different? This is very misleading to the consumer and will result in unintended consequences of reduced sales of clean, lab-passing taxable cannabis. There was testimony from a retail operator that the additional burden and risk of consumer confusion and possible loss of sales from the new label may cause them not to purchase product that is treated post-harvest. Since I believe there's no difference between pre- or post-harvest treatment, this proposed language fits perfectly to go on the soil amendment with the other decontamination methods: organicides, fungicides, pesticides. This is the whole purpose of the soil disclosure and is the most reasonable place to put the information. The soil disclosure is sent out to the dispensaries with every single order and is available at the dispensaries for anyone to view. The CCB (Cannabis Compliance Board) can put on their website and email blast or tweet to inform the public that if they are interested in the information on the cannabis they're purchasing to simply ask the dispensary for the soil disclosure or lab results. If this label is approved, it will significantly and negatively impact a large percentage of the flower that is sold on the dispensary shelves. This is a result of having the most strict lab testing standards in the country. Most cultivators need to do some form of treatment to pass the lab test. Putting this information on every label will scare and confuse the consumers as they are trained to think that bold labels are for the most important information about the products and for warnings about dangers with the products. All treatment methods we use must be approved by the CCB, and by approving them, the CCB is saying that they are safe to use. I am requesting this regulation be sent back to the CCB for further review and to change it so that the verbiage is placed where it belongs, which is on the soil disclosure. Thank you all very much.

Chair Yeager:

Thank you for your public comment. Please, go ahead.

Rob Slingerland (DEC Ops NV):

I am with DEC Ops NV, a Nevada cultivator based here in the county. Many of my comments were already made by my colleague in the industry who just spoke. Just to echo a few of those, and what we're talking about with these labeling requirements is a widely used, safe and previously approved treatment. I believe the proposed labeling requirements will create confusion and misunderstanding and are alarmist and will do more harm than benefit, as previously proposed. In addition, they're onerous and burdensome on the industry. We're talking about requirements for all facets of the industry: producers, cultivators, dispensaries. As a result of what is proven safe treatment, many dispensaries will choose not to likely do that given the additional burden that that's going to put on that, and that's an outcome I don't think any of us want. I work with operators in many other states and am familiar with many other states' regulations, and I'm not aware of another state that has made this requirement. I am aware of many states that have looked at it and come to a conclusion that onerous disclosure is not appropriate given the history and the benefit of this treatment. To echo my colleagues, I believe if some kind of labeling disclosure is required, the soil amendment is the appropriate place. It is available for consumers, available on request at the dispensary and is where similar things are found out today by consumers who are buying cannabis. Whether they've used pesticides or any other treatment, if a consumer is interested in that information, it exists on the soil amendment today, so this would be the appropriate place to have a similar kind of disclosure as well. I ask the Legislative Committee to please reconsider the implementation of this legislation. It would be burdensome and onerous at the time the cannabis industry is going through many growing pains and struggling today, and so let's not make it tougher for this industry to be able to succeed. I appreciate your time.

Chair Yeager:

Thank you for your public comment. Please.

Salpy Boyajian:

Hello, good afternoon. I'm also here speaking on item V-C. Without repeating everything that everybody just spoke on, I think what I was trying to figure out to do is how do I make sure that our message's being explained correctly and coming across correctly, knowing that this audience is maybe not necessarily all the experts in cannabis, but really just understanding why we're here and what our perspective is on this. I think one of the core things that I came to understand, which has been the back and forth we've been having

in all these multiple obviously times we've been in front of the CCB as well, is just understanding that the way in which this is being proposed to go on the label is what our concern is, number one, because it's allowing for potentially the misunderstanding of how that information is being presented as if it is something negative or something is wrong, and I think that's one of the key factors of these processes. For example, what is irradiation? I'm not sure if everyone in the group here knows what this does is literally for the health and safety of the consumer at the end of the day to ensure that the flower has no microbial issues in it. It's basically allowing for people to consume product that is fully safe. Once it is fully killed, it can never grow again in that flower. There are other cultivators that don't irradiate their product, hands down, absolutely. What we've found though time and time again is if you go and test any of that flower that's been sitting in a package months down the line—sometimes flower sits on shelves, sometimes it sits at home—if there's any sign of growth—and these other cultivators that passed testing definitely pass, but they don't pass with zero. That means there's some level of it in there, and when you put it in a sealed, closed package, what happens? It's microbials, it's mold and mildew. If it's in there at all, it is going to grow, but if it's been irradiated you have completely killed that and there's no chance of that regrowing because it's completely dead at the genetic level. I think this is the point that we've been trying to make, that making sure that the way in which we go about this is not misleading the consumer. We're all about informing them, educating them, providing the information. It's not a secret. Everyone knows who has the machines for the most part and who doesn't. We're not saying anything beyond that. But the way in which it's being presented to the end consumer who is not fully versed and educated is where this is potentially going to be a negative impact on all of the—I would say cultivators, all levels, producers, dispensaries, just because of how it all trickles down, down to the end users. That's just where I'm coming from. Thank you so much for your time. I really appreciate it. At least I can say, happy New Year.

Chair Yeager:

Thank you for your public comment, and happy New Year as well. Anyone else here in Las Vegas who'd like to give public comment? Okay, I don't see anyone coming forward in Las Vegas. Let's go up to Carson City, and I do see at least one person coming forward there. I cannot tell who you are because you're very small on my screen, but when you get to that microphone, if you could introduce yourself and provide public comment, please.

Brett Scolari (Strategies 360):

Thank you, Mr. Chairman, members of the Legislative Commission. Brett Scolari with Strategies 360. I won't get up and repeat, but I will echo what Ms. Rushton and the operators have stated already, and wanted to provide a little bit more background. Prior

to joining Strategies 360—I just recently joined, and I was General Counsel for Tryke Companies for almost 8 years. Tryke's a vertically integrated operator and was one of the first operators to use the Rad Source Technology. I will submit to you that I lived through that process to get that equipment approved, so there are already consumer protections built in even before you start using the machine. You have to submit an equipment request with the CCB that's reviewed, and then that is approved pending a final inspection. There's also an additional step on these types of equipment. You have to get it reviewed and certified by the Program of Radiation with the Department of Health Services, so that's an extra step, and then also, once this product is irradiated, it goes through its final testing. The product cannot hit those shelves or be offered for wholesale until you get a final pass on that. There are two very key consumer protections and public safety things built in even prior to the product hitting the shelf. I'll just leave you with this: the industry, I think, is grateful that you are listening to them today. The alternative that has been offered up by the industry and supported by member Durrett at CCB is a good alternative. These post-grow treatments can be included on that soil amendment. The industry knows that the public and the consumer deserves this information, and it can be included on that. We just ask for your support to direct us back to the CCB for another look at it. We appreciate it. Thank you.

Chair Yeager:

Thank you for your public comment. Is there anybody else in Carson City who'd like to give public comment?

Senator Pete Goicoechea (Senatorial District No. 19):

It looks all clean here.

Chair Yeager:

All right. Thank you, Senator. Let's go to the phone lines to see if there's anybody there who'd like to give public comment. BPS (Broadcast and Production Services), could you check the phones and let us know if there's anyone there for public comment, please?

Adam Zarrin (Director, State Government Affairs, Leukemia and Lymphoma Society):

Good afternoon, Chair Yeager and members of the Legislative Commission. I am the Director of State Government Affairs for the Leukemia and Lymphoma Society (Agenda Item II B). Our organization's mission is to cure blood cancers and improve the quality for patients and their families. As you continue to plan for the upcoming session, we want to thank the leadership and staff of the Legislature for the transition to hybrid meetings, and

on behalf of blood cancer patients and their families, we hope you will continue to offer remote testimony for the upcoming legislative session. The past 2 years have taught us the value of an accessible and responsive government, especially as we continue to cope with ongoing public health risks. For several reasons, the option to participate via a virtual platform or telephone has increased civic engagement for patients undergoing treatment for blood cancers and their health care providers. As you know, those undergoing cancer treatment are at higher risk of severe disease. Also, their providers often feel they cannot step away from their patients to participate in government processes. Finally, those living in remote areas of Nevada can quickly join without completing a several-hour round trip, which is why telemedicine has been so successful. Virtual or remote testimony mitigates all of these challenges. Again, on behalf of our patient and provider community, we respectfully request that you maintain virtual access options for public participation throughout the 2023 Session. We've also submitted a written statement to this issue. Thank you all again for supporting civic engagement and accessible government, and happy New Year.

Chair Yeager:

Thank you for your public comment, and I can confirm that we've received the written comments as well. Members, you'll find that in your packet. For members of the public, it is available online (Agenda Item II B). BPS, do we have anybody else on the phone for public comment?

Broadcast and Production Services Staff (Administrative Division, Legislative Counsel Bureau):

Thank you, Chair. The caller line is open and working, but there are no other callers wishing to offer public comment at this time.

Chair Yeager:

Thank you, BPS. Just by way of reminder, there will be a second round of public comment at the end of today's meeting. But for now, we'll close out agenda item II, and that'll take us to agenda item III, approval of the minutes. Committee members, you will have found in your packet the draft minutes for the September 27, 2022 Legislative Commission meeting (Agenda Item III). These draft minutes are also available on the Legislature's website. I'll first ask if there are any discussion or corrections on those minutes, and if not, I would be looking for a motion to approve.

ASSEMBLYWOMAN MONROE-MORENO MOVED TO APPROVE THE DRAFT MINUTES OF THE MEETING HELD ON SEPTEMBER 27, 2022.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Yeager:

That takes us through agenda item III. We're now on agenda item IV, which is our sixth court-mandated status report regarding the Nevada Department of Motor Vehicles' Technology Fee Refund Project. I believe we have Sean Sever on Zoom with us. I see him there. He is Deputy Administrator of the Department of Motor Vehicles. When you are ready, please go ahead and provide the report, and then we'll see if we have any questions.

Sean Sever (Deputy Administrator, Office of Project Management, Department of Motor Vehicles):

Thank you, Chair. Hello, Commission members. Sean Sever from the Nevada DMV (Department of Motor Vehicles). Thank you for the chance to update you on our Tech Fee Refund Project. Through November 30, the DMV has distributed more than $1.78 million of the $6 million available for this project. The DMV started issuing refunds by sending out checks to businesses on February 22 of this year. Over 61,000 business refunds were issued for close to $2.2 million. As of November 30, 44,767 business refunds have cleared for more than $1.6 million, or 74 percent of the business refunds. More than $3.8 million in customer refunds were made available to the public on April 4, and as of November 30, 57,000 of those refunds have been issued for more than $171,000, or almost 4.5 percent of the customer refunds. Many of the customers have told us to keep their refund, which is not reflected in these stats. The DMV has conducted a $15,000 advertising campaign, received good media coverage, and then also posted many times on social media to inform customers about the refund. We are proactively encouraging our customers to pick up their refunds when they visit our offices and plan on doing one final ad campaign after April 15 reminding customers to claim their refunds while they're waiting for their tax return refund. Any refunds remaining after June 30 of 2023 will revert to the State Highway Fund, pursuant to section 4.7 of Senate Bill 457 of the 2021 Legislative Session. Thank you for your time today, and I can answer any questions at this point.

Chair Yeager:

Thank you for the update, Mr. Sever. Commission members, this is an informational item only so it does not require action on our part, but we do have a chance to ask any questions of Mr. Sever. We'll start here in Las Vegas. Anyone with questions? I don't see any questions here in Las Vegas. Senator Goicoechea, how about up in Carson City? Anyone have a question for Mr. Sever?

Senator Goicoechea:

Nope, looks like we're off easy.

Chair Yeager:

Okay. Senator Lange, I know you're on Zoom, so if you ever have a question just unmute, pipe up and we'll go ahead and let you ask that question, or just raise your hand and I'll be able to see you. Okay, I think we—it doesn't look like we have any questions, but thank you, Mr. Sever, for being here to present. It's always good to see you, and we hope you have a great New Year.

Mr. Sever:

Thank you, Chair.

Chair Yeager:

That will close out agenda item IV, and that's going to take us to agenda item V, which really is the heart of today's meeting. We do have Chief Deputy Legislative Counsel Asher Killian with us in Carson City at the end of the videoconference today if we need assistance with this item. Now, I know some of you are attending your first Legislative Commission meeting today and probably some of you wish you were not attending today, but you are. We have four different kinds of regulations that we'll be considering today. I'll just kind of explain what those are as we go through each one.

We'll start with agenda item V-A. This is a request for early review pursuant to NRS (Nevada Revised Statutes) 233B.0681. This section of statute provides for the early review of a proposed permanent regulation after the agency has given notice of the hearing on the regulation but before the hearing is actually held. If the Legislative Commission, meaning us, approves the regulation under this early review section and the permanent regulation adopted after the agency's hearing is identical to the regulation submitted for early review, the Legislative Counsel is required to promptly file the regulation with the Secretary of State and notify the agency of the filing. If the regulation

that's adopted is not identical to the one that is approved here for early review, the regulation would have to come back to the Legislative Commission for approval in the same manner as if early approval had not occurred. Essentially, this is a way for an agency to get early approval before they go through the hearing process.

Today we have the Department of Public Safety regulation R164-22 for early review (Agenda Item V-A). A copy is posted on the Nevada Legislature's website under the tab for this meeting, which you will find by hitting the button in the upper right-hand corner which says "View Events." I believe we do have a representative from the Department of Public Safety on Zoom as well as other individuals here to answer any questions you may have regarding R164-22. I think probably it just makes the most sense if we could just have a brief description of what the regulation does and what it's seeking to accomplish, and then we'll see if there are any questions. I think we'll probably start on Zoom, if that makes sense. Again, please go ahead when you're ready.

Senator Goicoechea:

We don't have any audio here in the north.

Chair Yeager:

We do not have audio here either. I'm a good lip reader, but not that good. We'll see if we can get that squared away.

Broadcast and Production Services Staff:

We still can't hear you. If you want to click the caret next to the mute button and pull that up, and it says "select a microphone," you can change your microphone to—system and that might fix the problem. Still cannot hear you. Nope.

Chair Yeager:

Do you want to see if it works now? It looked like you were putting in some headphones to see, and we'll give it one more chance, and if not, we can take testimony down here in Las Vegas.

John Dekoekkoek (Administrative Services Officer, Director's Office, Department of Public Safety):

Can you hear me now?

Chair Yeager:

Yes. Whatever you did, it worked, so thank you for that.

Mr. Dekoekkoek:

I'm so sorry about that, Mr. Chair and the Commission. This regulation is essentially, on a high level, just allows the highway, or a highway as defined in NRS, to be classified as not a highway when it is closed either on an extended basis or on a temporary intermittent basis. What this will do will then allow during special events will allow advertising to be placed along that section of highway that is either temporarily closed or closed for an extended amount of time, up to 14 days. That is just a real high-level view of it. There is a Scott Gilles and a Caroline Bateman that should be on site in either Vegas or Carson City that can provide additional details regarding this NRS, but that is the high-level view.

Chair Yeager:

Thank you for that explanation, and thanks for working through those technical difficulties. We do have Ms. Bateman down here in Las Vegas, so I'll give you a chance to make any remarks you'd like to make before we open up for questions. Is your mic on, Ms. Bateman?

Caroline Bateman (General Counsel, Las Vegas Convention and Visitors Authority):

Oh, it may have turned off.

Chair Yeager:

Okay. No, that's okay. It's hard to tell from here, but my Commission members were telling me it wasn't on, so if you could start over, please?

Ms. Bateman:

Absolutely. Good afternoon, Legislative Commission members. I serve as the General Counsel for the Las Vegas Convention and Visitors Authority (LVCVA). With me in Carson City is Scott Gilles, our chief partner on legislative matters, and with Mr. Dekoekkoek and the Department of Public Safety (DPS), we worked together to prepare the proposed regulation for your early consideration. We'd like to thank Chair Yeager for granting us this early review. We know it's not done very often, so we appreciate that. Thank you to Ms. Erdoes, Mr. Fernley and the entire LCB (Legislative Counsel Bureau) staff for months of work that they have put in with us on this. Thank you to Director Togliatti, the entire

team at DPS, as well as the team at NDOT (Nevada Department of Transportation), which has provided us great feedback and input, specifically Chief Deputy Attorney General Gallagher, my former colleague, who has been a great partner as well.

Overview on this project is, as Clark County the last few years has hosted some pretty major events, we've had the event organizers reach out to us at the LVCVA on numerous occasions seeking a way to perhaps place commercial advertising on or near their event sites, but currently, existing statute prohibits commercial advertising on or in sight of highways except on a very few enumerated structures, such as touchdown structures, monorail stations, etc. The proposed regulation carves out an exception that Mr. Dekoekkoek had mentioned that would allow for such advertising by event organizers on structures, such as pedestrian bridges, bollards lining highways, etc., when roads are closed to vehicular traffic for a period up to 14 days. If an event organizer sought to intermittently open and close a road to vehicular traffic, it would have to obscure that advertising in a way that the public authority granting that commercial advertising would deem no longer constituted a hazard. The proposed regulation is by construction an enabling law. It will allow applicable local and public authorities to establish the parameters for such commercial advertising during special events, if they choose to allow it in the first place. Most authorities have existing procedures in place through permitting or license agreements for advertising on the statutorily permitted areas, and the proposed regulation will allow authorities to consider additional advertising areas.

We at the LVCVA are obviously very excited for the next 14 or so months as we prepare to host two of the biggest events, we believe, in the state's history, and that's the inaugural Formula 1 Las Vegas Grand Prix in November and then the Super Bowl just a few months later in February of 2024. The proposed regulation will provide the county and us downline a tool as we pursue additional, impactful events to the destination and work to keep the current events that we have already on the books. We appreciate the feedback we've received in collaboration with Clark County officials, especially Chair Gibson, Commissioner Kirkpatrick, Commissioner Naft and all their staff, including members of Public Works and their legal team, and Mr. Gilles and I, and Mr. Dekoekkoek are available for any questions, and we request your approval of the proposed regulation.

Chair Yeager:

Thank you so much for those comments, and thanks for the work on this regulation. I know you mentioned a lot of folks, but this was a regulation that required quite a bit of collaboration between agencies, and so thanks for making that happen. Do we have questions here in Las Vegas for our presenters on this regulation? Okay, don't see any in Las Vegas. How about up in Carson City? Any questions?

Senator Goicoechea:

Yes, Senator Hansen.

Chair Yeager:

Please.

Senator Ira Hansen (Senatorial District No. 14):

Thanks, Mr. Chair. Two questions: first, Scott, is it Gilles or is it Giles? I know which one it is; I want everyone else to know, because we had a question about this.

Scott Gilles (Griffin Company):

Thank you, Senator, for the opportunity. Scott Gilles with the Griffin Company on behalf of LVCVA here today. It is pronounced Gilles, and thank you for that opportunity to clarify.

Senator Hansen:

Okay, I just wanted to get that clear. We had a discussion about it earlier, and I'm sure it's Gilles but I heard two different versions in the testimony. The actual serious question, Mr. Chair: it's commercial advertising. What is the revenue, an estimated revenue, from this, and who gets the revenue? Does it go to the county? Does it go to the NDOT? Who determines what the amount you charge is for this commercial advertising?

Ms. Bateman:

I'm happy to take that question, Mr. Chair. The currently existing ordinances down in Clark County provide for such advertising already, as I mentioned, on monorail stations, on the touchdown structures that are on either side of escalators on the Strip and other areas in Clark County, as well as on a couple of other structures. The public authorities will actually be the enforcing agencies regarding size limitations, lighting, if they're LED signs, any other restrictions they believe are necessary for the safety of the public, safety of pedestrians and vehicles if those roads are opened up, etc. In terms of revenue, it would very obviously—depending on what event organizer we're discussing, it could be anything from the Las Vegas Marathon, when the streets are closed, all the way up to Formula 1. But the fees assessed would be determined by the local jurisdictions if those are the applicable parties. RTC (Regional Transportation Commission) also has advertising opportunities, and they would set those fees. Right now, I couldn't say what those fees are, but they will be discussed, I'm sure, in length during hearings by those local authorities on the licensing procedure, as well as the licensing agreements that would be in place for such advertising to take place.

Senator Hansen:

Okay, so we don't know where the revenue's going to go? The reason I bring it up is I know like, for example, to name a football stadium is tens of millions of dollars to have Levi Strauss or whatever on a stadium. I'm just wondering what the—you have no idea what the revenue could be? But also, I want to make sure it's going to some government agency that's in charge of the highways or something and not back into the pockets of the people actually putting on the event, but I didn't—where does the actual fees—whose pocket do they end up with when they're done paying their bill?

Ms. Bateman:

So the licensing fees, if the local authorities or the public authorities determine to go that route, would be assessed and collected by the local authorities as they are the enforcing agents. That may or may not be tied to any revenue that the event organizers would collect for that advertising. Senator, if it makes sense, at least on a Formula 1 level, it is not advertising that they would sell just for an event. They have events all over the world throughout the year, and so those would all be packaged in. But that would all be determined by the local authorities depending on how long, for example, that advertising will be in place, what kind of event it is, how impactful it might be in terms of how much advertising will be on the highways, etc.

Senator Hansen:

Okay, so it's somewhat indefinite it sounds like, but anyway, thank you. I'm for the regulation. It seems completely reasonable, but just want to make sure that some of that money ends up back in the pockets of the citizens that're providing the highway overpasses and stuff and not going into the pockets of whoever the big promoters are behind these things. Thank you, Mr. Chair.

Chair Yeager:

Thank you, Senator. Are there any other questions up in Carson City or on Zoom? I'm not hearing any, so I would be looking for a motion to approve agenda item V-A.

ASSEMBLYWOMAN MONROE-MORENO MOVED TO APPROVE REGULATION R164-22.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Yeager:

Thank you for that, and thank you for our presenters for being here as well today.

Ms. Bateman:

Happy New Year. Thank you very much.

Chair Yeager:

Happy New Year. Okay, that takes us through agenda item V-A. We're now going to go to agenda item V-B and consider a different type of regulation. This is a request by the State Board of Pharmacy to continue a regulation not adopted within 2 years after submission to the Legislative Counsel (Agenda Item V-B). This subsection, which is NRS 233B.040, provides that if the agency does not adopt a proposed regulation within the 2 years after the date on which the proposed regulation is submitted to the Legislative Counsel Bureau, the executive head of the agency shall appear personally before the Legislative Commission and explain why the proposed regulation has not been adopted within the prescribed 2-year period and request an extension of the prescribed time to allow the regulation to continue through the process to become a permanent regulation. I believe we have the Executive Secretary of the State Board of Pharmacy here with us on Zoom, I believe. Sir, if you'd like to go ahead and provide the explanation and request for an extension of time, please.

Dave Wuest (Executive Secretary, State Board of Pharmacy):

Thank you, Chairman. Dave Wuest, the Executive Secretary of the Board of Pharmacy. I'd like to thank you and your staff for putting this on the agenda. I do apologize for the timing. It is correct that we are just shortly out of the 2-year window. This is a regulation that came to be during COVID, the initial part of COVID. The Board did waive a regulation that required pharmacists to only provide pharmaceutical care in a pharmacy, so they couldn't do it through telehealth or anything like that. When we did that waiver through COVID, we noticed that it seemed to be a safe practice and it would be something that would extend pharmaceutical care to patients and allow pharmacists to practice in different areas. October 29 of 2020, we initiated the rulemaking process. As you've seen with other agencies, we missed seven meetings during COVID for reasons that were related to we had to miss the meetings, and then secondarily, we had three bills that affected this, and through the last legislative session, and we had regulatory rulemaking that we had to do on that, so this regulation ended up being—having to wait until all those

things were done. The Board has completed the regulatory process. They completed that on December 8. We were 29 days outside of the 2 years. I apologize for that. Typically I would just remove the regulation and restart, but this was a regulation that was generated from the industry and the licensees themselves. It does provide extra pharmaceutical care and more opportunities for people to talk to pharmacists and so. I thought it was worthwhile to at least ask permission. The item is already on your agenda on item D, if you were to allow us to move forward, and the regulatory process is complete at this time. I can answer any questions.

Chair Yeager:

Thank you for that explanation. Just in case Commission members didn't—

Mr. Wuest:

I'm not sure I was muted or unmuted—

Chair Yeager:

Oh no, we heard you. Thank you.

Mr. Wuest:

Okay, sorry.

Chair Yeager:

No, it's okay. Just to make it clear, you're asking for an extension of time because you missed the 2-year window, but this regulation is actually on agenda item D for potential approval today, assuming that this Commission approves your extension of the 2-year time period.

Mr. Wuest:

You would be able to vote on the regulation and that would be your choice. I'm not asking for any time beyond today.

Chair Yeager:

Great, that's helpful. I just haven't had that happen before as Chair of Leg Commission, so thanks for clarifying that it was on both agenda items.

Mr. Wuest:

I do apologize, and typically we would restart it, but I think there's a need for the community.

Chair Yeager:

Thank you. Well, before we consider a motion to grant that extension, let me see if there are any questions down here. Any questions in Las Vegas? Any questions in Carson City or on Zoom?

Senator Goicoechea:

Chair Yeager, I have one. I just want to make sure that, because we did come review these regs and go to public hearing on them during the pandemic, did we have adequate participation? I guess that's what's concerning me. I know you're talking about a crunched time frame, but realistically, did the consumer base have the ability to interact as well?

Mr. Wuest:

Yes, sir, I believe they did. I would point out to you that I don't think this is the final regulation about it. I think that the industry's changing. In the future, there might be more things that we could do to broaden this. We had to take a snapshot and move forward with that so that we could at least have the people do this now, but I do think that it's likely that you'll see this—we've received public testimony that they would want it to go further, and I think the Board's supportive of that. We just need to go through the regulatory process.

Senator Goicoechea:

Mr. Chair, follow up, if I may? Well, that does give me some pause. I don't mind saying it. You're saying okay, now this is just a snapshot, but we need to pursue—we need to go farther. Maybe we're better served by go ahead and going back to the process and getting it right. Thank you.

Mr. Wuest:

Was that a question or just a comment?

Chair Yeager:

Well, I think feel free to comment on that if you would like. Is there a reason to approve this regulation and build on it later or would it be your preference to start the process over?

Mr. Wuest:

Yeah, and I do appreciate the concern and I had it myself, and I want to be fully disclosing to you, so that's why I made that statement. I think that we have people that are practicing now that are working off of the old rules that were during the emergency, and I'm concerned that if we stop that, there would be patient-care issues. I do believe that there would be—there's always room for improving regulation. I think that that's likely, but it doesn't mean that it's going to happen. I think that this is a good regulation and it went through all of its paces. I'm comfortable as the executive moving forward, but I wanted to disclose to you that there's public comment that more should be done.

Senator Goicoechea:

Mr. Chair, we have a couple more in the north with questions.

Chair Yeager:

Please, whoever would like to ask, just please go ahead and unmute and ask your question.

Assemblywoman Jill Dickman (Assembly District No. 31):

Thank you, Mr. Chair. I just wanted to say that normally I'm not supportive at all of continuing regulations beyond the 2 years, but it just seems to me with this one we're already doing some of these things, and if we stop doing them because of staffing shortages and so on, Nevadans are going to suffer and not be able to get their health care. Would you say that's accurate?

Mr. Wuest:

I think that's absolutely accurate.

Assemblywoman Dickman:

Okay, thank you.

Mr. Wuest:

Once again, I apologize for the timing. It did happen, but it wasn't what I wanted to have happen.

Senator Hansen:

Well, obviously this is my first time this year on Legislative Commission, but I've served, I think, remember 4 or 5 terms before. My first session was 2011, and the reason this section of this 2-year requirement came up actually came about in 2013 when then-Speaker Kirkpatrick requested that she and I jointly sponsor a bill, which is now 233B something or other, because at the time we were having regulations that were brought to the Commission 4 or 5 years after the legislation was passed that got the enabling abilities to the bureaus. COVID obviously seems to be a pretty reasonable reason for not being able to do this in a timely fashion. My question though is to you, Mr. Chair, actually. That is, we also have R024-20. One of my questions on that is, that's also well beyond the 2-year limit and it also—when I looked at it, it deals with AB (Assembly Bill) 472 from the 2017 Session. Have you guys on the Commission been kind of uniformly, just if it's beyond 2 years, saying you got to go bring it through the process again or have you guys been kind of looking past the 2-year window requirement?

Chair Yeager:

Thank you, Senator Hansen, and I can certainly have Legal confirm, but I think it's 2 years from when the regulation is first filed with the LCB, is that right? I think timing-wise, R024-20 is within the 2-year period and R164-20 is not, but we could certainly have Mr. Killian confirm, who is up in Carson City.

Senator Hansen:

Okay, I would like that, because if 164 is—because I thought the way they did it in order was the order of the age of the regulation, so maybe I'm incorrect on that.

Asher Killian (Chief Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau):

Thank you, Mr. Chair. It is 2 years from the date that the regulation was initially filed with us for drafting. But in the case of R024-20, the Legislative Commission previously approved an extension to the 2-year period for that regulation. It was not ready to be heard by the Legislative Commission for approval at that time, but an extension was previously approved.

Senator Hansen:

Thank you for the clarification, Mr. Chair. That makes sense. I didn't realize you had an extension on it. Like I said, this is my first time this session on the Legislative Commission.

Chair Yeager:

No problem, Senator, and clearly I didn't remember that either or I would've told you that in response to the question, but that sounds like a good explanation. Thank you for that, Mr. Killian. Additional questions from Commission members for the Board of Pharmacy? Okay, I don't think I hear any additional questions, so I'd be looking for a motion to approve the extension past the 2-year time frame.

ASSEMBLYWOMAN DICKMAN MOVED TO APPROVE THE CONTINUANCE REQUEST FOR REGULATION R164-20.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Yeager:

The extension is granted, and we will get to that regulation again in just a couple of agenda items, but for now that takes us through agenda item V-B. Now we're going to go to agenda item V-C. Agenda item V-C is a review of the Nevada Cannabis Compliance Board regulation submitted pursuant to NRS 678A.460, 5 through 10 (Agenda Item V-C). If we approve this regulation today, the Cannabis Compliance Board may file the regulation with the Secretary of State. If this Commission objects to the regulation, the Board is required—meaning the Cannabis Compliance Board—is required to revise the regulation and resubmit it to the Legislative Commission. If the Legislative Commission approves the revised regulation, then the Cannabis Compliance Board may file it with the Secretary of State. This process continues until the Legislative Commission approves a revision of the regulation for filing with the Secretary of State. This is, I think, the first time the Legislative Commission has pulled a Cannabis Compliance Board regulation into a meeting, so if this doesn't sound familiar to you, that's probably because it's the first time we've ever done it. We do have Tyler Klimas here with his team. He is the Executive Director of the Cannabis Compliance Board. He's going to give us a quick overview of the regulations, and then we'll take questions and decide how we'd like to proceed as a Commission. Welcome, Director Klimas, and please proceed when you're ready.

Tyler Klimas (Executive Director, Cannabis Compliance Board):

Thank you, Chair, members of the Commission. I'm the Executive Director of the Cannabis Compliance Board, and we are happy to bring you a little taste of cannabis land here today at the Leg Commission. I'm joined today at the table by Kara Cronkhite to my left. She's the Chief of CCB's Audit and Inspection Division. To my right is Ashley Balducci. She's a Senior Deputy Attorney General for the Attorney General's Office and Counsel for the CCB. Also with me is Michael Miles behind me. He's the Deputy Director of the CCB.

Before you today, the amendments that you are looking at to Nevada Cannabis Compliance Regulation 12.065 broadens the list of methods used to remediate cannabis products that have undergone some form of treatment post-harvest. There's more than one way to remediate cannabis, which includes radiofrequency, ozone and irradiation, to name a few, and all are used in effort to kill or reduce microbial contamination so that the cannabis is able to pass required testing and remain safe for consumption. Remediation techniques are not used by all of Nevada's licensed cultivators. In fact, of the 160-plus cultivators in the state, fewer than 25 use equipment for remediation. The amendments you see here, which were adopted by the CCB at its December 13 Board meeting, allow for medical patients and adult consumers to have access to critical information on the method used on the cannabis before they choose to consume that cannabis. The request for this information to be included clearly on the label is one that we hear continually from both medical patients and adult-use consumers. This regulation ensures that the information is proactively supplied to the medical patient or consumer by requiring it be listed on the label so that the patient or consumer doesn't need to actively seek it out or ask for it, as they would if it was on the soil amendment.

The amendments in NCCR 12.065 were first discussed at the CCB's December 2020 Board meeting as a result of a petition filed by a private manufacturer for remediation equipment. Since then, the Board has held two public workshops, four Board meetings on the topic, issued two electronic solicitations of comments, we've held numerous informational meetings with stakeholders and received countless public comments from medical patients, members of the public and industry stakeholders, all of which are available on the CCB's website. The Board turned to CCB Board member Dr. Bryan Young, a practicing physician in Reno who has prior history and expertise in the study of radiation, to lead on what would become this compromise on the language that addressed both transparency and the need to provide consumers with important information and reasonable fairness among those cultivators who use remediation equipment. Where this amendment sits now is a significant change from the current language of regulation 12.065, which has already been adopted. The original adopted language of 12.065 requires a Radura symbol and the words "notice" capitalized in front of the disclosure. It also requires that disclosure to be affixed on the actual package of the cannabis product,

not just included as part of the label. Now, this language simply requires disclosure on what process the cannabis has undergone and only needs to be included on the label, which can be sent electronically through email to the consumer, it can be included on a QR code or printed and dropped into the bag before the consumer leaves. A label is already required of each cannabis product and lists a number of product-specific information, so this would add an additional line of information on that label, and again applies to only approximately 15 percent of cultivators in the state.

We went to great lengths to make this language and impact one that is neutral. Because it was important to us to have experts drive this process and analysis, I'm going to read into the record briefly the following statement from CCB member Dr. Bryan Young that I believe encapsulates what the Board was aiming to accomplish by passing these amendments. From Dr. Young:

> "First, I believe it was the right regulation for improved transparency regarding the way cannabis is handled. I also believe there's a 100 percent support from the consumers based on feedback from public comment provided at the monthly CCB meetings that have occurred over the last 2 years. As our mission statement states, our purpose is through strict regulation of all areas of its licensing and operations protecting the public health and safety of our citizens and visitors while holding licensees to the highest standards. Transparency and labeling of the product is important to fulfilling this mission statement."

Dr. Young has read over 2,000 pages of documents provided by those in the industry and read greater than 80 studies and papers regarding the issue of decontamination of cannabis. From my research, I believe that remediation has effects on the cannabis product that warrant further labeling. All forms of remediation can affect the taste of the product. This has been verified in studies and reaffirmed by public comment at multiple CCB meetings. Labeling is not a punishment; it provides transparency. The FDA (Food and Drug Administration) requires labeling of all food products that have been treated with radiation for decontamination. This is also the practice in Europe. Our labeling would continue this practice without singling out radiation as the only way to decontaminate. I think Dr. Devlin summed it up in his op-ed published in the *Reno Gazette-Journal* (*RGJ*) in March of 2021, where he wrote specifically about remediation labeling. "In its role as protector of all Nevadans who consume cannabis products, the CCB has an opportunity to promote consumer education and transparency through its product-labeling requirements. Consumers should have a choice about what they put into their body." Sean Devlin, board-certified physician, the *RGJ*.

I'll make a final statement before we open it up for any questions the Commission has. I just want to say, Commission, putting this disclosure back to the soils amendment simply reduces transparency. Remediation can have effects on the product. We know that, and

that's why the label is the more appropriate place. With that, Chair, I will turn it back to you, and we are available to answer any questions that you or members of the Commission have.

Chair Yeager:

Thank you, Executive Director Klimas. I'm sure we'll have some questions. I just had a couple that I think were based more on the public comment we heard at the beginning. Just wanted to confirm a few things, because I was not there at the meeting, but was it a unanimous vote of the Cannabis Compliance Board to approve this or was it something other than that?

Mr. Klimas:

Thank you, Chair. It was a vote of four to one out of the five CCB Board members.

Chair Yeager:

Great, and then we heard a little bit that—and I was just wondering if you could confirm, I think we heard some testimony that we would be the first or only state requiring this kind of a disclosure on the product. Do you know if that's true based on interactions with, I think you mentioned overseas, but I'm particularly interested in jurisdictions in the United States.

Mr. Klimas:

Thank you, Chair, for the question. I'll have Kara maybe talk a little bit about that, but I will tell you from my perspective, I'm very engaged with cannabis regulators across the nation through some of our regulators' association. I can tell you obviously there's going to be differing opinions here, our perspective and those who are opposing it, but the reason that it's not is because folks are looking to us, to Nevada. We've had those conversations about what we're doing with labeling on remediation. Some states didn't even know remediation was occurring. I've personally passed this language on to multiple other states, and they're looking at us, and I think—and I more than think—that we have an opportunity to lead as the State of Nevada in these labeling requirements in making sure that consumers have the information that they need. I would like to have Kara just briefly talk about—I believe Canada has some noticing and labeling requirements.

Kara Cronkhite (Chief, Inspection and Audit Division, Cannabis Compliance Board):

Good afternoon. Thank you, Chair, for the question. Canada does have a law. They're the only federal laws for cannabis at this time that have been approved. They do require that products be labeled as irradiated, treated with radiation or treated by radiation along with the international radiation symbol. We believe that this is in line with what federal requirements will require in the future.

Chair Yeager:

Thank you, and we'll open it up for additional questions. I have one from Senator Harris down here in Las Vegas.

Senator Dallas Harris (Senatorial District No. 11):

Thank you, Chair. Are there any known adverse health effects associated with any of these treatments?

Mr. Klimas:

Probably should defer to you, but I can answer this one. Thank you, Senator, for the question. No, and no part of this process is the CCB or the Board's, or any part of our discussion, indicating that this process is unsafe. It's quite the opposite. Remediation likely makes the product safe. It does make the product safe, not necessarily safer than product that doesn't undergo remediation, but it does make it safe. We're simply approaching this from a public information standpoint, and we hear through public comments of medical patients and consumers that simply want to know and they want it on the label, and that's why we're here. Think of milk that's been pasteurized. On a milk carton, it says, "This milk has been pasteurized," right? Because it's there, and so people are aware of it. It doesn't mean that it's bad, pasteurization. It's likely not bad, but it's very similar to that.

Senator Harris:

Just a quick follow-up, if I could? Could you tell me a little bit about the reason why medical patients say they want to know this information? I'm just trying to figure out, are they under the impression that there are health effects and so they are asking you to make sure that this is known, or do they have other reasons why they've been asking for this to be put on the label? Has there been any discussion about why they want to see it?

Mr. Klimas:

Sure, and definitely, Kara, you may want to jump in. Thank you for the question, Senator. I think you could assume that it's both, right? Some people want to seek out remediated product, but others, depending on the type of remediation, right, because there's different types. There's irradiation that uses radiation, there's ozone, there's different types, and so if you are a medical patient, maybe you've had that discussion with your physician and there is a certain type of remediation or product that's been remediated that you want that would be beneficial, or maybe not, but again, all we're hearing is that they want to know and they want it front and center and included on the label so they've got that information and those tools available to them.

Ms. Cronkhite:

The only thing that I would add is, we have heard from medical patients and consumers alike that it may impact the terpene profile, which is thought to have a lot of the medicinal benefits for cannabis as well as the flavor, and some have stated that they would view it as a positive. Other people have just stated that they just want to know.

Chair Yeager:

Okay, any additional questions down here in Las Vegas? How about—oh, go ahead, Assemblyman Hafen.

Assemblyman Gregory Hafen (Assembly District No. 36):

Thank you, Mr. Speaker, and thank you guys for the presentation. I'm new to the Leg Commission, so first meeting. I'm not a user of the marijuana or the medical marijuana, but I do understand the concerns from the medical aspect where people would want to know. I know when I get a prescription they give me a little supplement. Sometimes it says an explanation of X, Y and Z. But this proposed regulation would actually put it on the product rather than a supplement that's given out?

Mr. Klimas:

Thank you for the question, Assemblyman. That was a great example. Think of that pamphlet you get from CVS when you get a prescription. They send you home with a book, right? That's included. That's actually what this regulation—and part of the compromise. Originally the regulation had it mandated on the actual package, should be on the product. Now it's simply, and it's a little bit confusing as included on the label which is defined—I could send it to you as a QR code or as an email, I could have a QR code that you scan and get that information, or I could put it in a packet and include it in your

bag, so it is not required to be actually on that product. Again, that was part of the compromise that we've gone through over the last 2 years during this process.

Assemblyman Hafen:

Just to follow up, is the labeling requirement the same for medical as it is for recreation?

Mr. Klimas:

That's correct.

Assemblyman Hafen:

Thank you, and thank you, Mr. Speaker.

Chair Yeager:

Additional questions in Las Vegas? Seeing none, how about in Carson City or online, any questions?

Senator Goicoechea:

Mr. Chair? I guess I'm just concerned this is—again, I haven't done Leg Comm other than as an alternate for the last 5 or 6 years, so it's been a while, but I—typically we don't see this much public testimony against a reg and trying to push it forward, so is it the fact of how, and how they are—I've got calls on this before we even came to the meeting that they were going to use a radioactive symbol that would be on the—so exactly what are they proposing, because some of this stuff clearly, especially if you're talking recreational marijuana, could impact the market. Mr. Klimas, could you tell me exactly what you're talking about as far as the labeling?

Mr. Klimas:

Sure. Thank you, Senator, for the question. I've got to tell you, that is part of our job, right? We have to balance the health and safety of consumers but also the economic interests of the marketplace. We need to make sure that there is a market here for us to regulate, and so we take that into consideration. It's also why this has been a 2-year process with countless opportunities for public input. But to answer your question, Senator, exactly what goes on this label that can be included with the product is simply the following statement: "This product has undergone treatment" using the method of treatment that's been approved. There's an option—because again, we're not indicating that this makes product unsafe. You have an option to say this product has been treated with—fill in the

blank—method of treatment for the purpose of reducing microbial contamination. No part of us wants to indicate or infer that this is an unsafe process or unsafe product, which is why that option is there.

Chair Yeager:

Any additional questions?

Senator Goicoechea:

Just a follow-up if I may, Mr. Chair?

Chair Yeager:

Please, go ahead.

Senator Goicoechea:

Then I guess, now this was explained to the industry and these people that are coming here today in public comment and have reached out to us over the last 10 days, do they understand that, Tyler? There seems to be a lot of confusion here.

Mr. Klimas:

Thank you, Senator. I know that they do. We've had a number of conversations, and the same individuals who provided public comment have been providing public comment and engaging with the Board and Board staff since the very beginning. If we say the marker of a good policy decision is a compromise where not everybody gets their way, then I think that's the exact spot that we're in, and I think that this balances it. I feel that this balances the interest of both cultivators—and again, Senator, I'd point out that we're talking about an industry that there's only 15 percent that are utilizing this. Yes, to answer your question, I do believe they know that. Certainly we have not all come to the table holding hands, but I do believe that we've done significant work, and this puts the State of Nevada in a good position, consumers and medical patients in a very good position moving forward.

Senator Goicoechea:

Thank you. Thank you, Mr. Chair.

Chair Yeager:

Thank you, Senator. Are there additional questions? I'm not hearing any or seeing any so, Senator Harris, would you like to make a motion?

Senator Harris:

Thank you, Chair. I'd like to make a motion to object and that the information be required to be put in the soil amendment as opposed to the product itself.

SENATOR HARRIS MOVED TO OBJECT TO THE REGULATION AMENDING NEVADA CANNABIS COMPLIANCE REGULATION 12.065 WITH DIRECTION TO THE CANNABIS COMPLIANCE BOARD AS DISCUSSED.

ASSEMBLYWOMAN MONROE-MORENO SECONDED THE MOTION.

Chair Yeager:

I'll open it up for any discussion on the motion. I guess I'll just say, Director Klimas—

Assemblywoman Dickman:

Could you repeat the motion?

Chair Yeager:

I'm sorry. Yes, thank you. Let me clarify that, because this is a unique procedure. The motion is to object with direction that the information should be placed on the soil amendment. If that motion passes, what would happen under the statute is the regulation would go back to the Cannabis Compliance Board and they would have the ability to rework it pursuant to the direction that we provided. If they did that, it would come back to us for approval if we wanted it to, or if they decided not to, then the regulation would not be enacted. Essentially, the statute requires us—we can't just vote a regulation down, we have to object with direction and instruction, so that's what the motion was. Is that clear, Assemblywoman Dickman?

Assemblywoman Dickman:

Yes, thank you.

Chair Yeager:

Okay. Sorry, it's a new procedure. I guess before I take any other discussion, I'll just say the concern that I have is, generally the things that we have on the label relate to safety concerns: the strength of the THC (tetrahydrocannabinol), the fact that you shouldn't be operating heavy machinery, the fact that it is in fact—I don't know if we'd call it a cannabis product, but they tend to be more on the public safety side of the equation. I'm just concerned that, with the testimony we've heard, that this is not a public safety issue, because if it were, I don't think these methods would be approved by the Cannabis Compliance Board, and that I think there's just too much of a possibility that consumers misunderstand the information and read from that that this product is somehow unsafe or dangerous. I'm concerned about that being on the actual label. I do agree with, I think, some others who mentioned that this information is available upon request for consumers who would want that information, so for that reason, I'll be supporting Senator Harris' motion. Before we take the vote, I did want to give anyone else a chance to comment. I keep looking at Senator Hammond, but I don't know if he wants to comment or not. I guess not.

Senator Scott Hammond (Senatorial District No. 18):

No, I don't want to comment.

Chair Yeager:

Okay, all right. Is there a—go ahead, Assemblyman Hafen.

Assemblyman Hafen:

Thank you. Just clarification on the motion. Could we get some clarification on exactly the difference between the soil amendment and the label just so I fully understand what the motion is?

Chair Yeager:

We're in the middle of a motion, but I would like to punt that to the experts at the table because I don't want to give you a bad explanation, so if you could go ahead and explain what the soil amendment is?

Ms. Cronkhite:

Yes, thank you for the question. Soil amendment reports are really more unique to cannabis. Soil amendments are typically approved by the USDA (United States

Department of Agriculture) or the Department of Agriculture to be applied to a specific crop, and then growers are required to track them. Typically, this tracking log, which we call a soil amendment report, is only available to the regulators. That's typical in the United States for any crop. We require that they provide access to soil amendment reports to all consumers upon request. This is our way of going above and beyond what is typically available with other consumable goods. They're not something that most consumers are typically aware of. For example, if you were to purchase an apple at a grocery store, you would not see a soil amendment report or even be able to access that at the grocery store, so we do have those available. The soil amendment reports include anything that is applied pre-harvest to the soil or the crop while it's growing. This would be your pesticides, herbicides, fungicides, nutrients, anything to that effect. Anything on the label is going to be things that the consumer should be aware of: THC content, CBD (cannabidiol), CBN (cannabinol), the terpene profile. Many medical patients are looking for specific terpenes so we require that they put the top three terpenes on there. They also disclose on the label items such as the method of extraction. If the product was extracted with butane, you would see that appear on the label, not on the soil amendment report. That label—while the soil amendment report has to be requested by the consumer, the label is just a slip of paper that's typically put into the package with—or the bag that they leave the store with.

Chair Yeager:

Did that help you, Assemblyman?

Assemblyman Hafen:

I appreciate the answer. I think I understand, kind of. I'm not exactly sure. Thank you.

Chair Yeager:

Okay, so we—

Senator Goicoechea:

We have another one up here in the north, Mr. Chair. Maybe that'll clarify it for Mr. Hafen.

Chair Yeager:

Please, go ahead.

Senator Hansen:

Thanks, Mr. Chair. My question is this: has the—maybe it's changed a little. Legislative Commission normally, if a regulatory body brings a potential regulation like this to the body, we normally don't have the authority unless they violated the intent of the original law to go back and basically say, "We want you to do this in the law." Has anybody suggested that the Cannabis Board is out of compliance with the NRS that gives them the authority to bring this regulation forward?

Chair Yeager:

Thank you, Senator. I will hand that one over to Mr. Killian, because when we created the Cannabis Compliance Board, we put a very unique procedure in the law with respect to the Legislative Commission. I think the answer is no; no one is accusing them of violating NRS, but Mr. Killian I think can explain the process that we're going through right now.

Mr. Killian:

Thank you, Mr. Chair. Yes, there is a unique regulatory process that applies to the CCB, and it's enacted in NRS 678A.460. The relevant part is that the Legislative Commission or the Subcommittee to Review Regs can object to a regulation that's been adopted by CCB, but if it does so, it must do so on the basis that it either does not conform to the statutory authority pursuant to which it was adopted or it does not carry out the intent of the Legislature in granting that authority. If the Legislative Commission objects on that basis then we send a letter to the agency stating what the basis of the objection was, and the agency then has 60 days to revise the regulation and return it to the Legislative Commission for further proceedings. My understanding of the motion being brought up is not necessarily that the regulation does not conform to the statutory authority granted to the CCB, and that the CCB has statutory authority per 678A.450 to adopt regulations relating to labeling, but rather that this particular regulation does not carry out the intent of the Legislature in having granted that authority to adopt regulations relating to labeling.

Senator Hansen:

Thanks, Mr. Chair. Well, if that's the case, we need to get that on the record, that we feel that the Cannabis Board is not following the intent of the entire legislative body, not just the Legislative Commission then. Frankly I like the idea of kicking it back to them and letting them rework this to try to please more of the constituency base that obviously is not happy with the regulation. On the other hand, I also want to make sure that the Legislative Commission doesn't become a little mini legislature trying to force laws into place that we in fact as a body never passed.

Chair Yeager:

Thank you, Senator. We do have a motion and we have a second, and we are on the discussion of the motion. Before we take the vote, any further discussion? Okay, seeing no further discussion, again, the motion is to object and send the regulation back to the Cannabis Compliance Board.

THE MOTION PASSED (SENATOR HANSEN VOTED NO).

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Chair Yeager:

I think I heard a nay from Senator Hansen. Were there any other nays in Carson City?

Senator Goicoechea:

No, I think he's—

Senator Hansen:

I'm the lone wolf, Chair. I just think we've got to be careful about—

Chair Yeager:

I just wanted to make sure. I wanted to clarify it's Senator Hansen, because I think for the first time ever we have spouses serving on the same Commission at the same time with the same last name, so got to be clear that it was Senator Hansen who voted nay.

Assemblywoman Dickman:

I can assure you, the Senator's voice is deeper.

Senator Hansen:

Mr. Chair, my objection is like I said earlier. I just think that I don't see any evidence being presented that the Cannabis Board is not in compliance with the NRS authorities that we gave them. That's my only concern on—that's the only reason to object to it. I'm fine with

RAD SOURCE TECHNOLOGIES

EXHIBIT 4

MAY 15, 2024

RAD SOURCE TECHNOLOGIES

NEVADA ADMINISTRATIVE PROCEDURE ACT

NRS 233B.060 Agency to provide notice of intent to adopt, amend or repeal permanent or temporary regulation; procedure for adoption of permanent regulation after adoption of temporary regulation.

1. Except as otherwise provided in subsection 2 and NRS 233B.061, before adopting, amending or repealing:

(a) A permanent regulation, the agency must, after receiving the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063:

(1) If it is the first hearing on the regulation, give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute. When posted, the agency must include notice that the regulation that is posted on the Internet website of the agency 3 working days before the hearing will be the regulation considered. The agency shall ensure that the regulation to be considered at the hearing is posted on the Internet website of the agency 3 working days before the hearing.

(2) If it is the second or subsequent hearing on the regulation, including, without limitation, a subsequent hearing on an adopted regulation that has not been approved by the Legislative Commission or the Subcommittee to Review Regulations pursuant to NRS 233B.067, in order to approve a revision to the regulation, give at least 3 working days' notice of its intended action.

NRS 233B.061 Proposed permanent or temporary regulation: Public comment; workshop; public hearing; applicability of Open Meeting Law.

1. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments upon a proposed regulation, orally or in writing.

2. Before holding the public hearing required pursuant to subsection 3, an agency shall conduct at least one workshop to solicit comments from interested persons on one or more general topics to be addressed in a proposed regulation, except that a workshop is not required if it is the second or subsequent hearing on the regulation. Not less than 15 days before the workshop, the agency shall provide notice of the time and place set for the workshop:

(a) In writing to each person who has requested to be placed on a mailing list; and

(b) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.

3. With respect to substantive regulations, the agency shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the agency may proceed immediately to act upon any written submissions. The agency shall consider fully all written and oral submissions respecting the proposed regulation.

4. **An agency shall not hold the public hearing required pursuant to subsection 3 on the same day that the agency holds the workshop required pursuant to subsection 2**.

5. Each workshop and public hearing required pursuant to subsections 2 and 3 must be conducted in accordance with the provisions of chapter 241 of NRS. (emphasis added)