

Nevada Cannabis Compliance Board
Regulatory Workshop
Disciplinary Regulations (NCCR)
May 14, 2024
Minutes

The Nevada Cannabis Compliance Board (CCB) held a public workshop at 700 E. Warm Springs Road, Suite 150, Las Vegas, Nevada beginning at 10:00 a.m. on May 14, 2024.

Division Chief – Health & Safety Kara Cronkhite called the meeting to order. Senior Deputy Attorneys General Chricy Harris, L. Kristopher Rath and Anthony Garasi were present on behalf of the CCB in Las Vegas.

Chief Cronkhite advised that the meeting is recorded and asked attendees to limit conversation during the meeting.

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

I. Public Comment

Will Adler on behalf of Green Thumb Industries (GTI) expressed disappointment that lot size was not included on this agenda for the disciplinary workshop and said greater harm occurs to the public by maintaining testing and the number of laboratories as-is; he again requested a discussion on lot size.

II. Proposed Amendments and additions to Nevada Cannabis Compliance Regulations 1, 4 and 6

Chief Cronkhite provided an overview of the proposed amendments and additions to NCCR 1, 4 and 6: disciplinary actions, petitions and investigations. Chief Cronkhite stated that an opportunity for public comment will be opened throughout the meeting.

Chief Cronkhite provided an overview of the definitions listed in regulations 1.083, 1.113 1.114, 1.234. Discussion was opened for regulation 1.

Abby Kaufmann, secretary for the Chamber of Cannabis and Chairwoman for Commerce Committee spoke on **1.083** and asked for more specificity pertaining to what is or is not lawful. Ms. Kaufman asked for clarification on **NCCR 4.055**, if donations would fall under diversion and asked for a definition of “lawful”. Chief Cronkhite said that “donation” or “free” means advertising products for free without purchase, and that giving products for free without purchase is prohibited by statute and would be separate from diversion.

Ms. Kaufmann asked for the post-sales limitation if cannabis or cannabis products were obtained lawfully. Chief Cronkhite said this requires legal interpretation and will make note of the question. Deputy Attorney General Rath advised that the definition of diversion was taken from an existing statute. Ms. Kaufmann noted appreciation for the introduction of the definition of “intentionally” and asked for specificity of the word “knowingly” because she did not see instances of use in

other proposed changes. Mr. Rath replied the definitions were requested by members of the public and asked that additional suggestions be submitted in writing.

Chief Cronkhite continued with an overview of NCCR 4.010, 4.020, 4.030, 4.033, 4.035, 4.040 and asked for public comment on proposed regulation changes.

Abby Kaufman reminded that she submitted written public comment and commented that the structure of the new introduction of each item seems to be a large paragraph and asked for these to be made more digestible. She said that the use of “may” and “shall” in **4.020** was not established. Mentioning **4.030(2)** preference to have mitigating circumstances outlined instead of referenced by statute and to include in the regulation that if there is no action within 30 days, it is assumed to be approved will remove the need to look at different places in the regulations for clarity. Ms. Kaufman mentioned **4.035(1)(a)(2)** and said defining the statute or regulation will be helpful. Ms. Kaufman asked when it would be appropriate to discuss **4.050** and clarifications. Chief Cronkhite replied that there will be work to clarify the regulations and provided examples of lesser violations, contrasting with more serious violations. Ms. Kaufmann expressed her understanding that category II seems like statutory violations and category IV seems like regulatory violations. She continued to discuss new **4.035(9)** and asked for potential rewording of the word “immediately”, noting that additional clarity is requested on what undocumented inventory is. Chief Cronkhite responded the intention is for undocumented “total inventory” in the facility. Ms. Kaufman asked for the definition of “paraphernalia” **4.040(a)(3)**. She noted redundancy and grammatical concerns and asked if it is best to submit these comments in writing and noted that the capitalization of “Board Agent” is inconsistent.

Layke Martin commented on **4.035(2)(a)** recommending it should be “and/or” instead of “and” suspension due to the nature of penalties or disciplinary violations in the section.

There were no additional public comments on proposed regulation changes to NCCR 4.010 through 4.040.

Chief Cronkhite provided an overview of the changes to NCCR 4.050, 4.055, 4.060, 4.061(new) and opened discussion on proposed regulation changes to NCCR 4.050 through 4.061.

Layke Martin discussed **4.050(1)(a)(47)** guidance and the references and the need to clarify what is in **11.025(8)(a)** and expressed concern from members that missing inventory is not caused by diversion, but rather it is misplaced and requested clarification on the language. Mentioning **4.060** and undocumented variances inventory – Ms. Martin asked if it means one variance including multiple units or all inventory within the facility and requested clarification. Chief Cronkhite replied that it would be all facility inventory.

Abby Kaufmann commented on **4.050(a)(2)** and asked what type of activity would occur? Chief Cronkhite stated that this will be clarified. Ms. Kaufmann continued with **4.050(a)(11)** regarding nonfunctioning or nonoperational and said clarification on the requirements would be helpful, mentioning that NCCR 6.085 outlines security camera requirements. **4.050(a)(12)**: requesting the type of sanitizer and where it is required, due to vagueness. **4.050(a)(17)**: reasonable time frame for delivery – Ms. Kaufmann asked for clarification of “reasonable” asking if it occurs from the time the consumer places the order or when the delivery vehicle leaves the establishment? Regarding **4.050(a)(18)** she asked to confirm that NRS 678C.410(2) is the correct statute to reference since the noted statute is specific to medical cannabis dispensaries and facilities.

Ms. Kaufmann requested change from “time/temperature” to “time and temperature” in **4.050(a)(21)**. Chief Cronkhite noted that it is verbatim from the FDA. Ms. Kaufmann asked for business or calendar days to be specifically stated throughout to minimize confusion. She noted that **4.050(36)** and **(46)** are confusing and requested that “mature” be added to the language in **(36)** to differentiate between immature plants in **(46)**. Continuing with **4.050(43)**, she asked for reordering the language and referencing the NCCR that outlines the correct process. Noting **4.055** Category V violations, she asked if it is permissible for a dispensary operator to cover the cost and give it out or donate it for an event. Chief Cronkhite said the NCCR or NRS can be referenced and that it is about sales facilities. Ms. Kaufmann asked if additional regulation outlines the approval process; Chief Cronkhite said the language can be modified. Ms. Kaufmann continued with Category VI, providing member comment that delays occur with issuance of Department of Agriculture stickers for certification of calibrators that can result in regulatory consequences and asked for a way to address certification issues from third parties. Chief Cronkhite advised that in the instance of repair or delayed certification, providing information and proof of due diligence to the CCB will be accepted. Ms. Kaufmann addressed Category VII and asked to replace “and/or timely” with the specific time and to indicate business or calendar days. Continuing with **4.060** Category VI violations, Ms. Kaufmann noted the business or calendar day concern and mentioned that defining the term “right of way” will be helpful and asked for the definition of “timely”. Regarding **4.061** Category VII, she requested the definition of timely payment and asked to include business or calendar days. She mentioned there is an opportunity to address additional types of payment failures and contract enforcement issues. Chief Cronkhite advised that this was previously discussed, and half of the participants wanted enforcement and half did not want CCB involvement in business practices.

Chief Cronkhite noted that Chief Gilbert provided the statutory reference to the definition of paraphernalia: 678A.220.

There were no additional public comments on proposed regulation changes to NCCR 4.050 through 4.061.

Chief Cronkhite provided an overview of the changes to NCCR 4.070, 4.090, 4.095, 4.100, 4.105, 4.110, 4.130 and 4.135 and opened discussion on proposed regulation changes to NCCR 4.070 through 4.135.

Layke Martin asked about the deletion in **4.110**; Mr. Rath replied that there was a change in the statute in 2021 to eliminate the availability for depositions in CCB disciplinary proceedings. Chief Cronkhite added that additional information can be provided in writing to the CCB for review. Ms. Martin noted that the administrative procedure act allowed depositions. Mr. Rath noted again that the 2021 statute change removed the allowance for depositions at CCB disciplinary proceedings.

Derek Connor, of Connor and Conner advised that he represented clients who have gone through disciplinary proceedings and questioned if revisions to NCCR 4 comply with the administrative procedures act. He stated that discovery is important in a contested matter and removing the ability of the hearing officer to order a deposition will make matters difficult. Continuing, he said there should be an opportunity for discovery, to depose witnesses and preserve testimony. He stated his dislike for the restriction on production of the investigative file and due process and fair play for the licensees would be achieved with expanded discovery.

Abby Kaufmann commented on minor grammatical concerns in **4.090** and **4.095** and clarification of business and calendar days, and use of the word “timely”. Ms. Kaufmann asked that **4.110(6)** be edited for reading clarity and formatting, and said this request was also provided via written comment.

There were no additional public comments on proposed regulation changes to NCCR 4.070 through 4.135.

Chief Cronkhite provided an overview of the changes to NCCR 4.137(new), 4.140, 4.145, 4.150(new), 4.200(new), 6.025 and opened discussion on proposed regulation changes to NCCR 4.137 through 4.200 and 6.025.

Layke Martin stated that the Nevada Cannabis Association is in support of the addition of **4.200** and expressed appreciation for the language that Deputy Director Miles included based on provided input. She requested additional consideration to expand the inclusion of intoxicating hemp products. Chief Cronkhite replied this may be a statutory change and is under review by the CCB. Deputy Attorney General Anthony Garasi advised that 557 is hemp and that the way the statutes are written, it is under Nevada Division of Public and Behavioral Health (“DPBH”), noting it will fall under those regulations although there are interagency discussions occurring. Ms. Martin asked about **6.025** and the hourly rate for investigation and noted that although subsection two states it will be based upon the hourly rate established for the Board Agents as determined by the budget of the board and noted that the fee cannot be out of regulation and must be specified.

Abby Kaufmann discussed **4.137** stating SB 195 outlines the Board shall state whether any mitigating circumstances exist and noted that she did not see that in the regulation and said that her provided written comments address these concerns. Chief Cronkhite said that mitigating circumstances may be outlined in subsection four. Mr. Rath noted this is laid out in statute, and Chief Cronkhite explained that if there are redundancies in the regulations, the legislators will remove them. Ms. Kaufmann said language states, “the parties may stipulate the civil penalties” and the “mitigating circumstances the Board presents” but does not include that the Board must share this information on public record. Mr. Rath explained that the Board is not required to accept either parties’ stipulation but must state whether the stipulation is accepted. Ms. Kaufmann continued with **4.145** and suggested moving subsection seven to subsection two where “interested person” is introduced, and appending subsection two to subsection one. She recommended a waiver for the filing fee in **4.145(3)** and in paragraph four, she asked for specificity on supporting data and evidence. Regarding (6) she noted that it is a long paragraph. For (7) she asked that her written comment be reviewed and to break things into separate lines for clarity. Ms. Kaufmann mentioned **4.150** and noted she was happy to see this introduced. She commented on language requesting the business address and said due to the prevalence of remote work, language requesting employer name, status, job title may be more appropriate. Ms. Kaufmann asked why a certified copy of judgement is needed, and if there are associated fees. Mr. Rath replied that different courts have different requirements, and not all criminal information is available online. Ms. Kaufmann requested the use of “they” instead of “he or she”. She suggested the use of “submission” instead of “submittal” and for eight she suggested change in formatting and noted that inclusion of language from SB 195 would be beneficial. Ms. Kaufmann asked for language clarifications for “shall” or “may”. Mr. Garasi replied that there may be instances where service occurs in a manner other than going to a physical location and “may” allows issuance of the order when there is not a physical location. Ms. Kaufmann provided

additional input for language changes to clarify the regulations. Commenting on **4.200**, she asked about the remaining funds collected and noted that since it does not say it will go to the Nevada General Fund can it go to a fund used by the CCB to help support the legal market or social equity licensees. Mr. Garasi agreed that the new statute does not specify this and said that if Ms. Kaufmann wishes to propose a reading of the statute, it will be evaluated. Regarding **6.025**, Ms. Kaufmann would like to include the word “reasonable” to ensure it aligns with some of the things for which CCB cannot charge.

Chief Cronkhite concluded the discussion on proposed regulation changes.

III. Public Comment.

Chief Cronkhite opened Agenda Item III and asked for public comment in Las Vegas.

Bruce Burnett from Ace Analytical Laboratory commented that labs across the state concur that regulation **1.125** lot sizes should be maintained. He noted that the topic was thoroughly discussed during the August 30 workshop and respectfully requested regulation 11 changes be incorporated into the comments for this workshop.

Edward Norton addressed **6.085(1)(c)(4)**, **1(b)(5)** and **6.085(3)** requiring immediate notification to law enforcement when there is a problem with CCTV. He commented that sometimes Metro takes phone calls and an event number is provided and sometimes calls are not taken. Mr. Norton said that a person (such as facility security staff) calling 311 could be left on hold for two to three hours and would not be available because they are attempting to report a non-emergency.

There were no additional public comments in Las Vegas or online.

IV. Adjournment

Meeting adjourned at 11:15 a.m.