



June 20, 2024

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

Via email to [regulations@ccb.nv.gov](mailto:regulations@ccb.nv.gov)

**Subject:** Chamber of Cannabis Input on Adoption to Changes to NCCR 1,4,5,6,7,11

Dear Cannabis Compliance Board members and staff,

As you may be aware, the Chamber of Cannabis spearheaded the efforts to pass the provisions in Section 4.5 of Senate Bill 277 that establish a pathway for ex-offenders to obtain a cannabis establishment agent registration card.

Broadly speaking, and absent of any clear and certain threats to public health and safety, it is the opinion of our organization that any individual who has served their time and paid their debts to society, as prescribed by the courts and law enforcement agencies, should not be prohibited from obtaining an agent card to work in the industry.

While most of the hearings on NCCR 4.150 have been closed, it appears that the first initial petitions did not warrant any limitations since there were questions regarding its authority to impose limitations during open hearing in the April 2024 Board meeting– meaning that most of these petitions have not included limitations. As such, to require a petitioner to list out what they are willing to give up in order to even submit a petition is unfairly prejudicial.

We introduced the legislative initiative that led to the creation of NCCR 41.50 and, **we strongly urge the CCB to remove subsection (h) of paragraph (3) in NCCR 4.150.**

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

*3. The petition must contain:*

- (a) The name, residence, business address (if applicable), email, and telephone number of the petitioner;*
- (b) The date of conviction for each excluded felony offense;*
- (c) The date that probation and/or supervised release ended for each excluded felony offense;*
- (d) Certified copies of the judgment or judgments of conviction for each excluded felony offense;*

- (e) An explanation as to why the petitioner believes they will not pose a threat to the health or safety of the public;*
- (f) An explanation as to why the petitioner believes they will not negatively impact the cannabis industry in this State;*
- (g) The position, employment, ownership interest, and/or other role petitioner plans to undertake in the cannabis industry in this State, if the petition is granted;*
- ~~*(h) A list of conditions and limitations the petitioner is willing to accept on his or her involvement in the cannabis industry in this State;*~~
- (i) The signature of the petitioner or the petitioner's legal representative;*
- (j) Any other information or documents requested by the Board or Board Agents during their investigation of the petition, including but not limited to a list of conditions and limitations the petitioner is willing to accept on their involvement in the cannabis industry in this State.*

We feel that paragraph (3), subsection (h) of NCCR 4.150 is misaligned with the intention of the legislation and that the presumption that a petitioner's involvement in the industry will inevitably be conditional or limited is disconcerting.

Rather than forcing petitioners to provide a list of limitations in such an open-ended manner, it seems reasonable that this could be one of the pieces of information or documentation that the Board or Board agent might request during the investigation of the petition as part of paragraph (j) of 4.150(3).

Additionally, and based on the input we have received from our members and as determined by the Chamber of Cannabis' Commerce Committee:

- a.** In closer review of **NCCR 4.145** it appears that the language permits a waiver to be requested for both the initial filing fee (\$500) and filing a brief (\$250). While the preference is that the initial filing fee be removed, if a waiver can be granted, we ask that the CCB please indicate how to request a waiver in the [instructions posted on CCB website](#).
- b.** The use of the word "timely" is ambiguous in **4.050(39-40)**, **4.055(7)**, **4.060(6-7)**, **4.061(3,9)** and leaves room for interpretation.
- c.** We would like to echo the sentiments of our members in cultivation regarding the removal of aspergillus testing in **NCCR 11.050(2)** and would like to point out that a judicial review in Oregon led to the [amendment of OAR 333-007-0390 to permanently remove the requirement for Aspergillus testing](#). It may also be advantageous for the Board to address fungicide usage.

- d. With the removal of the BOTEC Analysis in NCCR 11.025(8), we ask the CCB to consider increasing the lot size limit to in **NCCR 1.125(1)** to 15 pounds (6,084 grams) instead of 5 pounds (2,268 grams) 15 pounds while making it clear that smaller lot sizes are permitted.

**1.125 “Lot” defined**

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

This is by no means a comprehensive summary of the remaining changes and actions that our organization is requesting from the Cannabis Compliance Board. We stand behind the public comments we have made over the course of 2024, as referenced below:

- [January 2024 Workshop Comment](#)
- [March 2024 Workshop Comment](#)
- [April 2024 Workshop Comment](#)
- [May 2024 Workshop Comment](#)

We understand that there are limitations to the CCB’s authority and that many remaining areas of concerns – agent card costs, packaging limits, allocating funds from enforcement of unlicensed activity to support social equity licensees, consumption venue dynamics, etc;-- may require legislative action but encourage the CCB to continue pursuing these areas as it is able to.

We are very encouraged by the CCB’s incorporation of industry input as expressed during the regulatory workshops that have taken place in 2024 and hope that the CCB continues to work alongside stakeholders to reduce the economic burden of regulatory compliance in Nevada.

Highest regards,



**Abby Kaufmann**

*on behalf of the Commerce Committee*

Chamber of Cannabis

[secretary@cofcly.org](mailto:secretary@cofcly.org)

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**KIMBERLY MAXSON-RUSHTON**  
EMAIL: krushton@cooperlevenson.com

June 19, 2024

Via Email: [regulations@ccb.nv.gov](mailto:regulations@ccb.nv.gov)

Nevada Cannabis Compliance Board  
700 East Warm Springs Road, Suite 100  
Las Vegas, Nevada 89119

Re: Proposed Amendments to NCCR 11

Dear Chair Guzman-Fralick and Cannabis Compliance Board:

On behalf of the Citizens for Public Safety Alliance (“CPSA”), please find below comments relative to the Cannabis Compliance Board’s (“CCB”) consideration of the proposed amendments to NCCR 11.

By way of background, the CPSA is a non-profit association committed to ensuring the safety of cannabis in Nevada. The CPSA’s primary objective is to support Nevada’s independent testing laboratories and the development of objective, scientifically based testing standards.

Please note the fact that these comments were previously submitted during the September 26, 2023 regulatory workshop (the initial workshop on proposed changes to NCCR 11).

## **I. Independent Laboratory Advisory Committee**

The CPSA respectfully requests that NCCR 11 be amended to reinstate the Independent Laboratory Advisory Committee as established pursuant to Nevada Administrative Code (“NAC”) 453A.666. Specifically, the CPSA requests the following regulation language be adopted:

### **Independent Laboratory Advisory Committee: Establishment; duties.**

**1. The Cannabis Compliance Board will establish an Independent Laboratory Advisory Committee comprised of members which ensure that the membership of the Advisory Committee is representative of the independent testing laboratories and other cannabis establishments in this State.**

**2. The Advisory Committee shall:**

- (a) Provide recommendations to the Board regarding the testing of cannabis;**
- (b) Make recommendations to the Board for any changes to this chapter relating to the testing of cannabis; and**

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**(c) Assist the Board in creating and updating a policy manual to be used by the Board to guide the testing of edible cannabis products and cannabis-infused products by independent testing laboratories.**

As evidenced by the former regulation and the attached meeting notices, between 2014 – 2017, ILAC was utilized by the Division of Public and Behavioral Health to develop testing levels and standards applicable to medical marijuana; thus, ILAC’s recommendations served as the foundation for cannabis testing in Nevada. By reinstating ILAC, the CCB will have more objective, scientifically based recommendations upon which to base testing standards that ensure the safety of all cannabis products sold in Nevada.

**II. Amendment to NCCR 11.050(7)**

The CPSA further requests that NCCR 11.050(7) be amended as follows:

**7. A cannabis independent testing laboratory shall provide the final certificate of analysis to the Board [and to the cannabis establishment from which the sample was collected] within 2 business days after obtaining the results.**

As the CCB is aware, Nevada’s cannabis laboratories have continuously had problems collecting their (testing) fees. As a result, the labs have been forced to subsidize the industry by continuing to perform testing services without compensation. This has led to Nevada’s labs experiencing significant financial hardship through no fault of their own.

To address this issue the CPSA recommends that testing labs be relieved of the obligation to provide a licensee with a final Certificate of Analysis until the lab has been paid in full. Further support for this proposed regulation modification can be found in NCCR 11.085(3), which requires cultivators / producers to pay all fees associated with *retesting* cannabis.

NCCR 11.085(3) also evidences the glaring discrepancy between the two regulations. Specifically, NCCR 11.085(3) *guarantees* payment to the (CCB selected) lab performing retesting whereas, NCCR 11.050 *requires* labs to provide the test results regardless of whether the lab has been paid. Akin to the practice of non-payment, regulatory inconsistencies such as this do not benefit the lab testing industry.

In conclusion, the CPSA appreciates the Board’s consideration of the comments and concerns raised herein.

Sincerely,

/s/ Kimberly Maxson-Rushton

Kimberly Maxson-Rushton, Esq.

*Enclosures*

NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH)  
Medical Marijuana Laboratory Advisory Committee (ILAC)

AGENDA

March 4, 2015  
3:30 p.m.

MEETING LOCATIONS

Board Attending

Department of Health Care Finance and Policy  
1100 E. William St. 2<sup>nd</sup> floor conference room  
Carson City, Nevada 89701

Nevada Early Intervention Services  
3811 W. Charleston Ste 112  
Las Vegas, NV 89102

AGENDA ITEMS MAY BE TAKEN OUT OF ORDER, COMBINED FOR CONSIDERATION, AND/OR  
REMOVED FROM THE AGENDA

THE CHAIRPERSON MAY CALL FOR A BREAK AT HIS/HER DISCRETION

1. Call to order
2. Approval of Jan 29, 2015 ILAC Meeting Minutes

PUBLIC COMMENT  
FOR POSSIBLE ACTION

3. Presentation: Open Meeting Law (OML) requirements for the ILAC. The Division will present information about the OML to ensure committee members understand the requirements of the law as it relates to public committee meetings and other methods by which the committee may choose to conduct its business.
4. Discussion and possible action: Selection of Chair and Vice Chair. Committee members who wish to be considered for Committee Chair or Vice Chair will indicate their desire to the group and describe their qualifications to serve in these positions. After public comments are complete, committee members will vote and select members to these positions.

PUBLIC COMMENT  
FOR POSSIBLE ACTION

5. Discussion and possible action: By-laws for committee meetings. Possible action will be for the committee to recommend adoption of By-laws to the Division for approval.

PUBLIC COMMENT  
FOR POSSIBLE ACTION

6. Discussion and possible action: NAC 453A.658(9) states,

“The Independent Laboratory Advisory Committee established pursuant to NAC 453A.666 shall establish the list of pesticides approved for use in the cultivation and production of marijuana, edible marijuana products and marijuana-infused products to be sold or used in this State. For the purposes of the pesticide chemical residue test, a sample provided to an independent testing laboratory pursuant to this section shall be deemed to have passed if it satisfies the most stringent acceptable standard for an approved pesticide chemical residue in any food item as set forth in Subpart C of 40 C.F.R. Part 180.”

Possible action is for the ILAC to recommend a list of pesticides/analytes that would be acceptable for use in the cultivation of medical marijuana to the Division for approval.

**PUBLIC COMMENT**  
**FOR POSSIBLE ACTION**

7. Discussion and possible action: Pesticide chemical residual analytical testing, equipment and methods. Possible action is for the LAC to recommend to the Division the adoption of standardized methods and equipment requirements pertaining to the testing of medical marijuana.

**PUBLIC COMMENT**  
**FOR POSSIBLE ACTION**

8. Discussion: Heavy metal limits and the Division's new policy on heavy metal testing limits. The Division will present information regarding the NAC 453A regulations, the referenced scientific standard, and the newly adopted policy. Possible action is for the LAC to make recommendations to the MME Laboratories regarding compliance, and/or recommend to the Division revisions to the policy or regulations for further clarification.

**PUBLIC COMMENT**  
**FOR POSSIBLE ACTION**

9. Adjournment

**AGENDA POSTING LOCATIONS**

Division of Public and Behavioral Health, 4150 Technology Way, Carson City  
Nevada State Library and Archives, 100 Stewart Street, Carson City  
Washoe County District Health Department, Ninth and Wells, Reno  
Emergency Medical Systems, 1020 Ruby Vista Dr., Ste 102, Elko  
Division of Public and Behavioral Health, 1650 Community College Drive, Rawson Neal Training Room B-193, Las Vegas  
On the Internet at the Division of Public and Behavioral Health website: <http://www.health.nv.gov>

In the event of videoconference technical difficulties, the meeting may be conducted by teleconference from the same locations.

We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements are necessary or if you need supporting documents for this meeting, please notify Alicia Mazy, (775) 684-3925 with the Division of Public and Behavioral Health. Supporting materials are also available for the public at the Division of Public and Behavioral Health 4150 Technology Way, Suite 101, Carson City, NV 89706 or by calling (775) 684-3487 before the meeting date.

Anyone who wants to be on the Medical Marijuana Laboratory Advisory Committee mailing list must submit a written request every six months to the Division of Public and Behavioral Health at the address listed in the previous paragraph.

**NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH)  
Medical Marijuana Independent Laboratory Advisory Committee (ILAC)**

**AGENDA**  
**April 6, 2016**  
**2:00 p.m.**

**MEETING LOCATIONS**

Division of Public and Behavioral Health  
4150 Technology Way, Room 303  
Carson City, Nevada

Rawson-Neal Psychiatric Hospital  
1650 Community College Dr., Room B-193  
Las Vegas, NV

AGENDA ITEMS MAY BE TAKEN OUT OF ORDER, COMBINED FOR CONSIDERATION, AND/OR REMOVED FROM THE AGENDA. PUBLIC COMMENTS MAY BE LIMITED TO 3 OR FEWER MINUTES PER PERSON.  
**THE CHAIRPERSON MAY CALL FOR A BREAK AT HIS/HER DISCRETION**

1. Call to order; determine quorum.
2. Public comment - No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.
3. Approval of February 3, 2016, ILAC meeting minutes.  
**For Possible Action**
4. Election of Chair and Vice Chair.  
**For Possible Action**
5. Discussion and recommendation concerning cannabinoid and terpenoid potency testing and labelling.  
**Public Comment**  
**For Possible Action**
6. Discussion and recommendation concerning standardization on reporting THC results based on "dry weight" vs. "as received."  
**Public Comment**  
**For Possible Action**
7. Public comment - No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.
8. Adjournment.

**AGENDA POSTING LOCATIONS**

Nevada State Library and Archives, 100 Stewart Street, Carson City  
Emergency Medical Systems, 1020 Ruby Vista Drive, Ste. 102, Elko  
Washoe County District Health Department, Ninth and Wells Streets, Reno  
Division of Public and Behavioral Health, 4150 Technology Way, Carson City  
Rawson-Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas  
On the Internet at the Division of Public and Behavioral Health website:

[http://dpbh.nv.gov/Reg/MME/Boards/ILAC/Meetings/2016/Independent\\_Laboratory\\_Advisory\\_Committee \(ILAC\) -  
2016 Meeting Information/](http://dpbh.nv.gov/Reg/MME/Boards/ILAC/Meetings/2016/Independent_Laboratory_Advisory_Committee_(ILAC)_-2016_Meeting_Information/)

In the event of videoconference technical difficulties, the meeting may be conducted by teleconference from the same locations.

We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements are necessary or if you need supporting documents for this meeting, please notify Jamie Chittenden, (702) 486-5403 with the Division of Public and Behavioral Health. Supporting materials are available for the public at the Division of Public and Behavioral Health, 4150 Technology Way, Suite 106, Carson City, NV 89706 or by calling (702) 486-5403 before the meeting date.

Anyone who wants to be on the Medical Marijuana Laboratory Advisory Committee mailing list must submit a written request every six months to the Division of Public and Behavioral Health at the address listed in the previous paragraph.



**NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH)  
Medical Marijuana Independent Laboratory Advisory Committee (ILAC)**

**AGENDA  
April 05, 2017  
2:00 p.m.**

**MEETING LOCATIONS**

Division of Public and Behavioral Health  
4150 Technology Way, Room 303  
Carson City, Nevada

Rawson-Neal Psychiatric Hospital  
1650 Community College Dr., Room B-193  
Las Vegas, NV

AGENDA ITEMS MAY BE TAKEN OUT OF ORDER, COMBINED FOR CONSIDERATION, AND/OR REMOVED FROM THE AGENDA. PUBLIC COMMENTS MAY BE LIMITED TO 3 OR FEWER MINUTES PER PERSON.

**THE CHAIRPERSON MAY CALL FOR A BREAK AT HIS/HER DISCRETION**

1. Call to order; determine quorum.
2. Public comment - No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.
3. Approval of the February 1, 2017, meeting minutes.  
**For Possible Action.**
4. Election of officers (Chair & Vice Chair)  
**For Possible Action.**
5. Discussion and make recommendation regarding the development of a standardized process to update the DPBH pesticide monitoring list in coordination with both the ILAC and Department of Agriculture, and to develop a timeline for lab implementation of new testing requirements.  
**For Possible Action.**
6. Discussion and make recommendation regarding the addition of Imazalil and Thiophanate-methyl to the pesticide monitoring list, and if added, at what detection level.  
**For Possible Action.**
7. Discussion and make recommendation regarding the addition of Malathion and/or Diazinon to the pesticide monitoring list, and if added, at what detection level.  
**For Possible Action.**
8. Information Only – No Action. Report from Department of Agriculture regarding Myclobutanil.
9. Public comment - No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.
10. Adjournment.

## AGENDA POSTING LOCATIONS

Nevada State Library and Archives, 100 Stewart Street, Carson City  
Emergency Medical Systems, 1020 Ruby Vista Drive, Suite. 102, Elko  
Washoe County District Health Department, Ninth and Wells Streets, Reno  
Division of Public and Behavioral Health, 4150 Technology Way, Carson City  
Rawson-Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas  
Nevada Early Intervention, 1161 South Valley View Boulevard, Las Vegas  
<https://notice.nv.gov/>

Agendas are on available at the Division of Public and Behavioral Health website:  
[http://dpbh.nv.gov/Reg/MME/Boards/ILAC/Meetings/2017/Independent\\_Laboratory\\_Committee\\_\(ILAC\)\\_-2017\\_Meeting\\_Information/](http://dpbh.nv.gov/Reg/MME/Boards/ILAC/Meetings/2017/Independent_Laboratory_Committee_(ILAC)_-2017_Meeting_Information/)

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June 19, 2024

Chair Adriana Guzmán Fralick  
Nevada Cannabis Compliance Board

Dear Chair Fralick

As industry leaders in cannabis and pathogen genomics, we have spent decades working with quantitative polymerase chain reaction (qPCR) and culture-based methods for the detection of microorganisms. We are experts in the field with over 40 patents related to PCR and DNA sequencing based methods for detecting microorganisms. Kevin McKernan, Chief Scientific Officer at Medicinal Genomics Corporation (MGC) managed the Research and Development team for the Human Genome Project at the Whitehead Institute of MIT. He has over 61,399 citations related to [his work](#) in this field. Our scientists recommend microbial testing regulations that will ensure that medical and adult cannabis plant material and manufactured products are safe for patients. Due to concerns for public health, the State of Delaware Medical Marijuana Program should modify the proposed required microbial testing rules to reflect ongoing efforts at AOAC International, ASTM International, the United States Pharmacopeia (USP), the Centers of Disease Control and Prevention (CDC), and the United States Food and Drug Administration (FDA) that are consistent with our findings at MGC.

The presence of microorganisms is common on plants, such as cannabis. One must be able to differentiate between harmless & beneficial microbes (bacteria, yeasts, and fungi [molds]) ubiquitous in nature and those that are human pathogens that have contaminated the cannabis plant material and/or manufactured products. Examples of pathogens that have caused human illness affiliated with cannabis use are *Salmonella* species, Shiga toxin producing *E. coli* (STEC), and the four *Aspergillus* species (*A. flavus*, *A. fumigatus*, *A. niger*, and *A. terreus*) [1-25].

Current required tests for microbial contamination in states that have medical cannabis programs vary among the states. Some states require different combinations of total count tests, such as Total Aerobic Count (TAC), Total Yeast & Mold (TYM), and Total Enterobacteriaceae (TE), along with all or some of the six human pathogens listed above with various action levels for each test and each cannabis product type. On the other hand, some states, such as California, Montana, and Vermont only require tests for detecting the human pathogens *Salmonella* spp., STEC, *A. flavus*, *A. fumigatus*, *A. niger*, and *A. terreus* for inhalable products and concentrates. **NOTE:** Total count tests have action levels as colony forming units (cfu/g), which is the number of colonies that grow on the surface of an agar medium plate. Specific pathogen tests have an action level of either “ <1 cfu/g or Not detected”.

Proposed Changes to NCCR Regulation 11 CANNABIS INDEPENDENT TESTING  
LABORATORY, 11.050 Required quality assurance tests; submission of wet cannabis for testing,  
2. The tests required pursuant to subsection 1 by a cannabis independent testing laboratory are as follows: [26]

Sample type: Usable cannabis, infused pre and crude collected resins, received, excluding wet cannabis

Tests Required	Action Levels
Total yeast and mold	< 10,000 colony forming units per gram
Total Enterobacteriaceae	< 1,000 colony forming units per gram
Salmonella	None detected per gram
Pathogenic E. coli	None detected per gram
Aspergillus fumigatus	None detected per gram
Aspergillus flavus	None detected per gram
Aspergillus terreus	None detected per gram
Aspergillus niger	None detected per gram

Sample type: Usable and wet cannabis, as received, which is destined for extraction

Tests Required	Action Levels
Total Enterobacteriaceae	< 1,000 colony forming units per gram
Salmonella	None detected per gram
Pathogenic E. coli	None detected per gram

Sample type: Extract of cannabis (nonsolvent) like hashish, bubble hash, infused dairy butter, mixtures of extracted products or oils or fats derived from natural sources, including concentrated cannabis extracted with ethanol or CO<sub>2</sub>; Extract of cannabis (solvent-based) made with any approved solvent, including concentrated cannabis extracted by means other than with ethanol or CO<sub>2</sub>

Tests Required	Action Levels
Total yeast and mold	< 1,000 colony forming units per gram
Total Enterobacteriaceae	<100 colony forming units per gram
Salmonella	None detected per gram

Pathogenic <i>E. coli</i>	None detected per gram
<i>Aspergillus fumigatus</i>	None detected per gram
<i>Aspergillus flavus</i>	None detected per gram
<i>Aspergillus terreus</i>	None detected per gram
<i>Aspergillus niger</i>	None detected per gram

Sample type: Edible cannabis product, including a product which contains concentrated cannabis/Liquid cannabis product, including, without limitation, soda or tonic, including a product which contains concentrated cannabis

Tests Required	Action Levels
Total Enterobacteriaceae	< 1,000 colony forming units per gram
Salmonella	None detected per gram
Pathogenic <i>E. coli</i>	None detected per gram
Total aerobic count	< 100,000 colony forming units per gram

Our first recommendation: Total microbial count tests (“indicator tests”), such as TE, TYM, and TAC must be **removed**, because these tests **do not** test directly for the presence of any human pathogens that may cause illness to individuals handling or inhaling cannabis. The American Herbal Pharmacopoeia’s *Cannabis* Inflorescence *Cannabis* spp. monograph [27] states that total microbial count tests **must never** be used to pass or fail a cannabis sample. In other words, total count test results **do not** provide any information about the presence of any pathogenic microorganisms in the cannabis sample, which may cause harm to patients or consumers. Moreover, there are approximately 33 commercially available biological pesticides, where the primary ingredient is either a bacterial, yeast, or mold strain that are approved for use in cannabis cultivation in 22 states, (Alabama, Alaska, Arizona, California, Colorado, Florida, Illinois, Maine, Maryland, Michigan, Minnesota, Montana, Nevada, New Hampshire, Ohio, Oregon, Pennsylvania, South Dakota, Utah, Vermont, Washington, and West Virginia). The required total count tests may cause cultivators to use toxic chemical pesticides instead of harmless biological pesticides.

Our second recommendation: Shiga-toxin producing *Escherichia coli* (STEC) **must** replace Pathogenic *E. coli*, because 1) STEC is the most pathogenic of the six pathotypes that has a minimum infection rate (MIR) of <10 cells, 2) the other 5 pathotypes have MIR that are orders of

magnitude higher than STEC (e.g., ~1,000,000 cells), and 3) there is no test using any technology at this time that can detect and/or identify all six pathotypes.

MGC would like to commend the Cannabis Compliance Board for including four pathogenic *Aspergillus* species (*A. flavus*, *A. fumigatus*, *A. niger*, and *A. terreus*). The United States Pharmacopeia (USP) said that “Many states with legalized cannabis markets now require that all cannabis goods intended for consumption by inhalation be tested for the four pathogenic *Aspergillus* species (*A. flavus*, *A. fumigatus*, *A. niger*, and *A. terreus*). The cannabis flowers will be used as a feedstock to make cannabis concentrates that will subsequently be used as ingredients in manufactured products that will be inhaled. When inhaled, all four of these species are known to cause a variety of immune lung disorders, ranging from asthma, allergic bronchopulmonary aspergillosis, and hypersensitivity pneumonitis to invasive and life-threatening systemic fungal infections in immunocompromised hosts.” [28]

The number of states and territories that require microbial testing rules for inhaled cannabis products (flower, pre-rolls, etc) was 26 in 2019 [29] and 42 in 2024 [30]. A comparative analysis of the required microbial testing rules for all jurisdictions with legal cannabis programs in 2019 and in 2024 showed that the percentage of states and territory that require the detection of the pathogens listed above has increased during this 5 year period (see the following table).

<u>Microorganism ('19) # (%)</u>	<u>Microorganism ('24) # (%)</u>	<u>% Increase</u>
<i>Salmonella</i> species 22 (85%)	<i>Salmonella</i> species 40 (95%)	10%
STEC 4 (15%)	STEC 18 (43%)	28%
4 <i>Aspergillus</i> species 8 (31%)	4 <i>Aspergillus</i> species 24 (57%)	26%

NOTE #1: States & territory that require STEC testing are AK, CA, CO, CT, FL, IA, MI, MS, MT, NM, NY, OK, OR, SD, UT, VT, WA, and Guam

NOTE #2: States & territory that require pathogenic *Aspergillus* species testing are AK, AL, AZ, CA, CO, CT, DE, FL, HI, IA, KY, MI, MO, MS, MT, NM, NV, NY, OK, OR, SD, UT, VT, and Guam

Since other states and territories with legal cannabis programs are in the process of modifying or drafting their microbial testing rules and new states & territories will legalize medical and/or adult use cannabis in the future, we predict that the percentage of jurisdictions requiring the detection of microbial pathogens for cannabis products will continue to increase.

Our third recommendation: For the pathogens, such as *Salmonella* spp., STEC, and the four *Aspergillus* pathogens, the present action level of None detected per gram should be replaced with <1 colony forming units per gram in any situations where the sample size for testing is greater than one gram.

We commend the NV CCC concerning Section 11.025 Adherence to general laboratory standards, practices, procedures and programs; inspection by Board or authorized third party; adoption of publications by reference, Testing methods Update:

6. A cannabis independent testing laboratory must use, when available, testing methods that have undergone validation by the Official Methods of Analysis of AOAC International, or the Performance Tested Methods Program of the Research Institute of AOAC International. If these are not available, the cannabis independent testing laboratory may use methodologies from the Bacteriological Analytical Manual of the Food and Drug Administration, the International Organization for Standardization, the United States Pharmacopeia, the Microbiology Laboratory Guidebook of the Food Safety and Inspection Service of the United States Department of Agriculture, the Elemental Analysis Manual for Food and Related Products of the Food and Drug Administrations, the Pesticide Analytical Manual of the Food and Drug Administration, or an equivalent third-party validation study approved by the Board. If no such testing method is available, a cannabis independent testing laboratory may use an alternative testing method or a testing method developed by the cannabis independent testing laboratory upon demonstrating the validity of the testing method in cannabis matrices and receiving the approval of the appropriate Board Agent.

The AOAC Cannabis Analytical Science Program (CASP) is a forum, where the science of cannabis analysis is discussed and cannabis standards and methods developed. To date, AOAC has released three (3) Standard Method Performance Requirements (SMPRs) for the six human pathogens that we have recommended for testing (see #1-3 below).

1. Detection of *Aspergillus* in Cannabis and Cannabis Products  
[https://www.aoac.org/wp-content/uploads/2019/10/SMPR-2019\\_001.pdf](https://www.aoac.org/wp-content/uploads/2019/10/SMPR-2019_001.pdf)
2. Detection of *Salmonella* species in Cannabis and Cannabis Products  
[https://www.aoac.org/wp-content/uploads/2020/07/SMPR-2020\\_002.pdf](https://www.aoac.org/wp-content/uploads/2020/07/SMPR-2020_002.pdf)
3. Detection of Shiga toxin-producing *Escherihia coli* in Cannabis and Cannabis Products  
[https://www.aoac.org/wp-content/uploads/2021/02/SMPR-2020\\_012.pdf](https://www.aoac.org/wp-content/uploads/2021/02/SMPR-2020_012.pdf)

Medicinal Genomics is a member of **AOAC's CASP Microbial Contaminants Working Group**. The goal and objectives of this working group are to:

- Develop Standard Method Performance Requirements (SMPR) for cannabis and hemp
- Extend a Call for Methods for each of the completed SMPRs
- Form an Expert Review Panel to review candidate methods
- Deliver consensus-based validated Performance Test Methods (PTMs) & Final Action Official Methods for the cannabis industry

Medicinal Genomics has a single AOAC Certified qPCR PTM for the detection of the 4 *Aspergillus* species in one test and has a single AOAC Certified qPCR PTM for the detection of *Salmonella* spp. & STEC in one test. The sample types for the 4 *Aspergillus* species test are flower, infused products, oils & concentrates, and hemp. Moreover, the sample types for the Sal/STEC test are flowers, oils, chocolates, and hemp. Each of these two multiplex qPCR assays

were validated by an independent 3rd party cannabis testing laboratory using the various cannabis sample types.

The primary advantage of using qPCR detection assays are that these molecular tests are designed to identify unique specific DNA sequences either shared by an entire “group” of bacteria, such as all *Salmonella* species or a specific genus and species, such as STEC or the 4 different pathogenic *Aspergillus* species. If the unique DNA sequences are present, then the qPCR test will detect it. Therefore, a qPCR test is very specific, very sensitive, and possesses a rapid turnaround time (24-36 hours) vs. plating methods that are less specific, less sensitive, and has a very slow turnaround time of days for colonies to form on a plate. Moreover, MGC has developed a method to remove the DNA from dead cells by using a DNA nuclease enzyme, incubation, & nuclease inactivation step before amplification to detect any DNA from live pathogens [31].

Moreover, there are several major disadvantages of using plating methods to detect species specific bacterial and fungal pathogens.

- Cannabinoids, which can represent up to 30% of a cannabis flower’s weight, have been shown to have antibiotic activity. Antibiotics inhibit the growth of bacteria. *Salmonella* & STEC bacteria are very sensitive to antibiotics, which may lead to a false negative resTesting methods Update:
- 6. A cannabis independent testing laboratory must use, when available, testing methods that have undergone validation by the Official Methods of Analysis of AOAC International, or the Performance Tested Methods Program of the Research Institute of AOAC International,. If these are not available, the cannabis independent testing laboratory may use methodologies from the Bacteriological Analytical Manual of the Food and Drug Administration, the International Organization for Standardization, the United States Pharmacopeia, the Microbiology Laboratory Guidebook of the Food Safety and Inspection Service of the United States Department of Agriculture, the Elemental Analysis Manual for Food and Related Products of the Food and Drug Administrations, the Pesticide Analytical Manual of the Food and Drug Administration, or an equivalent third-party validation study approved by the Board. If no such testing method is available, a cannabis independent testing laboratory may use an alternative testing method or a testing method developed by the cannabis independent testing laboratory upon demonstrating the validity of the testing method in cannabis matrices and receiving the approval of the appropriate Board Agent
- ult using a plating system vs. a positive result using a qPCR method. [32-33]
- Concerning the four *Aspergillus* species pathogens, the USP stated “Detection of pathogenic *Aspergillus* species using culture based methods is very difficult, requiring a highly trained and experienced mycologist to correctly identify these pathogens by colony appearance and morphology, as there are many nonpathogenic species of *Aspergillus* that may be indistinguishable from those that are pathogenic [28].
- Plating methods cannot detect bacterial and fungal endophytes [34-35] that live a part or all of their life cycle **inside** a plant. Examples of endophytes are the *Aspergillus* pathogens. Methods to break open the plant cells to access these endophytes for plating methods also lyse these bacterial and mold cells (killing these cells in the process). Therefore, these endophytes will never form colonies, which will lead to a false negative result using a plating system vs. a positive result using a qPCR method.



- Selective media for mold plating methods, such as Dichloran Rose-Bengal Chloramphenicol (DRBC) reduces mold growth; especially *Aspergillus* by 5-fold. This may lead to a false negative result for this human pathogen. In other words, although DRBC medium is typically used to reduce bacteria; it comes at the cost of missing 5 fold more molds than molecular methods. These observations were derived from study results of the AOAC emergency response validation [36].

I thank you for your time and consideration. If you have any questions, please feel free to contact me.

Respectfully,

Sherman Hom, PhD  
Director of Regulatory Affairs  
Medicinal Genomics Corporation

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**From:** Jacob Jaramillo <jake072916@outlook.com> **Sent:**  
Wednesday, June 19, 2024 12:57 PM  
**To:** CCB AuditInspections <AuditInspections@ccb.nv.gov>  
**Subject:** CCB Inspections/Audits

**WARNING** - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

I endorse 1G vapes and would like to advocate for an update to the 800mg per package regulation.

V/R  
Jacob A. Jaramillo  
SSG, USA  
Email: [jake072916@outlook.com](mailto:jake072916@outlook.com)  
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FILE NO.

June 19, 2024

Via Email: [regulations@ccb.nv.gov](mailto:regulations@ccb.nv.gov)

Nevada Cannabis Compliance Board  
700 East Warm Springs Road, Suite 100  
Las Vegas, Nevada 89119

Re: Proposed NCCR 11.010(1)

Dear Chair Guzman-Fralick and Cannabis Compliance Board:

In September 2023, pursuant to the initial regulatory workshop on Nevada Cannabis Compliance Regulation (“NCCR”) 11, LettuceTest, LLC (“LTL”), a licensed cannabis testing lab, submitted a written objection to Staff’s proposed change to NCCR 11.010(1) – the residency requirement for a testing laboratory’s scientific director. Please see attached.

In response, Staff modified the language to (now) reflect a 200 mile residency requirement. However, simply changing the residency requirement to be based on mileage versus an employee’s state of residency does not cure the multiple legal infirmities posed by said language. In fact, the fallacy here is ingenious, but it is easily exposed

Primarily, the language is in direct conflict with Article IV, Sec. 2 of the U.S. Constitution otherwise referred to as the Privileges and Immunities Clause as well as Nevada Revised Statute (“NRS”) 233B.038(1)(a) and 233B.040.

The Privileges and Immunities Clause protects the right of citizens to “ply their trade, practice their occupation, or pursue a common calling” *McBurney v. Young*, 569 U.S. 221, 227 (2013), quoting *Hicklin v. Orbeck*, 437 U.S. 518, 524 (1978); *Algeyer v. Louisiana*, 165 U.S. 578, 589 (1897) (holding a state statute unconstitutional because it deprived a citizen of his constitutional liberty rights without due process of the law, recognizing the definition of “liberty” and pursuit of happiness includes not only the right of a citizen to be free from physical restraint, but the right to earn a living by entering into contracts that are proper and necessary.)

Nevada Cannabis Compliance Board

June 19, 2024

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Additionally, government action, such as rulemaking, must be rationally related to a legitimate and identifiable government interest. In this instance, there has been no demonstration that the milage requirement set forth in proposed NCCR 11.010(1) is based on any legitimate government interest nor does it effectuate or interpret a state statute. *See*, NRS 233B.038. Instead, the sole purpose behind the proposed language is to preclude one (1) lab from maintaining its current Scientific Lab Director. As such, said restriction is not of general applicability. *See*, NRS 233B.038.

For the reasons set forth herein, LTL respectfully requests that the CCB not adopt the language proposed in NCCR 11.010(1).

Sincerely,

*/s/ Kimberly Maxson-Rushton*

Kimberly Maxson-Rushton, Esq.

*Enclosure*

**KIMBERLY MAXSON-RUSHTON**  
EMAIL: krushton@cooperlevenson.com

FILE NO.

September 25, 2023

Via E-mail

Nevada Cannabis Compliance Board  
700 East Warm Springs Road, Suite 100  
Las Vegas, Nevada 89119

Re: Proposed NCCR 11.010(1)

Dear Cannabis Compliance Board:


On behalf of LettuceTest, LLC ("LTL") please allow this correspondence to serve as an objection to Staff's proposed change to NCCR 11.010(1) – the residency requirement for a testing laboratory's scientific director.

LTL's objection is specifically based on Article IV, Sec. 2 of the U.S. Constitution otherwise referred to as the Privileges and Immunities Clause, which provides that the "Citizens of each State shall be entitled to all Privileges (i.e. the right to work) and Immunities of Citizens in the several States." *New Hampshire v. Piper*, 470 U.S. 274 (1985). Said clause having been derived from the Commerce Clause, its intent was to create a national economic union amongst the states.

As evidenced by the long line of Supreme Court cases, which specifically address this point, the Privileges and Immunities Clause guarantees to citizens of one State (i.e. Arizona) the privilege of doing business in another State (i.e. Nevada) on substantially equal terms as the citizens of that State. See, *Toomer v. Witsell*, 224 U.S. 385, 396 (1948). Therefore, sans a showing that there is a "substantial" reason for precluding residents of another State from serving as a scientific lab director for a cannabis testing laboratory the proposed regulation violates the Privileges and Immunities Clause of the U.S. Constitution.

Based on the legal authority set forth herein, LTL submits that the proposed residency requirement is unconstitutional and as such, it should be removed from the draft regulation.

Sincerely,

  
Kimberly Maxson-Rushton, Esq.