

**PROPOSED REGULATION OF THE
CANNABIS COMPLIANCE BOARD OF NEVADA**

LCB FILE NO. R152-24I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/24/2024**

CANNABIS COMPLIANCE BOARD
PROPOSED CHANGES TO REGULATIONS
1, 4, 5, 6, 7, 11, & 13

Proposed Changes to NCCR Regulation 1

ISSUANCE OF REGULATIONS; CONSTRUCTION; DEFINITIONS

New

~~{Deleted}~~

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

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

1.083. “Diversion” defined. The term “diversion” means the illegal transfer of cannabis or cannabis product from a licensed cannabis establishment to an unlawful or illicit channel of distribution or use, including but not limited to falsification of records or intentional inaccurate reporting of inventory to facilitate unauthorized sales.

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

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

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

1. Engaging in the cultivating, processing, distributing, transporting, selling, or offering for sale cannabis and/or cannabis product beyond the scope of an active license;
2. Engaging in cultivating, processing, distributing, transporting or selling of cannabis and/or cannabis product without the appropriate operational license;
3. Disseminating print or digital advertisements directing any person to unlicensed cannabis activity and/or delivery service that engages in an unlicensed activity; or
4. Misleading, misrepresenting, and/or deceiving any person about the nature of a cannabis-related product or any genus *Cannabis sativa L.* product that does not conform to NRS 557.160 or violates NRS 557.255.

Proposed Changes to NCCR Regulation 4

DISCIPLINARY AND OTHER PROCEEDINGS BEFORE THE BOARD

New~~{Deleted}~~

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

4.135 Disposition of charges: Adjudication by Board.

4.137 *Settlement of Disciplinary Actions and/or Contested Cases.*

4.140 Declaratory orders and advisory opinions.

4.145 Adoption, amendment or repeal of a regulation.

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

4.200 *Actions Relating to Unlicensed Activity.*

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

4.012. *Time. Wheresoever in these regulations “days” are referenced without any modifier, the term “days” shall be deemed calendar days and not business days. The number of days shall be calculated as set forth in NRCP 6(a)(1).*

4.020 Grounds for disciplinary action.

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

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

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

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

1. The Board may:

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

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

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

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

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

4.033 Category I Violations.

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

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

(1) Conviction of an excluded felony offense; or

(2) Diversion of cannabis or cannabis product.

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

4.035 Category ~~III~~ II Violations.

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

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

- (1) ~~Conviction of an excluded felony offense;~~ Intentionally failing to comply with a Board order or directive;
- (2) Operating, working, or volunteering without all required permits, ~~certificates,~~ registrations and/or licenses, including but not limited to business license, special land use permit, tax permit, or other licenses required to operate;
- (3) Making an intentionally false statement to the Board or Board Agents;
- (4) Intentionally destroying or concealing evidence;
- ~~(5) Intentionally failing to pay taxes to the Department of Taxation;~~
- ~~(6) 5~~ Allowing noisy, disorderly or unlawful activity that results in death or serious physical injury, that involves the unlawful use or attempted use of a deadly weapon against another person or that results in a sexual offense which is a category A felony;
- ~~(7) 6~~ Operating a cannabis establishment while the license for the cannabis establishment is suspended or revoked;
- ~~(8) 7~~ Transporting cannabis outside of the boundaries of this State, except where authorized by an agreement between the Governor of this State and a participating tribal government;
- ~~(9) 8~~ Making verbal or physical threats to a Board Agent or Board member;
- ~~(10) 9~~ Failing to immediately admit regulatory or law enforcement personnel with appropriate identification into the premises of a cannabis establishment;
- ~~(11) 10~~ Refusing to allow an inspection or obstructing regulatory personnel or law enforcement officer from performing his or her official duties;
- ~~(12) Purchasing or selling cannabis that has not passed the analysis required by a cannabis independent testing laboratory without written approval from the Board;~~
- ~~(13) 11~~ Purchasing, ~~or~~ selling, acquiring, cultivating, producing, or otherwise using cannabis not found in the seed-to-sale tracking system and/or from an unapproved or unlicensed source;
- ~~(14) Failure to properly collect taxes;~~
- ~~(15) 12~~ Transporting or storing cannabis from an unlicensed source, other than patient or consumer samples stored at a cannabis independent testing laboratory;
- (13) Any undocumented variance in inventory exceeding 10% of total inventory;
- (14) Failure to tag more than 10% of mature plants and/or packages;
- (15) Engaging in grossly negligent, unlawful or criminal conduct relating to cannabis; or
- (16) Engaging in an act or omission that poses an imminent threat to the health or safety of the public.

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

- (a) For a category ~~III~~ II violation which is the:
- (1) First violation in the immediately preceding 3 years, a civil penalty of not more than ~~90~~ 20,000 and /or a suspension for not more than 30 days or revocation of a license or cannabis establishment agent registration card.

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

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

4.040 Category ~~III~~ III Violations.

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

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

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

(2) Unintentionally destroying or concealing evidence;

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

(4) Allowing a person who is less than 21 years of age to enter or remain in a cannabis establishment or transport vehicle unless the person entering or remaining holds a registry identification card or letter of approval;

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

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

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

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

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

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

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

~~[(12) 2] Operating ~~an~~ unapproved equipment harmful to human health or safety ~~[extraction unit];~~~~

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

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

~~[(15) 2] Any intentional variance from approved procedures in a laboratory;~~

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

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

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

- ~~(12)~~ Any violation of NCCR 11.070: ~~I~~
- (13) Transferring or taking possession of cannabis that has not passed the analysis required by a cannabis independent testing laboratory without written approval from the Board Agent;
- (14) Failing to appear before the Board when notified to appear at any Board meeting without notice to the Board and/or without a reasonable excuse for failure to appear;
- (15) Unintentionally failing to comply with a Board order or directive;
- (16) Failing to have video surveillance cameras in place as required;
- (17) Changing quantities and/or weights of cannabis or cannabis products without Board Agent approval after they have been tested;
- (18) Retesting of cannabis or cannabis product without Board Agent approval;
- (19) Failure to maintain a laboratory quality assurance/quality control program;
- (20) Any undocumented variance in inventory of over 5% and no more than 10% in total inventory;
- (21) Failure to tag over 5% and no more than 10% of mature plants and/or packages; or
- (22) Failure to comply with NCCR 5.170.

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

- (a) For a category ~~III~~ III violation which is the:
- (1) First violation in the immediately preceding 3 years, a civil penalty of not more than ~~25,000~~ 15,000 and ~~/or~~ a suspension for not more than 20 days of a license or cannabis establishment agent registration card.
 - (2) Second violation in the immediately preceding 3 years, a civil penalty of not more than ~~75,000~~ 15,000 and ~~/or~~ a suspension for not more than 30 days of a license or cannabis establishment agent registration card.
 - (3) Third or subsequent violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 and a suspension for not more than 30 days of a license or cannabis establishment agent registration card.
 - (4) Fourth or subsequent violation in the immediately preceding 3 years, revocation of a license or cannabis establishment agent registration card.

4.050 Category ~~III~~ IV Violations.

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

- (a) Category ~~III~~ IV violations are violations of a severity that create a potential threat to public health or safety, including, without limitation:
- (1) Transporting cannabis in an unauthorized vehicle;
 - (2) Allowing consumption by any person of alcohol, cannabis (except at a consumption lounge or an establishment with a valid liquor license) or other intoxicants on the premises of the cannabis establishment or in areas adjacent to the premises of the cannabis establishment which are under the licensee's control, including, without limitation, a parking lot;
 - (3) Failing to keep any required records, including seed-to-sale tracking requirements;
 - (4) Any undocumented variance in inventory of over 2% and not more than 5% in total inventory;
 - (5) Failing to follow an approved security plan;

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

- (31) Failing to develop, implement, and/or maintain a plan to mitigate the risk of impaired driving at a cannabis consumption lounge; ~~(e)~~
- (32) Failing to maintain a separate room in a cannabis consumption lounge for cannabis smoking, vaping, and inhalation in a cannabis consumption lounge, unless all such activities are prohibited in the cannabis consumption lounge ~~(f)~~;
- (33) Effecting a change in ownership and/or ownership interest, granting or foreclosing on a security interest, profit sharing, or entering into a management agreement without complying with all the requirements of NCCR, notifying the Board, obtaining approval of the Board, and/or abiding by any additional Board guidance and orders regarding transfers of interest, profit sharing, or management agreements;
- (34) Failing to renew the cannabis establishment license on time;
- (35) Failure to maintain required certificates, accreditations, or credentials including but not limited to Agent registration card, Certified Food Protection Manager and Restricted Use Pesticide Applicator License;
- (36) Failure to tag over 2% and not more than 5% of mature plants and/or packages in total inventory;
- (37) Not properly segregating medical patient retail sales from adult use retail sales;
- (38) Operating unapproved equipment;
- (39) Failing to timely respond to a statement of deficiencies notice or letter or any other administrative notice of a violation;
- (40) Failing to timely implement an approved or directed plan of correction;
- (41) Violating regulations on collecting or handling samples for laboratory testing or analysis;
- (42) Improper storing of cannabis, cannabis products or other foods;
- (43) Failing to properly wash, rinse and sanitize product contact surfaces as required;
- (44) Failing to maintain hand-washing facilities that are stocked, accessible and limited to hand washing only;
- (45) Infestation by pests that are not multigenerational or on contact surfaces;
- (46) Failing to tag immature plant batches of up to 150 plants, which do not yet require individual tags;
- (47) Failing to notify the Board or Board Agents in writing within 24 hours after the cannabis establishment discovers any cannabis or cannabis product is missing from its physical inventory and unaccounted for after investigation is complete ~~completes its investigation~~;
- (48) Tampering with, disengaging, or otherwise disabling any component of a security system without authorization from a Board Agent, except for maintenance or repair purposes; or
- (49) Failing to maintain quality control unit in a cannabis establishment, other than distribution.

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

- (a) For a category ~~III~~ IV violation which is the:
- (1) First violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$10,000]~~ 5,000.
 - (2) Second violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$30,000]~~ \$10,000 ~~[and/or a suspension for not more than 10 days of a license or cannabis establishment agent registration card]~~.
 - (3) Third violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$90,000]~~ \$20,000 and/or a suspension for not more than ~~[20]~~ 10 days of a license or cannabis establishment agent registration card.
 - (4) Fourth violation in the immediately preceding 3 years, a civil penalty of not more than ~~[\$90,000]~~ \$20,000 and a suspension for not more than ~~[60]~~ 20 days of a license or cannabis establishment agent registration card.
 - (5) Fifth ~~[or subsequent]~~ violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 and/or revocation of a license or cannabis establishment agent registration card.
 - (6) Sixth violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 and/or revocation of a license or cannabis establishment agent registration card.
 - (7) Seventh or subsequent violation in the immediately preceding 3 years, revocation of a license or cannabis establishment agent registration card.

4.055 Category IV Violations.

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

- (a) Category IV violations create a climate which is conducive to abuses associated with the sale or production of cannabis or cannabis products, including, without limitation:
- (1) ~~[Failing to display or have in the immediate possession of each cannabis establishment agent a cannabis establishment agent registration card or proof of temporary registration]~~ Offering for free or no charge or donating cannabis without a purchase;
 - (2) Removing, altering or covering a notice of suspension of a license or any other required notice or sign;
 - (3) Violating advertising requirements;
 - ~~[(4) Displaying products in a manner visible to the general public from a public right of way;~~
 - ~~[(5) Failing to respond to an administrative notice of a violation or failing to pay fines;]~~
 - (4) Failing to notify the Board or Board Agents in writing and obtain approval from Board Agents of a modification or expansion of the facilities of the cannabis establishment or a change in equipment or menu of the cannabis establishment prior to implementation;
 - (5) Violating packaging or labeling requirements;
 - ~~[(6) Violating restrictions on sampling;]~~
 - ~~[(7)]~~ (6) Failing to maintain a standardized scale as required;
 - ~~[(8) Improper storing of cannabis, cannabis products or other foods;~~
 - ~~[(9) Failing to properly wash, rinse and sanitize product contact surfaces as required;~~
 - ~~[(10) Failing to maintain hand-washing facilities that are stocked, accessible and limited]~~

~~to hand washing only;~~

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

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

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

~~(14) 7~~ Failing to properly *and/or timely* respond to a Board or Board Agent's request for documentation, information, video, or other records; ~~[or]~~

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

~~(15) 9~~ Failing to comply with required employee training;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (6) Sixth ~~[or subsequent]~~ violation in the immediately preceding 3 years, ~~[revocation of a license or cannabis establishment agent registration card.]~~ a civil penalty of not more than \$20,000 and a suspension for not more than 30 days of a license or cannabis establishment agent registration card.
- (7) Seventh violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 and a suspension for not more than 60 days of a license or cannabis establishment registered agent card.
- (8) Eighth violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 or revocation of a license or cannabis establishment registered agent card.
- (9) Ninth violation in the immediately preceding 3 years, a civil penalty of not more than \$20,000 or revocation of a license or cannabis establishment registered agent card.
- (10) Tenth or subsequent violation in the immediately preceding 3 years, revocation of a license or cannabis establishment agent registration card.

4.060 Category V Violations.

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

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

- (1) ~~[Failing to submit monthly tax or sales reports or payments]~~ Failing to notify the Board or Board Agents in writing of a notice of eviction within 24 hours of the notice;
- (2) Failing to notify the Board or Board Agents of a temporary closure of the cannabis establishment in writing within 24 hours of the closure;
- (3) Failing to post any required signs;
- (4) Failing to notify the Board in writing of a change in the name of the cannabis establishment within 10 days of such name change;
- (5) ~~[Making a payment with a check returned for insufficient funds;]~~ Displaying cannabis or cannabis products in a manner visible to the general public from outside the cannabis establishment;
- (6) ~~[Failing to comply with any other requirements not described in another category of violations;]~~ Failing to timely pay civil penalties or fines;
- (7) Failing to properly and/or timely submit quarterly inventory reports, monthly sales reports, or other reports required by the Board or Board Agents; ~~[or]~~
- (8) ~~[Failure to pay for all costs involved in screening or testing related to quality assurance compliance checks within 30 days.]~~ Violating any transportation or delivery requirements not described in another category of violations;
- (9) Operating a cannabis consumption lounge, or cannabis sales facility, outside of its designated hours of operation or failing to properly post the hours of operation of a cannabis consumption lounge~~[s]~~ or cannabis sales facility;
- (10) ~~[Failing to provide required water service at a cannabis consumption lounge; or (11)]~~ Failing to comply with requirements regarding visibility of consumption from the public at a cannabis consumption lounge;
- (11) Testing lots which weigh more than the legal limit;
- (12) Any undocumented variance in inventory of over 0.25% and not more than 2%;

(13) Failure to tag over 0.25% and not more than 2% of mature plants and/or packages in total inventory;

(14) Failure to properly affix tags to plants as required;

(15) Failing to, and/or the inability to, print a properly time-stamped screen shot from any operational video surveillance camera at the request of the Board or Board Agents;

(16) Failing to accept or reject into the seed-to-sale tracking system any cannabis or cannabis product delivery within 24 hours; or

(17) Failing to comply with any requirements of NCCR 6.082 not set forth elsewhere.

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

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

4.061 Category VII Violations.

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

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

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

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

(a) For a category VII violation which is the:

- (1) First violation in the immediately preceding 3 years, a formal written warning.
- (2) Second violation in the immediately preceding 3 years, a second formal, written warning.
- (3) Third violation in the immediately preceding 3 years, a civil penalty of not more than \$1,500.
- (4) Fourth violation in the immediately preceding 3 years, a civil penalty of not more than \$3,000.
- (5) Fifth violation in the immediately preceding 3 years, a civil penalty of not more than \$5,000.
- (6) Sixth violation in the immediately preceding 3 years, a civil penalty of not more than \$10,000.
- (7) Seventh or subsequent violations in the immediately preceding 3 years, a civil penalty of not more than \$20,000 for each such violation and/or a suspension for not more than 10 days of a license or cannabis establishment agent registration card for each such violation.

4.065 Imminent health hazard.

1. The Board, through its Board Agents, will determine whether an event is an imminent health hazard that requires immediate correction or cessation of operations to prevent injury or serious illness based on the nature, severity and duration of any anticipated injury, illness or disease and the number of injuries or illnesses to members of the public which may occur

Events that are presumed to be imminent health hazards include, without limitation:

- (a) Interruption of electrical service;
- (b) Lack of potable water or hot water;
- (c) Grossly unsanitary occurrences or conditions including, without limitation, pest infestation or sewage or liquid waste not being disposed of in an approved manner;
- (d) Lack of adequate refrigeration;
- (e) Lack of adequate toilet and hand-washing facilities for employees;
- (f) Misuse of poisonous or toxic materials;
- (g) A suspected outbreak of foodborne illness;
- (h) A fire or flood;
- (i) Governor's emergency directives; or
- (j) Any other condition or circumstance which endangers public health.

2. If a cannabis facility becomes aware of any such condition listed above, independently and not through the Board's Agent, it must report said hazard to the Board or Board Agents ~~within two hours of the hazard's discovery~~ immediately, after ensuring safety of all persons in the vicinity.

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

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

4.090 Appearance through counsel.

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

4.095 Early case conference and hearing.

1. Within 10 days after the respondent answers the complaint pursuant to NRS 678A.520 and demands a hearing or if the Board orders a hearing even if the respondent waives his or her right to a hearing, the parties shall hold an early case conference at which the parties and a hearing officer employed by the Board, ~~[or as permitted by NAC 616C.2753;]~~ or a delegated member of the Board, a panel of the Board, or the Board must preside. At the early case conference, the parties shall in good faith:
 - (a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, a delegated member of the Board, panel of the Board, or the Board, including the estimated duration of the hearing no later than 45 days after receiving the respondent's answer unless an expedited hearing is determined to be appropriate. The parties, with the approval of the Chair or Hearing Officer, may agree to extend the 45 day requirement;
 - (b) Set dates:
 - (1) By which all documents must be exchanged;
 - (2) By which witness lists must be exchanged;
 - (3) By which all prehearing motions and responses thereto must be filed; and
 - (4) For any other foreseeable actions that may be required for the matter;The parties, with approval of the Chair or Hearing Officer, may later agree to continue any of these dates;
 - (c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;
 - (d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and
 - (e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

2. A formal hearing must be held at the time and date set at the early case conference (*or by the approved stipulation of the parties*) by:
 - (a) The Board;
 - (b) A hearing officer; or
 - (c) A panel of three members of the Board.
3. The hearing will be conducted as set forth in NRS 678A.540. If the hearing is held before a hearing officer or panel of the Board, the hearing officer or panel shall issue, within 30 days of the last date of the hearing, findings of fact and conclusions of law for the Board's review pursuant to NCCR 4.135(1).
4. For purposes of NRS 678A.550 and the regulations regarding conduct of a hearing, a Board member shall be deemed present at a hearing when said Board member has reviewed the full written or audio transcript of the hearing and all evidence submitted at the hearing.

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

1. If a person applies for reinstatement of a license or cannabis establishment agent registration card that has been revoked pursuant to ~~[this chapter]~~ *Title 56 of NRS and these regulations*, the person shall:
 - (a) Submit an application on a form supplied by the Board.
 - (b) Satisfy all the current requirements for the issuance of an initial license or cannabis establishment agent registration card.
 - (c) Attest that, in this State or any other jurisdiction:
 - (1) The person has not, during the period of revocation, violated any state or federal law relating to cannabis, and no criminal or civil action involving such a violation is pending against the person; and
 - (2) No other regulatory body has, during the period of revocation, taken disciplinary action against the person, and no such disciplinary action is pending against the person.
 - (d) Satisfy any additional requirements for reinstatement of the license or cannabis establishment agent registration card prescribed by the Board.
2. The Board will consider each application for reinstatement of a license or cannabis establishment agent registration card submitted pursuant to this section. In determining whether to reinstate the license or cannabis establishment agent registration card, the Board will consider the following criteria:
 - (a) The severity of the act resulting in the revocation of the license or cannabis establishment agent registration card.
 - (b) The conduct of the person after the revocation of the license or cannabis establishment agent registration card.
 - (c) The amount of time elapsed since the revocation of the license or cannabis establishment agent registration card.
 - (d) The veracity of the attestations made by the person pursuant to subsection 1.
 - (e) The degree of compliance by the person with any additional requirements for reinstatement of the license or cannabis establishment agent registration card prescribed by the Board.
 - (f) The degree of rehabilitation demonstrated by the person.
3. If the Board reinstates the license or cannabis establishment agent registration card, the Board may place any conditions, limitations or restrictions on the license or cannabis establishment agent registration card as it deems necessary.

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

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

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

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

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

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

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

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

4.110 Discovery: mandatory exchanges.

1. Within 20 calendar days after the service of the answer by the first answering respondent, and thereafter as each respondent answers the complaint, the parties shall confer for the purpose of complying with subsection 3 of this section.
2. Within 5 calendar days after a request for hearing regarding an order of summary suspension, the parties shall confer for the purpose of complying with subsection 3 of this section.
3. At each conference the parties shall:
 - (a) Exchange copies of all documents and other evidence then reasonably available to a party which are then intended to be offered as evidence in support of the party's case in chief; and
 - (b) Exchange written lists of persons each party then intends to call as a ~~material~~ witness in support of that party's case in chief. Each witness shall be identified by name, if known, position, business address, and a brief description of the purpose for which the witness will be called. If no business address is available, the party shall provide a home address for the witness, or shall make the witness available for service of process. ~~[For the purpose of this paragraph, a "material witness" is a person whose testimony relates to a genuine issue in dispute which might affect the outcome of the proceeding.]~~
4. The investigative file for a case, *or any portion thereof*, is not discoverable unless Board counsel intends to present materials from the investigative file as evidence in support of the case. The investigative file for the case includes all communications, records, affidavits or reports acquired or created as part of the investigation of the case, whether or not acquired through a subpoena related to the investigation of the person. Discovery of the investigative file is limited to solely those documents the Board Counsel intends to use as evidence in support of its case, as disclosed prior to the hearing.
5. A party may not serve any written discovery on another party, inclusive of interrogatories, requests for production, requests for admissions and/or depositions by written questions.
6. ~~[Pursuant to NRS 678A.530(2), a party may take the deposition of a material witness:~~
 - ~~(a) A party who wishes to take a deposition of a material witness must request such a deposition at any early case conference held in the matter or submit a written application at least 30 days before the hearing. The application must:

 - ~~—(1) Set forth the reason why the deposition is necessary; and~~
 - ~~—(2) Be accompanied by the appropriate orders for deposition.~~~~
 - ~~(b) A material witness is a witness who has percipient knowledge of the alleged misconduct of the licensee. If there is any dispute as to whether a particular witness is material, such dispute shall be submitted to the Chair or hearing officer and they shall rule on whether such witness is material.~~
 - ~~€ The Chair or the hearing officer shall approve or deny the application within 5 days after the receipt of the application.~~
 - ~~(d) If a material witness deposition is allowed it shall be conducted in accordance with the Nevada rules of civil procedure and not last more than one day/seven hours unless good cause is shown.~~
 - ~~€ Depositions of non-material witnesses may be permitted in two very limited circumstances:

 - ~~—(1) If the potential witnesses resides outside of Nevada; or~~
 - ~~—(2) If the witness is not available to testify during the hearing.~~~~
 - ~~(f) If the parties cannot agree on whether a non-material witness can be deposed, such dispute shall be submitted to the Chair or the hearing officer and they shall rule on this~~

~~issue, taking into account whether the burden and expense of the proposed deposition outweighs its likely benefit.~~

~~7.]~~ It shall be a continuing obligation of the parties to produce documents, witness lists, and other matters governed by this section as such become identified by and available to the parties. A party may amend its responses to the requirements of this section by informing the adverse party that documents previously produced or witnesses previously listed, will not be introduced in that party's case in chief. *However, there shall be no supplementation of witnesses or documents after the discovery deadline set at the early case conference (or any extension granted regarding same), unless the proffering party can demonstrate good cause for the failure to timely disclose such supplementation. If such good cause is shown, the opposing party shall be granted sufficient time to disclose witnesses and documents that rebut the new evidence proffered.*

4.130 Subpoenas.

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

4.135 Disposition of charges: Adjudication by Board.

1. Prior to the adjudication, at least three members of the Board shall review a full transcript of the hearing or the phonographic recording of the hearing, *as well as all admitted exhibits,* to ensure they have heard all the evidence presented and shall review the findings of fact and conclusions of law submitted after the hearing.
2. At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:
 - (a) Board ~~[a]~~ Agent or counsel for the Board to present a disciplinary recommendation and argument;
 - (b) The respondent or counsel of the respondent to present an argument, if they wish to, in opposition to or support of the disciplinary recommendation; and
 - (c) The Board may limit the time within which the parties and the complainant may make their arguments and statements.

3. At the conclusion of the presentations of the parties, the Board shall deliberate and may by a majority vote impose discipline based upon the evidence, findings of fact and conclusions of law and the presentations of the parties.
4. If the Board finds that a violation has occurred, it shall by order any and all discipline authorized by ~~[this Chapter]~~ *these regulations* and Title 56 of the NRS.
5. Within 30 days after the conclusion of the adjudication by the Board, the Board shall issue a final order, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4.137 *Settlement of Disciplinary Actions and/or Contested Cases.*

1. Pursuant to S.B. 195 Sec. 2, 2023 Leg., 82th Sess. (Nv. 2023) and NRS 233B.121(5), the parties to any disciplinary action may agree to resolve a disciplinary action or contested case via a settlement agreement at any time. Settlement agreements may be entered into prior to or after commencement of a contested case and/or disciplinary action or the filing of a disciplinary complaint.
2. Should the parties enter into a settlement agreement, that settlement agreement shall not be effective until approved by a majority vote of the Board at an open meeting.
3. If the parties enter into a settlement agreement after a disciplinary action or contested case has commenced, or have agreed to the primary terms of a settlement, the Board, a panel of the Board, or the Board's appointed hearing officer may enter a stay of the proceedings pending the Board's consideration of approval of a final settlement agreement executed by the parties.
4. In any settlement agreement, the parties may stipulate to the civil penalties to be imposed, any other discipline to be imposed (inclusive of revocation or suspension), the mitigating circumstances present and the appropriate weight of the mitigating circumstances, and any other terms and conditions relevant to the disciplinary action or contested case.
5. In considering a settlement agreement, the Board may approve the settlement agreement, reject the settlement agreement, or remand the settlement agreement back to the parties to determine whether settlement may be reached on different terms. If the parties to the settlement agreement can agree to such different terms, an amended settlement agreement may be noticed for a later Board meeting for consideration of approval.

4.140 Declaratory orders and advisory opinions.

1. *Pursuant to NRS 233B.120*, any applicant for licensure, licensed cannabis establishment, or holder of registry identification card may obtain a determination or advisory opinion from the Board as to the applicability of any provision of chapters 678A through 678D of NRS or any regulation adopted pursuant thereto by bringing a petition for a declaratory ruling before the Board. No other persons or entities may petition the Board for a declaratory ruling.
2. A declaratory ruling is an extraordinary remedy that will be considered by the Board only when the objective of the petitioner cannot reasonably be achieved by other means and when the ruling would be significant to the regulation of cannabis. The Board will construe any statute or regulation reviewed pursuant to this section in a manner consistent with the declared policy of the State of Nevada.
3. A petition for a declaratory ruling shall be filed with the Executive Director, together with a nonrefundable filing fee in the amount of \$500.00.
4. The petition for a declaratory ruling must contain:
 - (a) The name, business address, *email*, and telephone number of the petitioner;
 - (b) A statement of the nature of the interest of the petitioner in obtaining the declaratory ruling;
 - (c) A statement identifying the specific statute or regulation in question;
 - (d) A clear and concise statement of the interpretation or position of the petitioner relative to the statute or regulation order in question;
 - (e) A description of any contrary interpretation, position or practice that gives rise to the petition;
 - (f) A statement of the facts and law that support the interpretation of the petitioner, along with a table of legal authorities;
 - (g) A statement showing why the subject matter is appropriate for Board action in the form of a declaratory ruling and why the objective of the petitioner cannot reasonably be achieved by other administrative remedy;
 - (h) A statement identifying all persons or groups who the petitioner believes will be affected by the declaratory ruling, including the cannabis industry as a whole, and the manner in which the petitioner believes each person will be affected; and
 - (i) The signature of the petitioner or the petitioner's legal representative.

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

5. A petitioner may not file a petition for declaratory ruling involving questions or matters that are issues in a disciplinary action or ~~[civil penalty action]~~ *contested case* with the Board in which the petitioner is a party or has a financial and/or ownership interest in a party
6. The Board will consider a petition for declaratory ruling at the next scheduled Board meeting, provided that the petition is filed with the Executive Director ~~[15]~~20 calendar days prior to that scheduled Board meeting. If the petition is not filed with the Executive Director ~~[15]~~20 calendar days prior to next scheduled Board meeting, the petition will be considered at the following scheduled Board meeting. *The Board may continue these dates for good cause.*
7. In considering a petition for a declaratory ruling at the Board's meeting, the Board, by majority vote of the members, may take any of the following actions:
 - (a) Dismiss the petition and close the case;
 - (b) Order a hearing with oral argument on the petition and set a date for said hearing, which may be at a subsequently scheduled Board meeting;

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

4.145 Adoption, amendment or repeal of a regulation.

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

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

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

6. Pursuant to NRS 233B.100(1), within 30 days, the Board shall either deny the petition in writing stating its reasons for denial, or initiate regulation making proceedings. The Board may delegate to the Chair the decision on whether to deny the petition. The Board may set a hearing on the petition within 30 days of its submission at the next regularly scheduled Board meeting. The Board or its counsel may stipulate with the petitioner to waive the 30-day deadline for a decision on the petition. The petition may

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

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

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

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

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

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

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

4.150 Petition for Exemption from Excluded Felony Offense Restrictions.

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

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

3. The petition must contain:

(a) The name, residence, business address (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.

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

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

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

(b) The Federal Bureau of Investigation.

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

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

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

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

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

4.200 Actions Relating to Unlicensed Activity.

1. The CCB may issue a notice of violation and an order to cease unlicensed activity to any person or business who is cultivating, processing, distributing, transporting, or selling or offering to sell cannabis or cannabis product, or engaging in an indirect retail sale of cannabis or cannabis product including but not limited to listing and disseminating in print or online an unlicensed cannabis business and/or delivery app, without obtaining the appropriate license, including any owner of real property where the unlicensed activity took place.

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

(a) that person or business must cease all unlicensed cannabis related activity as described in Section (1) effective immediately upon the notice and order:

(1) being affixed to the physical location where such activity is taking place; or

(2) being delivered by hand or by registered or certified mail to the person or business acting or engaging in the unlicensed activity;

(b) pursuant to NRS 678A.440(11) (as amended by S.B. 328 Sec. 1.6, 2023 Leg., 82nd Sess. (Nv.2023)), NRS 179.1156 to 179.121, inclusive, and NRS 678C.600, the CCB may seize and destroy any cannabis and/or cannabis product found in the possession of a person engaged in the conduct described in Section (1) of this section;

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

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

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

(f) such warning sticker shall not be removed until authorized by the CCB. Any unauthorized removal of the warning sticker shall constitute a violation of these regulations and shall be punishable by a fine of up to \$50,000 as well as administrative costs and fees, including attorneys' fees.

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

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

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

(b) Pursuant to NRS 233B.121(5), NRS 678A ((as amended S.B. 195 Sec. 2, 2023 Leg., 82nd Sess. (Nv2023)) and NCCR 4.137, the parties may enter a stipulation for the resolution of any and all issues at any time. Settlement agreements may be entered into prior to or after commencement of enforcement action identified in Section 3. Should the parties enter into a settlement agreement, that settlement agreement shall not be effective until approved by a majority vote of the Board at an open meeting. A Board-approved settlement agreement shall have the same force and effect as an order issued by the CCB after a hearing.

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

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

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

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

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

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

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

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

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

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

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

Proposed Changes to NCCR Regulation 5

LICENSING, BACKGROUND CHECKS, AND REGISTRATION CARDS

New~~Deleted~~**5.075 Authority of Board and Executive Director relating to inspections and investigations, summoning of witnesses and issuance of subpoenas, administration of oaths and administration of provisions of chapter.**

1. Submission of an application for a license for a cannabis establishment constitutes permission for entry to and reasonable inspection of the cannabis establishment by the Board and Board Agents, with or without notice. An inspector conducting an inspection pursuant to this section does not need to be accompanied during the inspection.
2. The Executive Director may, upon receipt of a complaint against a cannabis establishment, except for a complaint concerning the cost of services, a complaint concerning the efficacy of cannabis or a complaint related to consumer service issues, conduct an investigation during the operating hours of the cannabis establishment, with or without notice, into the premises, facilities, qualifications of personnel, methods of operation, policies, procedures and records of that cannabis establishment or any other cannabis establishment which may have information pertinent to the complaint.
3. Board Agents may enter and inspect any building or premises at any time, with or without notice, to:
 - (a) Secure compliance with any provision of the NCCR or Title 56 of NRS;
 - (b) Prevent a violation of any provision of the NCCR or Title 56 of NRS; or
 - (c) Conduct an unannounced inspection of a cannabis establishment in response to an allegation of noncompliance with the NCCR or Title 56 of NRS.
4. The Board may:
 - (a) Summon witnesses to appear and testify on any subject material to its responsibilities under this chapter or Title 56 of NRS. No property owner and no officer, director, superintendent, manager or agent of any company or corporation, whose property is wholly in one county, shall be required to appear, without his or her consent, at a place other than the county seat or at the nearest town to his or her place of residence or the principal place of business of such company or corporation. Such summons may be served by personal service by the Executive Director or his or her agent or by the sheriff of the county.
 - (b) Except as otherwise provided in this paragraph, issue subpoenas to compel the attendance of witnesses and the production of books and papers and may seek to enforce the subpoenas by petition to any court of competent jurisdiction in the manner provided by law. The Board will not issue a subpoena to compel the production of books and papers that contain individually identifiable health information.
5. Any member of the Board, the Executive Director or any officer of the Board designated by the Board or Executive Director may administer oaths to witnesses.

6. The Board and Board Agents may:
 - (a) Inspect and examine all premises wherein cannabis is manufactured, sold or distributed;
 - (b) Inspect all equipment and supplies in, upon or about such premises;
 - (c) Summarily seize and remove from such premises any cannabis or cannabis products and impound any equipment, supplies, documents or records for the purpose of examination and inspection;
 - (d) Demand access to and inspect, examine, photocopy and audit all papers, books and records of any applicant or licensee, on his or her premises, or elsewhere as practicable, and in the presence of the applicant or licensee, or his or her agent, relating to the gross income produced by any cannabis establishment, and require verification of income, and all other matters affecting the enforcement of the policy or any of the provisions of this chapter or any chapter of Title 56 of NRS; and
 - (e) Demand access to and inspect, examine, photocopy and audit all papers, books and records of any affiliate of a licensee whom the Board knows or reasonably suspects is involved in the financing, operation or management of the licensee. The inspection, examination, photocopying and audit may take place on the premises of the affiliate or another location, as practicable, and in the presence of the affiliate or its agent.
7. Board Agents will enter and inspect ~~at least annually,~~ with or without notice, each building or the premises of a cannabis establishment to ensure compliance with the provisions of this chapter and Title 56 of NRS. All cannabis establishments may be inspected at least annually except that cannabis independent testing laboratories may be inspected at least biennially, with interim follow-up activities at least annually. Nothing in this subsection shall be construed to prohibit an appropriate local administrative authority from conducting an inspection of the facilities or operations of a cannabis establishment as provided by the ordinance of a local government.
8. Board Agents will enter and inspect, with or without notice, any building or premises operated by a cannabis establishment within 72 hours after the Board is notified that the cannabis establishment is operating without a license for the cannabis establishment.
9. Board Agents will inspect the medical cannabis establishment and the cannabis establishment of a dual licensee at the same time using the same inspection team to ensure consistency and efficiency. Board Agents will conduct such an inspection in a manner which is not unduly burdensome for the dual licensee.
10. The Board or Board Agents may consult with any person or entity, as needed, in any of the Board's audits, inspections, and/or investigations. This includes, but is not limited to, allowing such persons or staff from said entities to accompany Board Agents during inspections, and/or investigations.
11. The Board will administer the provisions of the NCCR and Title 56 of NRS for the protection of the public and in the public interest in accordance with the policy of this State.
12. As used in this section, "individually identifiable health information" means information which identifies a natural person, or from which the identity of a natural person may reasonably be ascertained, and which relates to:
 - (a) The past, present or future physical or mental health or condition of the person or
 - (b) The provision of health care to the person.

5.140 Registration cards: Requirements for requesting replacement card. To request a replacement cannabis establishment agent registration card or cannabis establishment agent registration card for a cannabis executive that has been lost, stolen or destroyed, the cannabis establishment agent shall submit to the Board, within 3 working days after the card was lost, stolen or destroyed, a request for a replacement card which must include:

1. The name and date of birth of the cardholder;
2. If known, the number of the lost, stolen or destroyed cannabis establishment agent registration card or cannabis establishment agent registration card for a cannabis executive;
3. If the cardholder cannot provide the number of the lost, stolen or destroyed cannabis establishment agent registration card or cannabis establishment agent registration card for a cannabis executive, a copy of: (a) Any valid government-issued identification card of the cardholder which includes a photograph of the person; or (b) A cannabis establishment agent registration card or cannabis establishment agent registration card for a cannabis executive previously issued to the person.
4. An application fee of \$~~75~~40.

Proposed Changes to NCCR Regulation 6

PRODUCTION AND DISTRIBUTION OF CANNABIS

New~~{Deleted}~~**6.010 Establishment of maximum allowable quantity of cannabis products a person may possess for purposes of exemption from state or local prosecution.**

1. The maximum allowable quantity of ~~{adult-use}~~ cannabis products a person may possess is
 - (a) ~~{One ounce (28.35 grams)}~~ Two and one-half ounces (70.875 grams) of usable cannabis.
 - (b) The equivalent to ~~{one-eighth}~~ one-quarter ounce of concentrated cannabis, not to exceed ~~{3,543}~~ 7,087 milligrams of THC;
 - (c) ~~{3,543}~~ 7,087 milligrams of THC contained within edible cannabis products; or
 - (d) A combination of usable and concentrated cannabis not to exceed the legal limit.

~~{2. The maximum allowable quantity of medical cannabis products a holder of a valid registry identification card may possess is:~~

- ~~{(a) Two and one-half ounces (70.875 grams) of usable cannabis.~~
- ~~{(b) 10,000 milligrams of THC concentrate;~~
- ~~{(c) 10,000 milligrams of THC contained within one or more edible cannabis products; or~~
- ~~{(d) A combination of usable and concentrated cannabis not to exceed the legal limit.}~~

6.025 Board authorized to collect fee for costs for ~~{oversight}~~ investigation; hourly rate.

1. For the ongoing activities of the Board relating to the ~~{oversight}~~ investigation of cannabis establishments pursuant to NRS 678B.390, the Board will collect an assessment from each cannabis establishment for the ~~{time and effort}~~ costs attributed to the ~~{oversight}~~ investigation of the cannabis establishment at an hourly rate established by the Board. ~~{Necessary travel accommodations accrued by Board agents, including airfare and hotel stays,}~~ An hourly fee at a rate of \$111.00 for each hour spent by agents of the Board in conducting the investigation, and costs for the travel expenses and per diem allowances (as assessed at the rate established by the State Board of Examiners for state officers and employees generally) of the agents of the Board conducting the investigation will ~~{also}~~ be billed to the cannabis establishment. ~~{The activities where the hourly rate for time and effort will be charged include, but are not limited to:~~

- ~~{(a) Any type of routine inspection;~~
- ~~{(b) Any type of routine audit;~~
- ~~{(c) Hearing preparation and attendance for Board agents;~~
- ~~{(d) Investigations of complaints submitted to the Board by a consumer, or any other outside individual or entity, if said complaint is substantiated;~~
- ~~{(e) Investigations based on any type of requested transfer of interest;~~
- ~~{(f) Investigations based on any type of requested waiver;~~
- ~~{(g) Investigations based on an application for a new cannabis establishment license; and~~
- ~~{(h) Any other type of inspection, audit, or investigation deemed necessary by the Board.}~~

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

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

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

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

3. The Board is required to provide a licensee or an applicant an itemized list of the costs incurred in the investigation. All such costs shall be due 60 days after receipt of the CCB Invoice. Failure to pay such costs upon the due date is a Category VII violation pursuant to NCCR 4.061.

4. A licensee or an applicant may request from the Board documentation, prepared by the Board or its agents conducting the investigation, relating to the costs of the investigation by sending an email request to ccbtimeandeffort@ccb.nv.gov.

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

6.080 Inventory control system; authorized sources for acquisition of cannabis and cannabis products; duties of establishment if loss incurred; maintenance and availability of documentation.

8. Each cannabis establishment shall:

(a) Establish and maintain a seed-to-sale tracking system which adequately documents the flow of materials through the manufacturing process.

(b) Establish procedures which reconcile the raw material used to the finished product on the basis of each job. Significant variances must be documented, investigated by management personnel and immediately reported to the Executive Director and to the cannabis establishment that ordered the concentrated cannabis or cannabis product.

(c) Provide for quarterly physical inventory counts to be performed by persons independent of the manufacturing process which are reconciled to the perpetual inventory records. Significant variances must be documented, investigated by management personnel and ~~immediately~~ reported to the ~~Executive Director~~ appropriate board agent within 24 hours after investigation is completed.

9. If a cannabis establishment identifies a reduction in the amount of cannabis in the inventory of the cannabis establishment which is not due to documented causes, the cannabis establishment shall determine where the loss has occurred and take and document corrective action. If the reduction in the amount of cannabis in the inventory of the cannabis establishment is due to suspected criminal activity by a cannabis establishment agent, the cannabis establishment shall report the cannabis establishment agent to the Board and to the appropriate law enforcement agencies within 24 hours. The Board may require the cannabis establishment to provide additional information as it determines necessary to conduct an investigation.

6.085 Required security measures, equipment and personnel; location of outdoor cultivation facility must allow for response by local law enforcement.

1. To prevent unauthorized access to cannabis at a cannabis establishment, the cannabis establishment must have:

- (a) ~~One single secure~~ *All* entrances of the physical building *secured in accordance with accompanied written standard operating procedures for security measures*;
- (b) No visible cannabis or cannabis products from outside the establishment.
- (c) Security equipment to deter and prevent unauthorized entrance into limited access areas that includes, without limitation:
 - (1) Devices or a series of devices to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or other mechanical or electronic device, and which, for a cannabis cultivation facility which engages in outdoor cultivation, covers the entirety of the cultivation area and the perimeter and exterior area of the cannabis cultivation facility;
 - (2) Exterior lighting to facilitate surveillance which, for a cannabis cultivation facility which engages in outdoor cultivation:
 - (I) When the lighting would not interfere with the growing cycle of a crop, covers the entirety of the cultivation area and the perimeter and exterior area of the cannabis cultivation facility; and
 - (II) When the lighting would interfere with the growing cycle of a crop, covers the perimeter and exterior area of the cannabis cultivation facility;
 - (3) Electronic monitoring, including, without limitation, each of the following:
 - (I) At least one call-up monitor that is 55 inches or more;
 - (II) A printer capable of immediately producing a clear still photo from any video camera image, which photo must be provided to the Board or Board Agents for review upon request;
 - (III) Video cameras with a recording resolution of at least 1920 x 1080, or the equivalent, at a rate of at least 15 frames per second which provide coverage of all entrances and exits of the building, any room or area that holds a vault and any point-of-sale location, which record 24 hours per day, which are capable of being accessed remotely by a law enforcement agency in real time and which may record motion only. The information necessary to remotely access the camera footage must be entered into the cannabis establishment's Accela portal. A video camera providing coverage of a point-of-sale location must allow for the identification of any person purchasing cannabis. In a cannabis consumption lounge, the entire area that is used by consumers must be covered by video cameras;
 - (IV) Video cameras with a recording resolution of at least 720 x 480, or the equivalent, at a rate of at least 15 frames per second which provide coverage of all limited access areas not described in sub-subparagraph

- (III) and any activity in or adjacent to the establishment, which record 24 hours per day, which are capable of being accessed remotely by a law enforcement agency, the Board, and Board Agents in real time upon request, which may record motion only and which, for a cannabis cultivation facility which engages in outdoor cultivation, cover the entirety of the cultivation area and the perimeter and exterior area of the cannabis cultivation facility. The information necessary to remotely access the camera footage must be entered into the cannabis establishment's portal within the Board's electronic licensing system;
 - (V) A video camera which is capable of identifying any activity occurring within the cannabis establishment in low light conditions 24 hours per day;
 - (VI) A method for storing video recordings from the video cameras for at least 30 calendar days in a secure on-site or off-site location or through a service or network that provides on-demand access to the recordings and providing copies of the recordings to the Board and Board Agents for review upon request, on portable, external hard drives or other media as directed by the Board or Board Agents, at the expense of the cannabis establishment, and within a reasonable timeframe as determined by the Board or Board Agents. Adequately sized portable, external drives must be immediately available to store a minimum of seven days (168 Hours) of video from a minimum of seven cameras. External drives must be USB 3.0 or greater and formatted with FAT32 or exFAT and will not be returned to the establishment;
 - (VII) A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system;
 - (VIII) In a cannabis consumption lounge, security personnel are required to monitor real time security camera footage while the facility is open for business as prescribed by the Board; and
 - (IX) Sufficient battery backup for video cameras and recording equipment to support at least 5 minutes of recording in the event of a power outage;
- (4) Immediate automatic or electronic notification to alert local law enforcement agencies of an unauthorized breach of security at the cannabis establishment in the interior of each building of the cannabis establishment; and
- (5) For a cannabis cultivation facility which engages in outdoor cultivation:
- (I) An alarm system and video cameras which are monitored 24 hours per day;
 - (II) An exterior barrier, determined to be appropriate by local law enforcement, which is located around the perimeter of the cannabis cultivation facility and which consists of a solid block wall or chain link fence with a height of at least 8 feet and an additional fence with a height of at least 8 feet located at least 10 feet and not more than 20 feet inside of the solid block wall or chain link fence; and
 - (III) A secure brick and mortar building which is approved by the appropriate Board Agent as suitable to dry and store cannabis and which meets the security and sanitation requirements for a cannabis cultivation facility which engages in indoor cultivation of cannabis.

- (d) Policies and procedures:
- (1) That restrict access to the areas of the cannabis establishment that contain cannabis to persons authorized to be in those areas only;
 - (2) That provide for the identification of persons authorized to be in the areas of the cannabis establishment that contain cannabis;
 - (3) That prevent loitering, other than consumers already admitted to a cannabis consumption lounge;
 - (4) For conducting electronic monitoring;
 - (5) For the use of the automatic or electronic notification to alert local law enforcement agencies of an unauthorized breach of security at the cannabis establishment;
 - (6) For limiting the amount of money available in any retail areas of the cannabis establishment and for training employees on this practice;
 - (7) For notifying the public of the minimal amount of money available, which may include, without limitation, the posting of a sign;
 - (8) For maintaining communication with law enforcement agencies; and
 - (9) For providing and receiving notifications regarding burglary, attempted burglary, robbery, attempted robbery and other suspicious activity.
2. Each video camera used pursuant to subparagraph (3) of paragraph (c) of subsection 1 must:
- (a) Include a date and time generator which possesses the capability to display the date and time of recorded events on the recording in a manner that does not significantly obstruct the recorded view; and
 - (b) Be installed in a manner that will prevent the video camera from being readily obstructed, tampered with or disabled.
3. A cannabis establishment shall make a reasonable effort to repair any malfunction of security equipment within 72 hours after the malfunction is discovered. A cannabis establishment shall notify the Board and local law enforcement *if requested by local law enforcement agency*, within 24 hours after a malfunction is discovered and provide a plan of correction. Failure to correct a malfunction within 72 hours after the malfunction is discovered is a violation of this section.
4. If a video camera used pursuant to subparagraph (3) of paragraph (c) of subsection 1 malfunctions, the cannabis establishment shall immediately provide alternative video camera coverage or use other security measures, such as assigning additional supervisory or security personnel, to provide for the security of the cannabis establishment. If the cannabis establishment uses other security measures, the cannabis establishment must immediately notify the Executive Director, and the Executive Director will determine whether the other security measures are adequate.
5. Each cannabis establishment shall maintain a log that documents each malfunction and repair of the security equipment of the cannabis establishment pursuant to subsections 3 and 4. The log must state the date, time and nature of each malfunction, the efforts taken to repair the malfunction and the date of each effort, the reason for any delay in repairing the malfunction, the date the malfunction is repaired and, if applicable, any alternative security measures that were taken. The log must also list, by date and time, all communications with the Board, Board Agents or Executive Director concerning each malfunction and corrective action. The cannabis establishment shall maintain the log for at least 1 year after the date of last entry in the log.

6. Each cannabis establishment must employ a security manager or director who must be responsible for:
 - (a) Conducting a semiannual audit of security measures to ensure compliance with the state procedures of the cannabis establishment and identify potential security issues;
 - (b) Training employees on security measures, emergency response and robbery prevention and response before starting work and on an annual basis; and
 - (c) Evaluating the credentials of any third party who intends to provide security to the cannabis establishment before the third party is hired by or enters into a contract with the cannabis establishment.
7. Each cannabis establishment shall ensure that the security manager or director of the cannabis establishment, at least one employee of the cannabis establishment or the employees of any third party who provides security to the cannabis establishment has completed or will complete within three months of being hired, to be proven by written attestation from the employee and the training officer, the following training:
 - (a) Training in theft prevention or a related subject;
 - (b) Training in emergency response or a related subject;
 - (c) Training in the appropriate use of force or a related subject that covers when the use of force is and is not necessary;
 - (d) Training in the use and administration of first aid, including cardiopulmonary resuscitation;
 - (e) Training in the protection of a crime scene or a related subject;
 - (f) Training in the control of access to protected areas of a cannabis establishment or a related subject;
 - (g) Not less than 8 hours of on-site training in providing security services; and
 - (h) Not less than 8 hours of classroom training in providing security services.
8. A cannabis cultivation facility which engages in the outdoor cultivation of cannabis must be located in such a manner as to allow local law enforcement to respond to the cannabis cultivation facility within 15 minutes after being contacted unless the local law enforcement agency determines some other response time is acceptable.
9. Cannabis establishments must ensure that armed security officers do not violate the provisions of NRS 202.257 (possessing a firearm while under the influence of a controlled substance). In addition, a cannabis consumption lounge shall prohibit consumers from bringing firearms into a consumption lounge, including posting of signs providing notice of same.
10. A cannabis establishment shall operate the business in a decent, orderly, and respectable manner. A licensee shall not knowingly permit any activity or acts of disorderly conduct, nor shall a licensee permit rowdiness, undue noise, or other disturbances or activity offensive to a reasonable person, neighboring business, or to the residents of the neighborhood in which the business is located.
11. If an emergency requires law enforcement, firefighters, emergency medical service providers, Board Agents or other public safety personnel to enter the premises of the business, the cannabis establishment is responsible for ensuring that all consumption of inhalable cannabis, if allowed, and other activities if requested, cease until such personnel have completed their investigation or services and have left the premises.
12. A cannabis establishment must report directly to the Board any criminal activity requiring an in-person response from law enforcement within 24 hours after an owner or employee of the business learns of the event.

13. If the Board learns of an increase in criminal activity at or near the location of a particular cannabis establishment, the Board may require the licensee to create an appropriate risk mitigation plan and submit to the Board.

14. Employees are prohibited from consuming cannabis while on duty and at work. The cannabis establishment shall create appropriate procedures to ensure employees do not show up to work or remain at work intoxicated.

6.120 Restrictions on advertising; required posting of signs in cannabis sales facility.

1. A cannabis establishment:

(a) Shall not engage in advertising which contains any statement or illustration that:

- (1) Is false or misleading;
- (2) Promotes overconsumption of cannabis or cannabis products;
- (3) Depicts the actual consumption of what appears to be cannabis or cannabis products; or
- (4) Depicts a child or other person who appears to be less than 21 years of age consuming cannabis or cannabis products or objects suggesting the presence of a child, including, without limitation, toys, characters or cartoons, or contains any other depiction which is designed in any manner to be appealing to or encourage consumption of cannabis or cannabis products by a person who is less than 21 years of age.

(b) Shall not advertise in any publication or on radio, television or any other medium if 30 percent or more of the audience of that medium is reasonably expected to be persons who are less than 21 years of age.

(c) Shall not place an advertisement:

- (1) Within 1,000 feet of a public or private school, playground, public park or library, but may maintain such an advertisement if it was initially placed before the school, playground, public park or library was located within 1,000 feet of the location of the advertisement;
- (2) On or inside of a motor vehicle used for public transportation or any shelter for public transportation;
- (3) At a sports ~~[or entertainment]~~ event to which persons who are less than 21 years of age are allowed entry or at an entertainment event which is reasonably estimated that 30 percent or more of the persons who will attend that event are less than 21 years of age;
- (4) On or inside of a motor vehicle used by a cannabis establishment for private transportation;
- (5) On signs carried by a natural person, including, without limitation, handbills, pamphlets, cards or other types of advertisements that are distributed to the general public, but excluding an advertisement placed in a newspaper of general circulation, trade publication or other form of print media; and
- (6) Where prohibited by local ordinance.

(d) Shall not advertise or offer any cannabis or cannabis product as “free” or “donated” without a purchase in the same transaction.

2. A cannabis sales facility shall post signs in prominent locations inside cannabis sales facility, including customer entrance and drive-through windows, which state activities that are strictly prohibited and punishable by law, including, without limitation, the following statements:

- (a) “No minors permitted on the premises unless the minor holds a letter of approval and is accompanied by a designated primary caregiver”;
- (b) “No on-site or public consumption of any cannabis or cannabis products”;
- (c) “Distribution to persons under the age of 21 is prohibited”;
- (d) [~~“Except for medical cannabis patients, p~~] Possession of over [~~4~~] 2.5 ounces of usable cannabis, [~~a~~] cannabis products containing more than [~~3,543~~] 7,087 milligrams of THC or a combination of the two which exceeds the legal limit is prohibited”; and
- (e) “Transportation of cannabis or cannabis products across state lines is prohibited.”

3. Signage of the business name, company logos, and other forms of media as approved by the appropriate board agent need not contain the wording “Keep out of Reach of Children” or “For use only by adults 21 years of age or older.”

4. A cannabis establishment must maintain advertisement documentation for at least five years, if advertising to an audience and determining the percentage of persons under 21 years of age. The cannabis establishment must be able to demonstrate the manner in which it determined the reasonably expected age of the audience for that advertisement.

Proposed Changes to NCCR Regulation 7

CANNABIS SALES FACILITY

New~~Deleted~~**7.025 Prohibition on sale that exceeds maximum usable quantity of cannabis.**

A cannabis sales facility shall not sell to any consumer an amount of cannabis or cannabis products which exceeds:

1. ~~One~~ Two and one-half ounces (~~28.35~~ 70.875 grams) of usable cannabis other than concentrated cannabis;
2. ~~One-eighth~~ One-quarter ounce of concentrated cannabis or cannabis products containing not more than ~~3,543~~ 7,087 milligrams of THC; or
3. A combination of usable and concentrated cannabis not to exceed the legal limit.

7.030 Products required to be offered for sale; restrictions on sale of other products; restrictions on advertising.

1. A cannabis sales facility shall only offer for sale cannabis, cannabis products, cannabis paraphernalia, cannabis-related accessories, branded merchandise, products containing CBD and products containing industrial hemp which are related to cannabis.

a. Cannabis-related accessories include items required for consumption, storage items, branded merchandise, lighters, and air purifiers. Such items must not appeal to children and shall not depict, including without limitation, an image of a cartoon character, mascot, action figure, balloon, fruit or toy. Such products must not be modeled after a brand of products primarily consumed by or marketed to children.

2. Each cannabis sales facility shall offer for sale containers for the storage of cannabis and cannabis products which lock and are designed to prohibit children from unlocking and opening the container.

3. A cannabis sales facility shall not sell any food, beverage or personal care item that does not contain cannabis unless such items are exempt from requiring a permit by NAC 446.042(2).

7.035 Storage and location of products; disclosure of cannabis testing facility performing quality assurance tests upon request of consumer; approved sources of products for sale; maintenance and availability of certificate of analysis; exemption for industrial hemp.

1. A cannabis sales facility must store all usable cannabis, concentrated cannabis and cannabis products behind a counter or other barrier to ensure a consumer does not have direct access to the cannabis, concentrated cannabis or cannabis products.

2. Upon the request of a consumer, a cannabis sales facility must disclose the name of the cannabis testing facility which performed the required quality assurance tests for the cannabis sales facility and provide a copy of the corresponding certificate of analysis and soil amendment to the consumer.

3. A cannabis sales facility may only sell usable cannabis obtained from a cannabis cultivation facility in this State.

4. Except as otherwise provided in subsection 6, a cannabis sales facility may only sell concentrated cannabis and cannabis products obtained from a cannabis product manufacturing facility in this State.

5. ~~Except as otherwise provided in subsection 6, a~~ 4 cannabis sales facility may not sell a product other than usable cannabis, concentrated cannabis or cannabis products which contain any level of THC or CBD without the approval of the appropriate Board Agent. Each cannabis sales facility shall maintain a file which contains a certificate of analysis for any such approved product at the cannabis sales facility and shall make the file available for review upon request.
6. The provisions of subsection 4 ~~do[es]~~ not apply to industrial hemp, as defined in NRS 557.~~[040]~~ 160, which is certified and registered with the State Department of Agriculture.

7.050 Delivery to consumer: Restrictions; duties of cannabis establishment agent making delivery.

- ~~[1. A cannabis sales facility shall not deliver more than 5 ounces (141.75 grams) of cannabis or an equivalent amount of cannabis products to any combination of consumers within a single trip.~~
- ~~2.]~~ 1. A ~~[medical]~~ cannabis sales facility shall not deliver more than ~~[40]~~ 12.5 ounces ([283.5] 354.3 grams) of cannabis, edible cannabis products or cannabis-infused products, or any combination thereof when making a sales delivery ~~[exclusively]~~ to consumers, persons who hold a valid registry identification card or designated as a primary caregiver.
- ~~[3.]~~ 2. A cannabis sales facility shall not deliver cannabis or cannabis products to a consumer at any location that has been issued a gaming license, as defined in NRS 463.0159.
- ~~[4.]~~ 3. A cannabis sales facility shall not knowingly deliver more than ~~[4]2.5 ounces ([28.35] 70.875 grams)~~ of cannabis or cannabis products to a consumer in a private residence in one calendar day.
- ~~[5.]~~ 4. A cannabis sales facility shall not deliver cannabis or cannabis products to any person other than the consumer who ordered the cannabis or cannabis products. Before delivering cannabis or cannabis products to a consumer, the cannabis establishment agent delivering the cannabis or cannabis products for a cannabis sales facility shall:
- (a) Confirm by telephone that the consumer ordered the cannabis or cannabis products and verify the identity of the consumer; and
 - (b) Enter the details of such a confirmation in a log which must be made available for inspection by an appropriate law enforcement agency, the Board and Board Agents.
- ~~[6.]~~ 5. A cannabis sales facility shall not allow a cannabis establishment agent to deliver cannabis or cannabis products unless the cannabis or cannabis products are:
- (a) Stored in a lockbox or locked cargo area within the vehicle being used for delivery;
 - (b) Not visible from outside the vehicle; and
 - (c) Contained in sealed packages and containers which remain unopened during delivery. →For the purpose of this subsection, the trunk of a vehicle is not considered to be a lockbox or locked cargo area unless the trunk cannot be accessed from within the vehicle and can only be accessed using a key which is different from the key used to access and operate the vehicle.
- ~~[7.]~~ 6. A cannabis sales facility shall ensure that a cannabis establishment agent delivering cannabis or cannabis products for the cannabis sales facility has a means of communicating with the cannabis sales facility while he or she provides delivery.

~~7.~~ 7. A person shall not be present within any vehicle while it is being used for the delivery of cannabis or cannabis products unless the person is a cannabis establishment agent for the cannabis sales facility providing delivery of the cannabis or cannabis products or an independent contractor retained by the cannabis sales facility to provide delivery.

~~8.~~ 8. Each cannabis establishment agent delivering cannabis or cannabis products must:

- (a) Report to ~~[a person designated by the cannabis establishment to receive such reports]~~ the appropriate board agent any motor vehicle crash that occurs during the delivery as soon as reasonably possible after the crash occurs, but in no instance shall such time to report exceed ~~[+2]~~ 24 hours;
- (b) Report to Board Agents any unauthorized stop; and
- (c) Report to a person designated by the cannabis establishment to receive such reports any loss or theft of cannabis or cannabis products that occurs during the delivery immediately after the cannabis establishment agent becomes aware of the loss or theft. A cannabis sales facility that receives a report of loss or theft pursuant to this paragraph must immediately report the loss or theft to the appropriate law enforcement agency, and to the Board ~~[and to the Executive Director]~~ after any risk to public safety has been alleviated.

Proposed Changes to NCCR Regulation 11

CANNABIS INDEPENDENT TESTING LABORATORY

New

[Deleted]

- 11.010 Employment, qualifications and duties of scientific director; inspection of testing laboratory upon appointment of new director.
- 11.015 Requirements for testing laboratory to handle, test or analyze cannabis.
- 11.020 Agreement to become accredited within 1 year after licensure; provision of annual inspection report to Board; inspection by accrediting organization is not substitute for inspection by Board.
- 11.025 Adherence to general laboratory standards, practices, procedures and programs; inspection by Board or authorized third party; adoption of publications by reference.
- 11.030 Establishment of policies for adequate chain of custody and requirements for samples of products provided to testing laboratory.
- 11.035 No limitation on amount of usable cannabis and cannabis products on premises of testing laboratory; maintenance of records to prove amount on premises is for testing purposes only.
- 11.040 Proficiency testing program: Establishment by Board; required participation by testing laboratory; conditions for successful participation; unsuccessful participation grounds for limitation, suspension or revocation of license; proficiency testing inter-laboratory communication and referral prohibited.
- 11.045 Limited testing for research and development purposes.
- 11.050 Required quality assurance tests; submission of wet cannabis for testing.
- 11.053 *Requirements for testing methods and quality control.*
- 11.055 Performance of potency analysis or terpene analysis.
- 11.060 Performance of testing to verify homogeneity of potency of edible cannabis products.
- 11.065 Use of approved pesticides by cannabis establishment; performance of pesticide residue analysis by testing laboratory.

- 11.070 Testing: Selection of representative samples and random samples; segregation period for entire lot; duties of testing laboratory; disposal of lot if sample fails test; release of lot if sample passes test; filing of electronic copy of certificate of analysis for tests performed by testing laboratory; grounds for disciplinary action for failure to comply.
- 11.075 Testing: Authorized use of cannabis upon failure of microbial screening; automatic failure to pass; request for retest; retest for pesticide residue must be performed by State Department of Agriculture; effect of passing or failing retest.
- 11.080 Collection and testing of random samples from cannabis establishments for comparison with results reported by testing facilities.
- 11.085 Random quality assurance compliance checks; costs for screening or testing.

11.010 Employment, qualifications and duties of scientific director; inspection of testing laboratory upon appointment of new director.

1. Each cannabis independent testing laboratory must employ a scientific director who must reside within 200 miles of the laboratory, and shall be responsible for:

(a) Establishing and maintaining a quality control and quality assurance program that ensures the quality of the cannabis independent testing laboratory's services, and that is capable of identifying any failure of quality when it occurs;

(b) Ensuring safety and hazardous substance control in the laboratory;

~~(b)~~ (c) Supervising all staff of the cannabis independent testing laboratory; ~~and~~

(d) Reviewing all new technical policies and procedures, as well as substantial changes to existing technical policies and procedures, prior to implementation. These reviews must be documented and may not be delegated;

(e) Ensuring technical policies and procedures are reviewed at least biennially thereafter, with documentation of this review. This review may be delegated to a knowledgeable person, and must ensure technical policies and procedures are complete, current, and scientifically valid and relevant; and

~~(e)~~ (f) Actively participating in the operation of the cannabis independent testing laboratory to the extent necessary to assure compliance with the NCCRs and Title 56 of NRS.

2. The scientific director of a cannabis independent testing laboratory must have earned:

(a) A doctorate degree in science from an accredited college or university and have at least 2 years of post-degree laboratory experience;

(b) A master's degree in science from an accredited college or university and have at least 4 years of post-degree laboratory experience; or

(c) A bachelor's degree in science from an accredited college or university and have at least 6 years of post-degree laboratory experience.

3. If a scientific director is no longer employed by a cannabis independent testing laboratory, the cannabis independent testing laboratory shall not be permitted to conduct any testing. An interim director that meets the minimum qualifications may be appointed for no more than 90 days unless an extension is granted by the appropriate Board Agent.
4. A cannabis independent testing laboratory shall ~~immediately~~ inform the Board within 3 business days upon the appointment of a new scientific director or interim director.
5. A scientific director shall be available to the personnel of a testing laboratory, in person or by telephonic or other electronic means, for any necessary consultation.
6. The scientific director must be on the premises of the testing laboratory at least ~~5~~ 10 workdays each month. If circumstances temporarily prevent the scientific director from meeting this requirement, the laboratory shall appoint an interim director who meets the minimum qualifications for the necessary length of time, not to exceed 90 days, unless an extension is granted by the appropriate Board Agent.

(Amended: 8/2021)

11.015 Requirements for testing laboratory to handle, test or analyze cannabis.

1. A cannabis independent testing laboratory shall not handle, test or analyze cannabis unless:
 - (a) The cannabis independent testing laboratory has been issued a license;
 - (b) The cannabis independent testing laboratory is independent from all other persons involved in the cannabis industry in Nevada; and
 - (c) No person with a direct or indirect interest in the cannabis independent testing laboratory has a direct or indirect financial interest in:
 - (1) A cannabis sales facility;
 - (2) A cannabis production facility;
 - (3) A cannabis cultivation facility;
 - (4) A cannabis distributor;
 - (5) A provider of health care who provides or has provided written documentation for the issuance of registry identification cards or letters of approval;
 - (6) Any other entity that may benefit from the cultivation, manufacture, dispensing, sale, purchase or use of cannabis or cannabis products, or
 - (7) A cannabis consumption lounge.
2. A cannabis independent testing laboratory shall implement business practices which are structured and managed so as to safeguard impartiality in testing including:
 - (a) A testing laboratory may not offer a different fee schedule or waive payment in the event of failing or otherwise undesirable test results; and
 - (b) Refunds, rebates or any other return of payment in the form of alternate compensation is not permitted for the reason of failing or otherwise undesirable test results.
3. A cannabis independent testing laboratory is not required to use a cannabis distributor to collect or move samples for testing.
4. A cannabis independent testing laboratory shall implement a safety program which follows all applicable requirements of Laboratory Safety Guidance published by the Occupational Safety and Health Administration of the United States Department of Labor.

(Amended: 7/2022)

11.020 Agreement to become accredited within 1 year after licensure; provision of annual inspection report to Board; inspection by accrediting organization is not substitute for inspection by Board.

1. Each cannabis independent testing laboratory must agree to become accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization within 1 year after licensure. The scope of accreditation must cover all analytes pursuant to NCCR 11.050.
2. Each cannabis independent testing laboratory that claims to be accredited must provide the Board with copies of each annual inspection report from the accrediting organization, including, without limitation, any deficiencies identified in and any corrections made in response to the report. *The final inspection report and accreditation certificate must be provided to the Board within 2 business days of receipt.*
3. Inspection by an accrediting organization is not a substitute for inspection by the Board or Board Agents.

11.025 Adherence to general laboratory standards, practices, procedures and programs; inspection by Board or authorized third party; adoption of publications by reference.

1. Each cannabis independent testing laboratory must:
 - ~~(a) Follow the most current version of the Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control monograph published by the American Herbal Pharmacopoeia.~~
 - ~~(a) Follow the Recommendations for Regulators Cannabis Operations published by the American Herbal Products Association.~~
 - ~~(e)~~ (a) Be accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by an impartial organization that operates in conformance with standard ISO/IEC 17011 of the International Organization for Standardization and is a signatory to the Mutual Recognition Arrangement of the International Laboratory Accreditation Cooperation.
 - ~~(d)~~ (b) ~~[Follow]~~ Adhere to the Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, ~~[and]~~ Pharmaceuticals, and Cannabis — An Aid to the Interpretation of ISO/IEC 17025: ~~[2005-(2015)]~~ 2017, A Revision of the ALACC Criteria: February 2024, published by AOAC International.
 - (c) Adhere to ASTM D8282: “Standard Practice for Laboratory Test Method Validation and Method Development”, published by the American Society for Testing and Materials (ASTM).
 - (d) Adhere to ASTM D8347 21a: “Standard Guide for Requirements for Analytical Laboratory Related Professions Within the Cannabis and Hemp Industries”, published by the American Society for Testing and Materials (ASTM).
 - (e) Adhere to ASTM D8244-20: “Standard Guide for Analytical Operations Supporting the Cannabis Industry”, published by the American Society for Testing and Materials (ASTM).
 - (f) Adhere to ASTM D8334/D8334M-20 Standard Practice for Sampling of Cannabis/Hemp Post-Harvest Batches for Laboratory, published by the American Society for Testing and Materials (ASTM).
 - (g) Should any conflicts between references be identified, the Board shall issue guidance.

2. Each cannabis independent testing laboratory shall demonstrate proficiency in testing samples using the analytical methods approved by the Board or the appropriate Board Agent by participating in the approved proficiency testing program for all required analytes within 6 months after the date upon which the cannabis independent testing laboratory is issued a license.
3. The Board may require an independent third party to inspect and/or monitor the analytical testing methodologies and technical competence of the cannabis independent testing laboratory on an ongoing basis.
4. Each cannabis independent testing laboratory shall:
 - (a) Adopt and follow minimum good laboratory practices which must, at a minimum, satisfy the OECD Series on Principles of Good Laboratory Practice (GLP) and Compliance Monitoring published by the Organisation for Economic Co-operation and Development.
 - (b) Become certified by the International Organization for Standardization and agree to have the inspections and reports of the International Organization for Standardization made available to the Board or Board Agents.
 - (c) Maintain internal standard operating procedures. A copy of these procedures shall be provided promptly to the Board or Board Agents upon request.
 - (d) Maintain a quality control and quality assurance program. *The quality assurance program must include a written ethics policy, provide training to all laboratory staff on the ethics policy, and require all laboratory staff to sign an attestation statement that they will adhere to the ethics policy.*
5. The Board Agents or an independent third party authorized by the Board may conduct an inspection of the practices, procedures and programs adopted, followed and maintained pursuant to subsection 4 and inspect all records of the cannabis independent testing laboratory.
6. A cannabis independent testing laboratory must use, when available *and approved by the appropriate Board Agent*, 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*.
 - (a) As fit-for-purpose and/or cannabis-specific standard methods are published by standardizing entities, Board Agents will review these for approval, and additional guidance for implementation will be issued as needed.*
7. All quality assurance tests pursuant to NCCR 11.050 *shall meet the AOAC Cannabis Standard Method Performance Requirements (SMPRs) for the adopted reference method, at a minimum, and* shall be validated or verified *according to, as applicable:* ~~[by the cannabis independent testing laboratory observing the guidelines of the most recent version of standard]~~

(a) ASTM D8282: “Standard Practice for Laboratory Test Method Validation and Method Development”, published by the American Society for Testing and Materials (ASTM). ~~[and available at www.astm.org], or any subsequent standard as approved by the appropriate Board Agent.]~~

(b) *AOAC - Appendix J: Guidelines for Validation of Microbiological Methods for Food and Environmental Surfaces, 2012;*

(c) *AOAC - Appendix K: Guidelines for Dietary Supplements and Botanicals, 2013;*

(d) *Standard ISO/IEC 16140-3 “Microbiology of the Food Chain- Method Validation-Part 3: Protocol for the verification of reference methods and validated alternative methods in a single laboratory”;* or,

(e) *Any subsequent standard as approved by the appropriate Board Agent.*

8. The Board hereby adopts by reference:

(a) *Recommendations for Regulators — Cannabis Operations published by the American Herbal Products Association.*

~~(a)~~ (b) The Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control monograph published by the American Herbal Pharmacopoeia. A copy of that publication may be obtained from the American Herbal Pharmacopoeia, P.O. Box 66809, Scotts Valley, California 95067, ~~or at the Internet address <http://www.herbal-ahp.org/>;~~

~~(b)~~ (c) The *current version of the* OECD Series on Principles of Good Laboratory Practice (GLP) and Compliance Monitoring published by the Organisation for Economic Co-operation and Development. ~~A copy of that publication may be obtained free of charge from the Organisation for Economic Co-operation and Development at the Internet address~~

~~<http://www.oecd.org/env/ehs/testing/oecdseriesonprinciplesofgoodlaboratorypracticeglpandcompliancemonitoring.htm>;~~

~~(c)~~ (d) Standard ISO/IEC 17025 published by the International Organization for Standardization. ~~A copy of that publication may be obtained from the American National Standards Institute at the Internet address <https://webstore.ansi.org/RecordDetail.aspx?sku=ISO%2fIEC+17025%3a2005> <https://webstore.ansi.org/Standards/ISO/isoiec170252017>;~~

~~(d)~~ (e) The Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals — An Aid to the Interpretation of ISO/IEC 17025: ~~[2005 (2015)]~~ 2017 published by AOAC International. ~~A copy of that publication may be obtained from AOAC International at the Internet address <https://www.aoac.org/aoac-accreditation-guidelines-for-laboratories-a-lacc/>;~~

(f) *WHO Expert Committee on Specifications for Pharmaceutical Preparations: fifty-fourth report. Geneva: World Health Organization; 2020 (WHO technical report series; no. 1025). Annex 4: Good Chromatography Practices;*

(g) *The OECD Guidance Document for Single Laboratory Validation of Quantitative Analytical Methods - Guidance Used in Support of Pre-And-Post-Registration Data Requirements for Plant Protection and Biocidal Products published by the Organisation for Economic Co-operation and Development;* and

(h) *Upon its publication, the Board may adopt the Cannabis Regulators Association (CANNRA) Laboratory Testing and Standardization Guidance as a reference.*

11.030 Establishment of policies for adequate chain of custody and requirements for samples of products provided to testing laboratory. Each cannabis independent testing laboratory must establish and follow policies for an adequate chain of custody and sample identification requirements for samples of products provided to the cannabis independent testing laboratory for testing or research purposes, including, without limitation, policies and requirements for:

1. Issuing instructions for the minimum sample and storage requirements;
- ~~2.~~ 2. Ensuring positive identification of the cannabis or cannabis product by verifying the accuracy of the seed-to-sale tracking information present on the source package immediately prior to sample collection. Laboratory staff must verify the seed-to-sale tracking information matches that of the transfer manifest and laboratory Chain of Custody.
- ~~2.~~ 3. Documenting the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the sample on the laboratory chain of custody document and/or the seed-to-sale transfer manifest;
- ~~3.~~ 4. Documenting the ~~[condition]~~ description and amount of the sample ~~[provided]~~ at the time of collection or receipt on the laboratory chain of custody document and/or the seed-to-sale transfer manifest;
- ~~4.~~ 5. Documentation of any pertinent sample identifiers, including but not limited to product type, product name, strain name, seed-to-sale tracking number, batch/lot number and production run number as appropriate;
- ~~5.~~ 6. Documenting all persons handling the original samples, aliquots and extracts;
- ~~6.~~ 7. Providing adequate identification on sample containers throughout all phases of testing, including, but not limited to aliquots, dilutions, tubes, slides, culture plates, extracts, data files, images, and other secondary samples created during the processing or testing of a sample. The sample identifier(s) on any sample container must be indelible, legible, and able to withstand all stages of processing and conditions of storage;
- ~~7.~~ 8. Documenting all transfers of samples, aliquots and extracts referred to another cannabis independent testing laboratory for additional testing or whenever requested by a client;
- ~~8.~~ 9. Maintaining a current list of authorized cannabis establishment agents and restricting entry to the laboratory to only those authorized;
- ~~9.~~ 10. Securing the cannabis independent testing laboratory during nonworking hours;
- ~~10.~~ 11. Securing short- and long-term storage areas when not in use;
- ~~11.~~ 12. Utilizing a secured area to log-in and aliquot samples;
- ~~12.~~ 13. Ensuring samples are stored appropriately; ~~[and]~~
- ~~13.~~ 14. Documenting the disposal of samples, aliquots and extracts ~~[.]~~ and
- ~~14.~~ 15. Follow, at a minimum, the chain of custody and sample identification requirements of ASTM D8334/D8334M-20 Standard Practice for Sampling of Cannabis/Hemp Post-Harvest Batches for Laboratory Analyses, for all cannabis products.

11.045 Limited testing for research and development purposes.

1. A cannabis cultivation facility or a cannabis production facility may conduct operations and request limited laboratory testing by a cannabis independent testing laboratory for research and development purposes.

2. A cannabis cultivation facility or cannabis production facility described in subsection 1 shall:

(a) Notify, and receive approval from, the appropriate Board Agent of its intent to conduct research and development on a form prescribed by the Board by electronic mail before sending a sample to a cannabis independent testing laboratory;

~~[(b) Receive approval from the appropriate Board Agent for the requested research and development studies.~~

~~[(e)]~~ (b) Quarantine each batch, lot or production run in a separate quarantine area and label each batch, lot or production run with a distinctive label containing “R&D QUARANTINE” as a header and footer in at least 20-point white font and a red background;

~~[(d)]~~ (c) Account for all cannabis subject to quarantine pursuant to paragraph (b) in the seed-to-sale tracking system;

~~[(e)]~~ (d) Limit all research and development operations to clearly segregated and designated areas or rooms marked “R&D CULTIVATION AREA” or “R&D PRODUCTION AREA” on at least 8 1/2 by 11-inch signs with a red background and white lettering, posted at the entrance to the area or room and along the walls of the area or room, with a minimum of one sign for every 300 square feet of the area or room; and

~~[(f)]~~ (e) Perform research and development operations in a grow room only if the plants used for such operations are designated and separated from other plants.

(f) The cannabis cultivation facility or cannabis production facility must provide the research and development (R&D) approval form to the cannabis independent testing laboratory that will be performing the R&D testing laboratory prior to laboratory sample collection.

3. A cannabis cultivation facility or cannabis production facility operating as described in subsection 1 may request limited testing protocols from a cannabis independent testing laboratory for research and development purposes. A cannabis independent testing laboratory shall not perform any laboratory tests on research and development samples which were not specifically indicated as part of the approved study.

(a) The Board may draft a policy allowing licensees to apply for a variance on testing requirements under certain conditions for R&D purposes.

4. A cannabis independent testing laboratory that performs testing for a cannabis cultivation facility or cannabis production facility described in subsection 1 shall report the results of the testing to the cannabis establishment and to the Board ~~[by electronic mail]~~ in a manner prescribed by the Board. The cannabis independent testing laboratory shall clearly mark the test results with “R&D TESTING ONLY -- NOT FOR RESALE” on the top of each page of the report in 20-point white font and a red background.

5. A batch, lot or production run produced for research and development purposes pursuant to this section which fails quality assurance testing need not be destroyed.

6. A batch, lot or production run originally produced for research and development purposes pursuant to this section may not be sold to a cannabis sales facility until the batch, lot or production run has undergone and passed all testing required by NCCR 6.100. The cultivation or production facility must utilize the same cannabis independent testing laboratory who performed the limited testing on a lot or production run in accordance with subsection 3 to perform the final testing of that lot or production run.

7. A batch, lot or production run which fails quality assurance testing under research and development provisions may not be remediated without Board approval.

11.050 Required quality assurance tests; submission of wet cannabis for testing.

1. Each cannabis independent testing laboratory must use the sampling protocols and the general body of required quality assurance tests for usable cannabis, as received, concentrated cannabis and cannabis products set forth in this section. Such tests may include moisture content, potency analysis, foreign matter inspection, microbial screening, pesticide and other chemical residue and metals screening and residual solvents levels. A cannabis independent testing laboratory may request permission from the appropriate Board Agent to obtain additional sample material for the purposes of completing required quality assurance tests but may not use such material for the purposes of resampling or repeating quality assurance tests. A cannabis independent testing laboratory may retrieve samples from the premises of another cannabis establishment and transport the samples directly to the cannabis independent testing laboratory. A cannabis independent testing laboratory transporting samples may make multiple stops if:

- (a) Each stop is for the sole purpose of retrieving a sample from a cannabis establishment; and
- (b) All samples remain secured at all times.

///

///

///

///

///

///

2. The tests required pursuant to subsection 1 by a cannabis independent testing laboratory are as follows:

Product	Tests Required	Action Levels
Usable cannabis, infused pre- and crude collected resins, received, excluding wet cannabis	<ol style="list-style-type: none"> 1. Moisture content 2. Potency analysis 3. Terpene analysis 4. Foreign matter inspection 5. Mycotoxin screening 6. Heavy metal screening 7. Pesticide residue analysis 8. Herbicide screening 9. Growth regulator screening 10. Total yeast and mold 11. Total Enterobacteriaceae 12. Salmonella 13. Pathogenic E. coli 14. Aspergillus fumigatus 15. Aspergillus flavus 16. Aspergillus terreus 17. Aspergillus niger 18. Total coliform 	<ol style="list-style-type: none"> 1. < 15% 2. N/A 3. N/A 4. None detected 5. < 20 ug/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 ug/kg for Ochratoxin A 6. Arsenic: < 2 ppm Cadmium: < 0.82 ppm Lead: < 1.2 ppm Mercury: < 0.4 ppm 7. See NAC 555.650 NCCR 11.065 8. See NAC 555.650 NCCR 11.065 9. See NAC 555.650 NCCR 11.065 10. < 10,000 colony forming units per gram 11. < 1,000 colony forming units per gram 12. None detected per gram 13. None detected per gram 14. None detected per gram 15. None detected per gram 16. None detected per gram 17. None detected per gram 18. < 1,000 colony forming units per gram
<u>Usable cannabis, as received, which is destined for extraction</u>	<ol style="list-style-type: none"> <u>1. Foreign matter inspection</u> <u>2. Mycotoxin screening</u> <u>3. Heavy metal screening</u> <u>4. Pesticide residue analysis</u> <u>5. Herbicide screening</u> <u>6. Growth regulator screening</u> <u>7. Total Enterobacteriaceae</u> <u>8. Salmonella</u> <u>9. Pathogenic E. coli</u> 	<ol style="list-style-type: none"> <u>1. None detected</u> <u>2. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A</u> <u>3. Arsenic: < 2ppm Cadmium: <0.82 ppm Lead: 1.2 ppm Mercury: < 0.4 ppm</u> <u>4. See NCCR 11.065</u> <u>5. See NCCR 11.065</u> <u>6. See NCCR 11.065</u> <u>7. < 1,000 colony forming units per gram</u> <u>8. None detected per gram</u> <u>9. None detected per gram</u>

Product	Tests Required	Action Levels
Wet cannabis, as received, which is destined for extraction	1. Potency analysis 2. Terpene analysis 3. 1. Foreign matter inspection 4. 2. Mycotoxin screening 5. 3. Heavy metal screening 6. 4. Pesticide residue analysis 7. 5. Herbicide screening 8. 6. Growth regulator screening 9. Total yeast and mold 10. 7. Total Enterobacteriaceae 11. 8. Salmonella 12. 9. Pathogenic E. coli 13. Aspergillus fumigatus 14. Aspergillus flavus 15. Aspergillus terreus 16. Aspergillus niger 17. Total coliform	1. N/A 2. N/A 3. 1. None detected 4. 2. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A 5. 3. Arsenic: < 2 ppm Cadmium: < 0.82 ppm Lead: < 1.2 ppm Mercury: < 0.4 ppm 6. 4. See NCCR 11.065 7. 5. See NCCR 11.065 8. 6. See NCCR 11.065 9. < 10,000 colony forming units per gram 10. 7. < 1,000 colony forming units per gram 11. 8. None detected per gram 12. 9. None detected per gram 13. None detected per gram 14. None detected per gram 15. None detected per gram 16. None detected per gram 17. < 1,000 colony forming units per gram
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 CO2	1. Potency analysis 2. Foreign matter inspection 3. Mycotoxin screening 4. Heavy metal screening 5. Pesticide residue analysis 6. Total yeast and mold 7. Total Enterobacteriaceae 8. Salmonella 9. Pathogenic E. coli 10. Aspergillus fumigatus 11. Aspergillus flavus 12. Aspergillus terreus 13. Aspergillus niger	1. N/A 2. None detected 3. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A 4. Arsenic: < 2 ppm Cadmium: < 0.82 ppm Lead: < 1.2 ppm Mercury: < 0.4 ppm 5. See NCCR 11.065 6. < 1,000 colony forming units per gram 7. < 100 colony forming units per gram 8. None detected per gram 9. None detected per gram 10. None detected per gram 11. None detected per gram 12. None detected per gram 13. None detected per gram

Product	Tests Required	Action Levels
Extract of cannabis (solvent-based) made with any approved solvent, Including concentrated cannabis extracted by means other than with ethanol or CO2	<ol style="list-style-type: none"> 1. Potency analysis 2. Foreign matter inspection 3. Residual solvent test 4. Mycotoxin screening 5. Heavy metal screening 6. Pesticide residue analysis 7. Total yeast and mold 8. Total Enterobacteriaceae 9. Salmonella 10. Pathogenic E. coli 11. Aspergillus fumigatus 12. Aspergillus flavus 13. Aspergillus terreus 14. Aspergillus niger 	<ol style="list-style-type: none"> 1. N/A 2. None detected 3. < 500 ppm 4. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A 5. Arsenic: < 2 ppm Cadmium: < 0.82 ppm Lead: < 1.2 ppm Mercury: < 0.4 ppm 6. See NCCR 11.065 7. < 1,000 colony forming units per gram 8. < 100 colony forming units per gram 9. None detected per gram 10. None detected per gram 11. None detected per gram 12. None detected per gram 13. None detected per gram 14. None detected per gram
Edible cannabis product, including a product which contains concentrated cannabis	<ol style="list-style-type: none"> 1. Potency analysis 2. Foreign matter inspection 3. Total Enterobacteriaceae 4. Salmonella 5. Pathogenic E. coli 6. Total aerobic count 7. Water activity or pH 	<ol style="list-style-type: none"> 1. N/A 2. None detected 3. < 1,000 colony forming units per gram 4. None detected per gram 5. None detected per gram 6. < 100,000 colony forming units per gram 7. Water activity < 0.86 or pH < 4.6
Liquid cannabis product, including, without limitation, soda or tonic, including a product which contains concentrated cannabis	<ol style="list-style-type: none"> 1. Potency analysis 2. Foreign matter inspection 3. Total Enterobacteriaceae 4. Salmonella 5. Pathogenic E. coli 6. Total aerobic count 7. Water activity or pH 	<ol style="list-style-type: none"> 1. N/A 2. None detected 3. < 1,000 colony forming units per gram 4. None detected per gram 5. None detected per gram 6. < 100,000 colony forming units per gram 7. Water activity < 0.86 or pH < 4.6
Topical cannabis product, including a product which contains concentrated cannabis	<ol style="list-style-type: none"> 1. Potency analysis 	<ol style="list-style-type: none"> 1. N/A

3. A sample of usable cannabis must be at least ~~[10]~~ 20 grams. A sample of a production run must be the lesser of 1 percent of the total product weight of the production run or 25 units of product, but not less than 5 grams of the production run. Before testing, all samples must be homogenized by the testing laboratory using a homogenization process which has been approved by the appropriate Board Agent and in a manner that prevents contamination of test samples or analytical portions.
4. The analytical portion that is used for the purposes of ~~[any]~~ each microbial test must be a minimum of one gram, unless otherwise approved by the Board.
5. A cannabis establishment shall not submit wet cannabis to a cannabis independent testing laboratory for testing unless the wet cannabis is destined for extraction and weighed within 2 hours after harvest. The plant must not undergo any further processing, including, without limitation, drying the plant and subsequently selling separately the cannabis bud and cannabis trim from the plant, before being weighed.
6. As used in this section, “as received” means the unaltered state in which a sample was collected, without any processing or conditioning, which accounts for all mass, including moisture content. A cannabis independent testing laboratory shall not report the results of usable cannabis on a dry weight basis.
7. A cannabis independent testing laboratory shall ~~[provide]~~ make available the final certificate of analysis to the Board upon request, ~~[and to the cannabis establishment from which the sample was collected]~~ within 2 business days ~~[after obtaining the results]~~ unless an extension is granted by the Board Agent.
8. The certificate of analysis shall include a photo of the product, as received.
9. The certificate of analysis shall include the statement, in 8-point font, “The test results listed in this COA may not reflect the current state of the product if more than one year old, due to product changes during storage.”

11.053 Requirements for testing methods and quality control.

1. Board Agent(s) may establish and publish a policy on testing methods and quality control requirements including, but not limited to, calibration requirements, quality control, and limits of detection (LOD)/limits of quantitation (LOQ). These requirements may be periodically reviewed, and if updated, policy shall be published.

11.060 Performance of testing to verify homogeneity of potency of edible cannabis products.

1. Except as otherwise provided in subsection 2, a cannabis independent testing laboratory shall perform testing to verify the homogeneity of the potency of an edible cannabis product by testing multiple samples from a single production run.
2. A cannabis independent testing laboratory that tests an edible cannabis product which has previously had the homogeneity of the potency of the edible cannabis product verified by a cannabis independent testing laboratory and which has not undergone a change in recipe may verify the homogeneity of the edible cannabis product by testing one or more single units or servings from a production run of the edible cannabis product.
3. The cannabis independent testing laboratory will verify the homogeneity of the potency of the edible cannabis product only if:
 - (a) The concentration of THC ~~[and weight]~~ of each sample is within 15 percent above or below the intended concentration of THC ~~[and weight;]~~ and
 - (b) ~~[No combination of samples which comprise 10 percent or less of the cannabis product contain 20 percent or more of the total THC in the cannabis product.] The concentration of THC of each sample must not exceed the intended THC limits for sale in NCCR 9.045 section 2.~~

11.065 Use of approved pesticides by cannabis establishment; performance of pesticide residue analysis by testing laboratory.

1. A cannabis establishment shall only use a pesticide in the cultivation or production of cannabis or cannabis products if the pesticide appears on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550.
2. When performing pesticide residue analysis pursuant to NCCR 11.050, a cannabis independent testing laboratory shall analyze for the pesticides which occur on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550 at the detection levels specified by the State Department of Agriculture and for any other substances required by the Board. If:
 - (a) A pesticide which occurs on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550 is detected at a level which exceeds the level specified by the State Department of Agriculture; or
 - (b) A pesticide which does not occur on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550 is detected in any amount which is positively ~~[verified]~~ identified by the cannabis independent testing laboratory equal to, or greater than, the limit of detection established by the laboratory, the pesticide residue analysis is failed.
(c) Limits of detection must be defined for every pesticide analyzed by the laboratory and must be lower than the limits of quantitation.
3. The Board shall publish a policy on minimum Limits of Detection (LOD) for pesticides.

11.070 Testing: Selection of representative samples and random samples; segregation period for entire lot; duties of testing laboratory; disposal of lot if sample fails test; release of lot if sample passes test; filing of electronic copy of certificate of analysis for tests performed by testing laboratory; grounds for disciplinary action for failure to comply.

1. Immediately before packaging:

(a) Usable cannabis for sale to a cannabis sales facility, cannabis production facility or another cannabis cultivation facility, a cannabis cultivation facility shall segregate all harvested cannabis into homogenized lots of flower and trim, respectively, and allow a cannabis independent testing laboratory to select a homogenous representative sample for testing from each lot the cannabis cultivation facility has segregated. The cannabis testing laboratory which performs the test must collect the samples. If the cannabis cultivation facility has segregated the lot of harvested cannabis into packages or container sizes smaller than the entire lot, the cannabis cultivation facility must present all packages comprising the lot to the cannabis independent testing laboratory, and the testing laboratory must sample and test each package containing harvested cannabis from the lot.

(b) Concentrated cannabis or cannabis products, a cannabis production facility shall segregate concentrated cannabis or cannabis products into production runs and allow a cannabis independent testing laboratory to randomly select a ~~[random]~~ homogeneous representative sample for testing from each ~~[lot or]~~ production run ~~[for testing by the cannabis independent testing laboratory.]~~ The cannabis independent testing laboratory performing the testing must collect the samples. If a production run of concentrated cannabis or cannabis products is stored in multiple containers, the cannabis production facility must present all containers comprising the production run to the cannabis independent testing laboratory, and the testing laboratory must sample and test each container which comprises the production run.

(1) The cannabis independent testing laboratory must follow ASTM D8334/D8334M-20 Standard Practice for Sampling of Cannabis/Hemp Post-Harvest Batches for Laboratory Analyses, including, but not limited to, the aseptic sampling procedures described below when collecting samples for testing.

(2) The laboratory must use aseptic sampling techniques when collecting all cannabis category types, and adhere to the steps described below, at a minimum:

(I) Fit-for-purpose sampling equipment such as tongs, spatulas, calipers, or sample corers must be used for sampling cannabis and cannabis products. The sampling equipment must be aseptically cleaned between the sampling of different lots or production runs (or more times, if determined necessary by the sample collector) using ethanol, minimum 70%, or equivalent.

(II) The sample collector will wear new aseptic gloves before sampling a different harvest batch or production run (or more frequently, if determined necessary by the sample collector).

(III) The sample aliquot(s) shall be taken from multiple areas of each container (i.e., the upper, middle, and lower sections), such that the samples taken are representative of the entire lot or production run. In

the case of large bales or bags, samples must be taken from a depth of at least 10 cm [3.9 in.].

(IV) The sample collector shall take extreme care if sampling from multiple sites in one day to ensure contaminants (such as microorganisms, insects, residues, etc.), pathogens, or other organisms or substances are not transferred between facilities.

(V) The field balance used for sampling must meet the following requirements, at minimum:

(a) Must be capable of weighing 65 % of specimen weight or 0.1 g [0.000220462 lb], whichever is less.

(b) Must be calibrated to include the range of specimen weight.

(3) Facility must provide adequately convenient access to a handwashing sink for the laboratory sampler to fulfill required handwashing and glove changing requirements for preventing contamination during sampling, while also maintaining adequate camera coverage of all sampling activities.

(c) The facility shall notify the laboratory prior to sample collection if the batch or lot to be sampled is remediated.

~~(e)~~ *(d)* The cannabis independent testing laboratory selecting a sample shall seal the sample within the package to ensure sample integrity. The sample shall be collected in a tamper resistant package or in a package that is sealed with tamper resistant tape immediately after the sample is placed in the package.

~~(d)~~ *(e)* The cannabis independent testing laboratory shall ensure the seed-to-sale identification tag is affixed to the sample package. The batch, lot or production run number and the weight or quantity of the sample shall be documented on the sample package and on the chain of custody.

2. A cannabis independent testing laboratory that collects a sample pursuant to this section shall test the sample as provided in NCCR 11.050.

3. From the time that a lot or production run has been homogenized for sample testing and eventual packaging and sale to a cannabis sales facility, cannabis production facility or, if applicable, another cannabis cultivation facility, the cannabis establishment which provided the sample shall segregate and withhold from use the entire lot or production run, except the samples that have been removed by the cannabis independent testing laboratory for testing, until the cannabis independent testing laboratory provides the certificate of analysis from its tests and analysis. During this period of segregation, the cannabis establishment which provided the sample shall maintain the lot or production run in a secure, clearly designated, cool and dry location so as to prevent the cannabis from becoming contaminated or losing its efficacy. Under no circumstances shall the cannabis establishment which provided the sample sell the cannabis or cannabis products, as applicable, to a cannabis sales facility, cannabis production facility or, if applicable, another cannabis cultivation facility before the time that the cannabis independent testing laboratory has completed its testing and analysis and provided the certificate of analysis to the cannabis establishment which provided the sample.

~~[4. Except as otherwise provided in subsection 5, a cannabis independent testing laboratory shall immediately return or dispose of any sample received pursuant to this section upon the completion of any testing, use or research. If a cannabis independent testing laboratory disposes of a sample received pursuant to this section, the cannabis independent testing laboratory shall document the disposal of the sample using its seed-to-sale tracking system pursuant to NCCR 6.080 and 6.082.]~~

~~4.~~ **4.** A cannabis independent testing laboratory shall keep any samples which fails testing, or which is collected by the Board for confirmation testing 30 days after failure or collection testing. A sample which is kept pursuant to this subsection must be stored in a manner approved by the appropriate Board Agent. A cannabis independent testing laboratory shall dispose of a sample kept pursuant to this subsection after 30 days have elapsed after failure or collection, and shall document the disposal of the sample using its seed-to-sale tracking system pursuant to NCCR 6.080 and 6.082.

~~5.~~ **5.** Except as otherwise provided in NCCR 11.075, if a sample provided to a cannabis independent testing laboratory pursuant to this section does not pass the testing required by NCCR 11.050, the cannabis establishment which provided the sample shall dispose of the entire lot or production run from which the sample was taken and document the disposal of the sample using its inventory control system pursuant to NCCR 6.080 and 6.082.

~~6.~~ **6.** If a sample provided to a cannabis independent testing laboratory pursuant to this section passes the testing required by NCCR 11.050, the cannabis independent testing laboratory shall release the entire lot or production run for immediate manufacturing, packaging and labeling for sale to a cannabis sales facility, a cannabis production facility or, if applicable, another cannabis cultivation facility.

~~7.~~ **7.** A cannabis establishment shall not use more than one cannabis independent testing laboratory to test the same lot or production run of cannabis without the approval of the appropriate Board Agent.

~~8.~~ **8.** A cannabis independent testing laboratory shall file with the Board, in a manner prescribed by the Board, an electronic copy of the certificate of analysis for all tests performed by the cannabis independent testing laboratory, regardless of the outcome of the test, including all testing required by NCCR 11.050 to 11.065, inclusive, ~~at the same time that it transmits those results to the facility which provided the sample.~~ The cannabis independent testing laboratory shall not provide preliminary test results to a cannabis cultivation facility or cannabis production facility, including any of their employees or representatives, prior to submitting the Certificate of Analysis to the Board. ~~The cannabis independent testing laboratory shall transmit an electronic copy of the certificate of analysis for each test to the Board by electronic mail at:~~

- ~~(a) If the test was passed, cannabislabpass@ceb.nv.gov; or~~
- ~~(b) If the test was failed, cannabislabfail@ceb.nv.gov.~~

~~9.~~ **9.** ~~An electronic mail message transmitted pursuant to subsection 9 must be formatted as follows:~~ Certificates of Analysis must be reported as follows:

- ~~(a) The subject line of the electronic mail message must be the name of the cannabis establishment from which the sample was collected.~~ Test results and Certificate of Analysis must be uploaded to the seed-to-sale system in accordance with policy issued by the Board.
- (b) The name of the electronic file containing the certificate of analysis must be:
 - (1) Except as otherwise provided in subparagraph (2) or (3), the ~~Facility~~ cannabis establishment ID assigned by the Board to the cannabis independent testing laboratory, followed by an underscore, followed by the ~~four digit identifier~~ cannabis establishment ID assigned by the Board to the cannabis establishment from which the sample was collected, followed by an underscore, followed by the identification number assigned to the test sample within the seed-to-sale tracking system. Followed by an underscore, followed by the product name assigned to the test sample within the seed-to-sale tracking system. :

~~(1) If the sample was from a production run, the production run number; or~~

~~(H) If the sample was not from a production run, the batch number, followed by an underscore, followed by the lot number.~~

(2) If the certificate of analysis is from a retesting of a previously failed sample, an underscore followed by the word “Retest” must be appended to the end of the name of the electronic file.

(3) If the certificate of analysis has been amended, an underscore followed by the word “Amended” must be appended to the end of the name of the electronic file.

(c) If the certificate of analysis has been amended, the electronic copy of the certificate of analysis must state “Amended” in 20-point bold red font at the center of the top of the first page of the report and must contain a statement of the reason for the amendment that clearly and completely describes the change in 10-point *red* font.

(d) If the Certificate of Analysis is from a retesting of a previously failed sample, the electronic copy of the certificate of analysis must state “Retest” in 20-point bold red font at the center of the top of the first page of the report.

(1) The cultivation or production facility must provide the retest approval issued by Board Agents to the laboratory, as well as the list of samples pertaining to that retest approval to the laboratory prior to sample collection.

~~[11.]~~ *10.* The Board will take immediate disciplinary action against any cannabis establishment which fails to comply with the provisions of this section or falsifies records related to this section, including, without limitation, revoking the license of the cannabis establishment.

~~[12.]~~ *11.* A cannabis independent testing laboratory may subcontract its testing of cannabis or cannabis products only to another cannabis independent testing laboratory. *The name and cannabis establishment ID of the cannabis testing laboratory which performed the subcontracted testing must be indicated on the final Certificate of Analysis in at least 8-point font.*

~~[13.]~~ *12.* The Board may publish on their website all Certificates of Analysis issued to them in the preceding time.

(Amended: 8/2021)

11.075 Testing: Authorized use of cannabis upon failure of microbial screening; automatic failure to pass; request for retest; retest for pesticide residue must be performed by State Department of Agriculture; effect of passing or failing retest.

1. Upon approval of the appropriate Board Agent, a lot or production run of cannabis that fails a residual solvent, pH, water activity (aw), homogeneity, or microbial screening test may be remediated or used to make an extract. After processing, the remediated lot or extract must pass all required quality assurance tests. Processes for treatment or remediation of cannabis must be pre-approved by the appropriate board agent.

(a) The cannabis establishment must maintain documentation of post-harvest treatment or remediated lots, including the date and method of treatment or remediation. All post-harvest treatment or remediation processes must be pre-approved by the appropriate Board agent.

2. If a sample from a cannabis production facility fails a quality assurance test, the entire production run from which the sample was taken automatically fails the quality assurance test.

3. At the request of a cannabis cultivation facility or a cannabis production facility, the appropriate Board Agent may, on a case-by-case basis, authorize a retest to validate the results of a failed test. The cannabis cultivation facility or cannabis production facility is responsible for all costs involved in a retest performed pursuant to this section.

4. A cannabis cultivation facility or a cannabis production facility may not request a retest pursuant to this section if the lot or production run has undergone any type of remediation since the time samples were initially taken for testing. *A cannabis independent testing laboratory may not retest a lot, production run or test sample of cannabis or cannabis products or implement internal retesting procedures for cannabis or cannabis products, without approval by the appropriate Board Agent.*

5. A cannabis cultivation facility or a cannabis production facility shall submit a request for retesting to the appropriate Board Agent in writing and on a form designated by the Board.

6. If the appropriate Board Agent grants a request for retesting, the Board Agent will select the cannabis independent testing laboratory that will perform the retest.

7. Except as otherwise provided in this subsection, a cannabis cultivation facility or a cannabis production facility may submit a request for retesting of not more than 50 lots or production runs each calendar year. For any subsequent failure of a quality assurance test in a calendar year, the facility shall request permission from the Board for an additional 50 tests, destroy the lot or the entire production run, or request to send the lot or production run to extraction or remediation. The Board may extend authority to the Executive Director of the CCB to approve such requests. If the additional 50 retests are approved, a cannabis cultivation facility or a cannabis production facility must obtain the results of two retests in the category which failed, from two different cannabis independent testing laboratories. For the retested lot or production run to be approved for sale, both retests must provide passing results. If both retests provide passing results, the certificate of analysis with the higher quantifiable results will be recorded. If it is not clear which certificate has higher results, the appropriate board agent will select the one to be recorded. No more than one such request for additional tests is permitted within a calendar year. A lot which only fails a quality assurance test for moisture content must not be counted for the purpose of this subsection.

(a) To request permission from the Board for an additional 50 tests, a cannabis cultivation facility or a cannabis production facility must file a petition with the Board which must include the following:

(1) Request for the additional 50 tests;

- (2) List the prior 50 lots or production runs that failed, what they failed for, and which cannabis independent testing laboratory performed the test; and
 - (3) List whether the prior 50 lots or production runs passed pursuant to a retest, and which cannabis independent testing laboratories performed the retests.
8. A failed quality assurance test for pesticide residue must be retested by the State Department of Agriculture unless otherwise approved by the Board or appropriate Board Agent.
9. If a sample passes the same quality assurance test upon retesting, the cannabis cultivation facility or cannabis production facility need not destroy the lot or production run and may sell the lot or production run to a cannabis cultivation facility, cannabis sales facility or cannabis production facility, as applicable.
10. If a sample fails the same quality assurance test upon retesting, the Board Agent denies a request for retesting or a cannabis cultivation facility or a cannabis production facility does not request retesting after a sample fails a quality assurance test, the facility shall destroy the entire lot or production run from which the sample was taken.

(Amended: 8/2021)

11.085 Random quality assurance compliance checks; costs for screening or testing.

1. Upon the request of the Board, a cannabis facility must provide a cannabis independent testing laboratory designated by the Board with a sample of cannabis or a cannabis product in an amount determined by the cannabis independent testing laboratory to be sufficient for random quality assurance compliance checks in a secure manner such that the cannabis independent testing laboratory can confirm that it has received and is testing the correct sample.
2. The cannabis independent testing laboratory that receives a sample pursuant to subsection 1 shall, as directed by the Board:
 - (a) Screen the sample for pesticides, chemical residues, herbicides, growth regulators and unsafe levels of metals;
 - (b) Perform any other quality assurance test deemed necessary by the Board; and
 - (c) Report its results to the Board.
3. The ~~[cannabis cultivation facility or cannabis production facility is responsible]~~ **responsibility** for all costs involved in screening or testing performed pursuant to this section ~~[.]~~ **shall be borne in accordance with the following:**
 - (a) If the testing is performed as a consequence of an investigation of a cannabis cultivation facility, the costs shall be borne by the cannabis cultivation facility even if the investigation does not lead to a substantiated violation of the law;**
 - (b) If the testing is performed as a consequence of an investigation of a cannabis production facility, the costs shall be borne by the cannabis production facility even if the investigation does not lead to a substantiated violation of the law; or**
 - (c) If the testing is performed as a consequence of an investigation of a cannabis independent testing laboratory, the costs shall be borne by the cannabis independent testing laboratory being investigated even if the investigation does not lead to a substantiated violation of the law.**
- 4. A cannabis cultivation facility, cannabis production facility, or cannabis independent testing laboratory who is responsible for costs of testing pursuant to subsection 3 must remit payment for the costs to the cannabis independent testing laboratory that performed the testing within 30 days of receipt of the invoice.**

Proposed Changes to NCCR Regulation 13

CANNABIS DISTRIBUTORS

New

[Deleted]

13.010 Requirements for wholesale transportation of cannabis and cannabis products.

7. Each cannabis establishment agent transporting cannabis or cannabis products for a cannabis distributor must:

- (a) Report to a person designated by the cannabis distributor to receive such reports and to the Board any motor vehicle crash that occurs during the transportation within ~~24~~ 24 hours after the crash occurs;
- (b) Report to the Board any unauthorized stop within 24 hours; and
- (c) Report to a person designated by the cannabis distributor to receive such reports any loss or theft of cannabis or cannabis products that occurs during the transportation immediately after the cannabis establishment agent becomes aware of the loss or theft. A cannabis distributor that receives a report of loss or theft pursuant to this paragraph must immediately report the loss or theft to the appropriate law enforcement agency and to the Board after any risk to public safety has been alleviated.
