
SENATE BILL NO. 69—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE CANNABIS COMPLIANCE BOARD)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to disciplinary proceedings against the holder of a license or registration card issued by the Cannabis Compliance Board. (BDR 56-278)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to cannabis; revising provisions governing disciplinary proceedings against the holder of a license or registration card issued by the Cannabis Compliance Board; requiring the Board to appoint one or more hearing officers to carry out certain duties relating to disciplinary proceedings against a licensee or registrant; authorizing the issuance of a citation to a licensee or registrant for certain violations under certain circumstances; revising provisions governing the procedures for judicial review of the final decision of the Board in a disciplinary proceeding against a licensee or registrant; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides for the licensure and regulation of persons and
2 establishments in the cannabis industry in this State by the Cannabis Compliance
3 Board. (Title 56 of NRS) Existing law sets forth procedures by which the Board
4 may take disciplinary action against a licensee or registrant. (NRS 678A.500-
5 678A.600) Under existing law, the Executive Director of the Board is authorized to
6 transmit the details of any suspected violation of the provisions of existing law and
7 regulations that govern the medical and adult-use of cannabis to the Attorney
8 General for an investigation. (NRS 678A.500) After the investigation, existing law
9 requires the Board to determine whether to proceed with disciplinary action against



10 a licensee or registrant. (NRS 678A.510) If the Board proceeds with disciplinary
11 action, existing law sets forth procedures for the conduct of a disciplinary hearing
12 before the Board. (NRS 678A.520-678A.590) If the Board determines that a
13 licensee or registrant has violated a provision of existing law or regulations
14 governing the medical and adult-use of cannabis, existing law authorizes the Board
15 to impose certain penalties against the licensee or registrant. (NRS 678A.600)

16 This bill revises the procedures by which disciplinary action may be taken
17 against a licensee or registrant. **Section 18** of this bill requires the Executive
18 Director, rather than the Board, to make the determination whether to proceed with
19 disciplinary action against a licensee or registrant after an investigation by the
20 Attorney General. If the Executive Director makes a determination to proceed,
21 **section 19** of this bill requires the Executive Director to assign a hearing officer to
22 the matter. **Sections 19-26** of this bill require a disciplinary hearing to be heard
23 before the hearing officer, rather than the Board, and revise procedures for the
24 conduct of such a hearing. If the hearing officer determines that a licensee or
25 registrant has violated a provision of existing law or regulations governing the
26 medical and adult-use of cannabis, **section 27** of this bill authorizes the hearing
27 officer to impose certain penalties against the licensee or registrant.

28 **Section 9** of this bill provides that the decision of a hearing officer is final
29 unless appealed to the Board within 30 days after the service of the decision.
30 **Section 9** also authorizes the Board to review any decision of a hearing officer that
31 is not otherwise appealed. Under **section 9**, any decision of the Board after such an
32 appeal or review is final. **Section 28** of this bill requires the Board to adopt
33 regulations establishing procedures for the conduct of such an appeal or review.

34 **Sections 2, 5-7 and 17** of this bill establish an alternative manner by which
35 disciplinary action may be taken against a licensee or registrant for a minor
36 violation through the issuance of a citation. **Section 5** of this bill authorizes an
37 employee of the Board, after a lawful inspection of a cannabis establishment, to
38 issue a citation to a licensee or registrant who the employee concludes has
39 committed a minor violation. **Section 2** defines "minor violation" to mean, in
40 general, a violation of a provision of existing law or regulations governing the
41 medical and adult-use of cannabis that the Board has by regulation determined to be
42 appropriate for the issuance of a citation. **Section 5** sets forth the required contents
43 of a citation and the actions that a licensee or registrant who is issued a citation may
44 be required to take. **Section 6** of this bill establishes the procedure for a licensee or
45 registrant who is issued a citation to request a hearing before a hearing officer.
46 **Section 28** requires the Board to adopt regulations establishing procedures for the
47 conduct of such proceedings.

48 Existing law sets forth the procedures by which a person aggrieved by a final
49 decision of the Board in a disciplinary proceeding may obtain judicial review of the
50 decision. (NRS 678A.610-678A.640) **Section 29** of this bill eliminates those
51 procedures. **Sections 10-15** of this bill instead establish procedures pursuant to
52 which a party may obtain judicial review of the final decision of the Board after an
53 appeal or review by the Board of the decision of a hearing officer pursuant to
54 **section 9** or after a hearing to contest a citation pursuant to **section 6**. The
55 procedures set forth in **sections 10-15** are modeled, in general, after the procedures
56 for judicial review set forth in the Nevada Administrative Procedure Act. (NRS
57 233B.130-233B.150)

58 Existing law sets forth the procedures the Board is required to follow to adopt,
59 amend and repeal regulations. (NRS 678A.460) **Section 3** of this bill defines
60 "regulation" to exclude, among other things, the decision of a hearing officer and
61 any memorandum between a hearing officer and the Board.

62 **Section 4** of this bill requires the Board to appoint one or more hearing officers
63 to carry out the duties set forth in **sections 19-27** of this bill. **Section 8** of this bill
64 provides that the voluntary surrender of a license or registration card after the



65 commencement of a disciplinary action by the Executive Director is deemed to
66 constitute discipline against the licensee or registrant.

67 **Section 16** of this bill makes a conforming change to indicate the proper
68 placement of **sections 2 and 3** in the Nevada Revised Statutes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 678A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 15, inclusive,
3 of this act.

4 **Sec. 2.** *“Minor violation” means a violation of any provision*
5 *of this title or any regulation adopted pursuant thereto that the*
6 *Board by regulation has determined to be appropriate for the*
7 *issuance of a citation pursuant to section 5 of this act.*

8 **Sec. 3.** *“Regulation” means a rule, standard, directive or*
9 *statement of general applicability which effectuates law or policy,*
10 *or describes the procedure or requirements for practicing before*
11 *the Board. The term includes a proposed regulation and the*
12 *amendment or repeal of a prior regulation, but does not include:*

13 1. *A statement concerning only the internal management of*
14 *the Board and not affecting the rights or procedures available to*
15 *any licensee, registrant or any other person;*

16 2. *A declaratory ruling;*

17 3. *An interagency memorandum or a memorandum between*
18 *a hearing officer and the Board;*

19 4. *The decision of the Board in a contested case, including,*
20 *without limitation, any settlement agreement in such a case;*

21 5. *The decision of the Board relating to an application for a*
22 *license or registration card;*

23 6. *The decision of a hearing officer made pursuant to NRS*
24 *678A.590; or*

25 7. *Any notice concerning the fees to be charged which are*
26 *necessary for the administration of this title.*

27 **Sec. 4.** *The Board shall appoint one or more hearing officers*
28 *to conduct hearings and render decisions as provided in NRS*
29 *678A.520 to 678A.600, inclusive, and section 8 of this act.*

30 **Sec. 5.** 1. *After conducting an inspection of a cannabis*
31 *establishment pursuant to NRS 678A.500 or 678B.510 or any*
32 *regulation of the Board which authorizes the inspection of a*
33 *cannabis establishment, an employee of the Board may, in lieu of*
34 *filing a written complaint with the Executive Director pursuant to*
35 *NRS 678A.500, issue a citation to a licensee or registrant if the*
36 *employee of the Board concludes that, based on a preponderance*



1 of the evidence, the licensee or registrant has committed a minor
2 violation.

3 2. A citation issued pursuant to this section must:

4 (a) Be on a form prescribed by the Board;

5 (b) Be served upon the licensee or registrant in the following
6 manner:

7 (1) By personally delivering the citation to the licensee or
8 registrant;

9 (2) By mailing the citation by certified mail to the licensee
10 or registrant at the last known business or residential address of
11 the licensee or registrant; or

12 (3) For a citation issued to a licensee that is not a natural
13 person, by personally delivering the citation to a cannabis
14 establishment agent who is a natural person employed by the
15 licensee and who exercises managerial authority over the
16 cannabis establishment associated with the minor violation for
17 which the citation is issued;

18 (c) Set forth in ordinary and concise language the acts or
19 omissions with which the licensee or registrant is charged;

20 (d) Specify the statutes or regulations which the licensee is
21 alleged to have violated, but must not consist merely of charges
22 raised in the language of the statutes or regulations;

23 (e) Contain, without limitation, the following:

24 (1) The location at which the alleged minor violation
25 occurred;

26 (2) The date and time the employee of the Board identified
27 the alleged minor violation;

28 (3) The name of the licensee or registrant to whom the
29 citation is issued;

30 (4) For a citation served in the manner described in
31 subparagraph (3) of paragraph (b), the name and signature of the
32 cannabis establishment agent to whom the citation is delivered;
33 and

34 (5) Information advising the licensee or registrant to whom
35 the citation is issued of the manner in which, and the time within
36 which, the citation may be contested.

37 3. A citation issued pursuant to this section may include,
38 without limitation, an order to:

39 (a) Take any action to correct any condition resulting from
40 any act that constitutes a minor violation, at the expense of the
41 licensee or registrant that committed the minor violation. If the
42 citation includes such an order, the citation must:

43 (1) State the time permitted for compliance, which must be
44 not less than 5 business days after the date the licensee or
45 registrant is served the citation; and



1 (2) *Specifically describe the corrective action to be taken.*
2 (b) *Pay a civil penalty not to exceed the amount prescribed by*
3 *regulation of the Board for the minor violation.*

4 (c) *Reimburse the Board for any expenses incurred to*
5 *investigate the minor violation, in an amount not to exceed*
6 *\$10,000.*

7 4. *The sanctions authorized by this section are separate from,*
8 *and in addition to, any other remedy, civil or criminal, authorized*
9 *by this title.*

10 5. *The Board shall adopt regulations prescribing a list of*
11 *each violation of a provision of this title or a regulation adopted*
12 *pursuant thereto that the Board has determined to be a minor*
13 *violation and appropriate for the issuance of a citation pursuant to*
14 *this section.*

15 **Sec. 6.** 1. *Except as otherwise provided in this subsection,*
16 *to contest a citation issued pursuant to section 5 of this act, the*
17 *licensee or registrant to whom the citation is issued must submit to*
18 *the Executive Director a written request for a hearing not later*
19 *than 30 days after service of the citation. The Executive Director*
20 *may, for good cause shown, extend the time to submit a request for*
21 *a hearing.*

22 2. *If the licensee or registrant to whom the citation is issued*
23 *files a timely written request for a hearing to contest the citation,*
24 *the Executive Director shall order a hearing on the matter before*
25 *a hearing officer. The hearing officer shall give notice of the*
26 *hearing, conduct the hearing and render a final decision on the*
27 *matter in accordance with procedures governing the conduct of a*
28 *disciplinary proceeding arising from the issuance of a citation*
29 *established by regulation of the Board.*

30 3. *If a licensee or registrant to whom a citation is issued*
31 *pursuant to section 5 of this act does not file timely a written*
32 *request for a hearing to contest the citation:*

33 (a) *The citation shall be deemed a final order of the Board and*
34 *not subject to review by any court; and*

35 (b) *Any civil penalty assessed or required reimbursement for*
36 *expenses shall be deemed due and payable and any corrective*
37 *action shall be deemed required.*

38 **Sec. 7.** *For the purposes of sections 5 and 6 of this act, a*
39 *citation issued pursuant to section 5 of this act shall be deemed to*
40 *have been served on a licensee or registrant:*

41 1. *On the date on which the citation is personally delivered to*
42 *the licensee, registrant or cannabis establishment agent described*
43 *in subparagraph (3) of paragraph (b) of subsection 2 of section 5*
44 *of this act; or*



1 2. *If the citation is mailed, 3 business days after the date on*
2 *which the citation is mailed by certified mail to the last known*
3 *business or residential address of the licensee or registrant.*

4 **Sec. 8.** *The voluntary surrender of a license or registration*
5 *card by a licensee or registrant during a disciplinary proceeding*
6 *commenced pursuant to NRS 678A.520 shall be deemed to*
7 *constitute discipline against the licensee or registrant.*

8 **Sec. 9.** *1. Except as otherwise provided in this section:*

9 (a) *A decision of a hearing officer made pursuant to NRS*
10 *678A.590 is final unless appealed to the Board.*

11 (b) *Any party who is aggrieved by a decision of a hearing*
12 *officer made pursuant to NRS 678A.590 may appeal the decision*
13 *by filing a notice of appeal with the Board within 30 days after the*
14 *service of the decision.*

15 2. *The Board may review any decision of a hearing officer*
16 *made pursuant to NRS 678A.590 that is not otherwise appealed to*
17 *the Board pursuant to this section.*

18 3. *The Board may reverse, affirm, remand or modify any*
19 *decision of a hearing officer made pursuant to NRS 678A.590 that*
20 *is:*

21 (a) *Appealed to the Board pursuant to this section; or*

22 (b) *Reviewed by the Board pursuant to this section.*

23 4. *The Board shall conduct an appeal or review of a decision*
24 *of a hearing officer made pursuant to NRS 678A.590 in*
25 *accordance with procedures established by regulation of the*
26 *Board.*

27 5. *A decision of the Board made pursuant to this section is a*
28 *final decision for the purposes of judicial review. The Executive*
29 *Director or any other employee or representative of the Board*
30 *shall not seek judicial review of such a decision.*

31 **Sec. 10.** *1. Any party who is aggrieved by a final decision*
32 *of the Board in a disciplinary proceeding pursuant to section 6 or*
33 *9 of this act is entitled to judicial review of the decision.*

34 2. *A petition for judicial review must:*

35 (a) *Name as respondents the Board and all parties of record to*
36 *the proceedings for disciplinary action;*

37 (b) *Be instituted by filing a petition in the district court in and*
38 *for Clark County;*

39 (c) *Be served upon:*

40 (1) *The Attorney General, or a person designated by the*
41 *Attorney General, at the Office of the Attorney General in Carson*
42 *City; and*

43 (2) *The Executive Director; and*

44 (d) *Be filed within 30 days after the service of the final*
45 *decision of the Board.*



1 3. *The Board and any party desiring to participate in the*
2 *judicial review must file a statement of intent to participate in the*
3 *petition for judicial review and serve the statement upon the Board*
4 *and every party within 20 days after the service of the petition.*

5 4. *The petition for judicial review must be served upon the*
6 *Board and every party within 45 days after the filing of the*
7 *petition, unless, upon a showing of good cause, the district court*
8 *extends the time for such service.*

9 5. *The provisions of sections 10 to 15, inclusive, of this act*
10 *are the exclusive means of judicial review of, or judicial action*
11 *concerning, a final decision in a proceeding for disciplinary action*
12 *involving the Board.*

13 **Sec. 11.** 1. *Within 45 days after the service of a petition for*
14 *judicial review or such time as is allowed by the court:*

15 (a) *The party who filed the petition for judicial review shall*
16 *transmit to the reviewing court an original or certified copy of the*
17 *transcript of the evidence resulting in the final decision of the*
18 *Board.*

19 (b) *The Board shall transmit to the reviewing court the*
20 *original or a certified copy of the remainder of the record of the*
21 *proceeding under review, which must include, without limitation:*

22 (1) *All pleadings in the case;*

23 (2) *All notices and interim orders issued by the Board or a*
24 *hearing officer in connection with the case;*

25 (3) *All stipulations;*

26 (4) *The decision appealed from;*

27 (5) *The exhibits admitted or rejected; and*

28 (6) *Any other papers in the case.*

29 ↪ *The record may be shortened by stipulation of the parties to the*
30 *proceedings. A party unreasonably refusing to stipulate to limit the*
31 *record, as determined by the court, may be assessed by the court*
32 *any additional costs. The court may require or permit subsequent*
33 *corrections or additions to the record.*

34 2. *If, before submission to the court, an application is made*
35 *to the court for leave to present additional evidence, and it is*
36 *shown to the satisfaction of the court that the additional evidence*
37 *is material and that there were good reasons for failure to present*
38 *it in the proceeding before the Board, the court may order that the*
39 *additional evidence and any rebuttal evidence be taken before the*
40 *Board upon such conditions as the court determines.*

41 3. *After receipt of any additional evidence, the Board:*

42 (a) *May modify its findings and decision; and*

43 (b) *Shall file the evidence and any modifications, new findings*
44 *or decisions with the reviewing court.*



1 **Sec. 12. 1.** *A petitioner who is seeking judicial review must*
2 *serve and file a memorandum of points and authorities within 40*
3 *days after the Board gives written notice to the parties that the*
4 *record of the proceeding under review has been filed with the*
5 *court.*

6 2. *The respondent shall serve and file a reply memorandum*
7 *of points and authorities within 30 days after service of the*
8 *memorandum of points and authorities.*

9 3. *The petitioner may serve and file reply memoranda of*
10 *points and authorities within 30 days after service of the reply*
11 *memorandum.*

12 4. *Within 7 days after the expiration of the time within which*
13 *the petitioner is required to reply, any party may request a*
14 *hearing. Unless a request for hearing has been filed, the matter*
15 *shall be deemed submitted.*

16 5. *All memoranda of points and authorities filed in*
17 *proceedings involving petitions for judicial review must be in the*
18 *form provided for appellate briefs in Rule 28 of the Nevada Rules*
19 *of Appellate Procedure.*

20 6. *The court, for good cause, may extend the times allowed in*
21 *this section for filing memoranda.*

22 **Sec. 13. 1.** *Judicial review of a final decision of the Board*
23 *must be:*

24 (a) *Conducted by the court without a jury; and*

25 (b) *Confined to the record.*

26 ↳ *In cases concerning alleged irregularities in procedure before*
27 *the Board that are not shown in the record, the court may receive*
28 *evidence concerning the irregularities.*

29 2. *The final decision of the Board shall be deemed reasonable*
30 *and lawful until reversed or set aside in whole or in part by the*
31 *court. The burden of proof is on the party attacking or resisting*
32 *the decision to show that the final decision is invalid pursuant to*
33 *subsection 3.*

34 3. *The court shall not substitute its judgment for that of the*
35 *Board as to the weight of evidence on a question of fact. The court*
36 *may remand or affirm the final decision or set it aside in whole or*
37 *in part if substantial rights of the petitioner have been prejudiced*
38 *because the final decision of the Board is:*

39 (a) *In violation of constitutional or statutory provisions;*

40 (b) *In excess of the statutory authority of the Board;*

41 (c) *Made upon unlawful procedure;*

42 (d) *Affected by other error of law;*

43 (e) *Clearly erroneous in view of the reliable, probative and*
44 *substantial evidence on the whole record; or*



1 (f) *Arbitrary or capricious or characterized by abuse of*
2 *discretion.*

3 4. *As used in this section, "substantial evidence" means*
4 *evidence which a reasonable mind might accept as adequate to*
5 *support a conclusion.*

6 **Sec. 14.** 1. *A petitioner who applies for a stay of the final*
7 *decision of the Board in a disciplinary proceeding shall file and*
8 *serve a written motion for the stay on the Board and all parties of*
9 *record to the proceeding at the time of filing the petition for*
10 *judicial review.*

11 2. *In determining whether to grant a stay, the court shall*
12 *consider the same factors as are considered for a preliminary*
13 *injunction under Rule 65 of the Nevada Rules of Civil Procedure.*

14 3. *In making a ruling, the court shall:*

15 (a) *Give deference to the trier of fact; and*

16 (b) *Consider the risk to the public, if any, of staying the*
17 *decision of the Board.*

18 ↪ *The petitioner must provide security before the court may issue*
19 *a stay.*

20 **Sec. 15.** *An aggrieved party may obtain a review of any final*
21 *judgment of the district court by appeal to the appellate court of*
22 *competent jurisdiction pursuant to the rules fixed by the Supreme*
23 *Court pursuant to Section 4 of Article 6 of the Nevada*
24 *Constitution. The appeal must be taken as in other civil cases.*

25 **Sec. 16.** NRS 678A.010 is hereby amended to read as follows:

26 678A.010 As used in this title, unless the context otherwise
27 requires, the words and terms defined in NRS 678A.020 to
28 678A.240, inclusive, *and sections 2 and 3 of this act* have the
29 meanings ascribed to them in those sections.

30 **Sec. 17.** NRS 678A.500 is hereby amended to read as follows:

31 678A.500 1. If the Executive Director becomes aware that a
32 licensee or registrant has violated, is violating or is about to violate
33 any provision of this title or any regulation adopted pursuant thereto,
34 the Executive Director may ~~transmit~~ :

35 (a) *Assign the matter to an employee of the Board for an*
36 *investigation of the cannabis establishment associated with the*
37 *licensee or registrant and the issuance of a citation, if warranted,*
38 *pursuant to section 5 of this act; or*

39 (b) *Transmit* the details of the suspected violation, along with
40 any further facts or information related to the violation which are
41 known to the Executive Director, to the Attorney General.

42 2. If any person other than the Executive Director becomes
43 aware that a licensee or registrant has violated, is violating or is
44 about to violate any provision of this title or any regulation adopted
45 pursuant thereto, the person may file a written complaint with the



1 Executive Director specifying the relevant facts. The Executive
2 Director shall review each such complaint and, if the Executive
3 Director finds the complaint not to be frivolous, may ~~transmit~~ :

4 *(a) Assign the matter to an employee of the Board for an*
5 *investigation of the cannabis establishment associated with the*
6 *licensee or registrant and the issuance of a citation, if warranted,*
7 *pursuant to section 5 of this act; or*

8 *(b) Transmit* the details of the suspected violation, along with
9 any further facts or information derived from the review of the
10 complaint to the Attorney General.

11 3. The employees of the Board who are certified by the Peace
12 Officers' Standards and Training Commission created pursuant to
13 NRS 289.500 shall cooperate with the Attorney General in the
14 performance of any criminal investigation.

15 **Sec. 18.** NRS 678A.510 is hereby amended to read as follows:

16 678A.510 1. If the Executive Director transmits the details of
17 a suspected violation to the Attorney General pursuant to NRS
18 678A.500, the Attorney General shall conduct an investigation of
19 the suspected violation to determine whether it warrants proceedings
20 for disciplinary action of the licensee or registrant. If the Attorney
21 General determines that further proceedings are warranted, he or she
22 shall report the results of the investigation together with a
23 recommendation to the Executive Director in a manner which does
24 not violate the right of the person charged in the complaint to due
25 process in any later hearing on the complaint. ~~{The Executive~~
26 ~~Director shall transmit the recommendation and other information~~
27 ~~received from the Attorney General to the Board.}~~

28 2. The ~~Board~~ *Executive Director* shall promptly make a
29 determination with respect to each complaint resulting in an
30 investigation by the Attorney General. The ~~Board~~ *Executive*
31 *Director* shall:

32 (a) Dismiss the complaint; or

33 (b) Proceed with appropriate disciplinary action in accordance
34 with NRS 678A.520 to 678A.600, inclusive, *and section 8 of this*
35 *act* and the regulations adopted by the Board.

36 **Sec. 19.** NRS 678A.520 is hereby amended to read as follows:

37 678A.520 1. If the ~~Board~~ *Executive Director* proceeds with
38 disciplinary action pursuant to NRS 678A.510, the ~~Board or the~~
39 *Executive Director shall assign the matter to a hearing officer and*
40 *the Board or Executive Director shall* serve a complaint upon the
41 respondent ~~either~~ personally, *by electronic mail at the electronic*
42 *mail address of the respondent that is on file with the Board* or by
43 registered or certified mail at the address of the respondent that is on
44 file with the Board. Such complaint must be a written statement of
45 charges and must set forth in ordinary and concise language the acts



1 or omissions with which the respondent is charged. The complaint
2 must specify the statutes and regulations which the respondent is
3 alleged to have violated, but must not consist merely of charges
4 raised in the language of the statutes or regulations. The complaint
5 must provide notice of the right of the respondent to request a
6 hearing. The *Executive Director or* Chair of the Board may grant an
7 extension to respond to the complaint for good cause.

8 2. Unless granted an extension, the respondent must answer
9 within ~~[20]~~ 21 days after the service of the complaint. In the answer
10 the respondent:

11 (a) Must state in short and plain terms the defenses to each claim
12 asserted.

13 (b) Must admit or deny the facts alleged in the complaint.

14 (c) Must state which allegations the respondent is without
15 knowledge or information to form a belief as to their truth. Such
16 allegations shall be deemed denied.

17 (d) Must affirmatively set forth any matter which constitutes an
18 avoidance or affirmative defense.

19 (e) May demand a hearing. Failure to demand a hearing
20 constitutes a waiver of the right to a hearing ~~[and]~~, *the right to*
21 *appeal the decision of the hearing officer to the Board and the*
22 *right* to judicial review of any decision or order of the Board, but
23 the ~~[Board]~~ *hearing officer* may order a hearing even if the
24 respondent so waives his or her right.

25 3. Failure to answer or to appear at the hearing constitutes an
26 admission by the respondent of all facts alleged in the complaint.
27 The ~~[Board]~~ *hearing officer* may take action based on such an
28 admission and on other evidence without further notice to the
29 respondent. If the ~~[Board]~~ *hearing officer* takes action based on
30 such an admission, the ~~[Board]~~ *hearing officer* shall include in the
31 record which evidence was the basis for the action.

32 4. ~~[The Board]~~ *Except as otherwise provided in subsection 5,*
33 *the hearing officer* shall determine the time and place of the hearing
34 as soon as is reasonably practical after receiving the respondent's
35 answer. The ~~[Board]~~ *hearing officer* shall ~~[deliver or]~~ send by
36 ~~[registered or certified]~~ *electronic* mail a notice of hearing to all
37 parties, *or their attorneys of record*, at least ~~[+0]~~ 30 days before the
38 hearing. The hearing must be held within ~~[45]~~ 120 days after
39 receiving the respondent's answer unless an expedited hearing is
40 determined to be appropriate by the Board, in which event the
41 hearing must be held as soon as practicable. The *Executive Director*
42 *or* Chair of the Board may grant one or more extensions to the ~~[45-~~
43 ~~day]~~ *120-day* requirement pursuant to a request of a party or an
44 agreement by both parties.



1 *5. If, after sending the notice of hearing pursuant to*
2 *subsection 4, the hearing officer determines that exigent*
3 *circumstances require a change of the place of the hearing, the*
4 *hearing officer may, upon reasonable notice to all parties, or their*
5 *attorneys of record, change the place of the hearing without*
6 *changing the time of the hearing set forth in the notice of hearing.*

7 **Sec. 20.** NRS 678A.530 is hereby amended to read as follows:

8 678A.530 Before a hearing before ~~{the Board,}~~ *a hearing*
9 *officer*, and during a hearing upon reasonable cause shown, the
10 ~~{Board}~~ *hearing officer* shall issue subpoenas and subpoenas duces
11 tecum at the request of a party. All witnesses appearing pursuant to
12 subpoena, other than parties, officers or employees of the State of
13 Nevada or any political subdivision thereof, are entitled to receive
14 fees and mileage in the same amounts and under the same
15 circumstances as provided by law for witnesses in civil actions in
16 the district courts. Witnesses entitled to fees or mileage who attend
17 hearings at points so far removed from their residences as to prohibit
18 return thereto from day to day are entitled, in addition to witness
19 fees and in lieu of mileage, to the per diem compensation for
20 subsistence and transportation authorized for state officers and
21 employees for each day of actual attendance and for each day
22 necessarily occupied in traveling to and from the hearings. Fees,
23 subsistence and transportation expenses must be paid by the party at
24 whose request the witness is subpoenaed. The ~~{Board}~~ *hearing*
25 *officer* may award as costs the amount of all such expenses to the
26 prevailing party.

27 **Sec. 21.** NRS 678A.540 is hereby amended to read as follows:

28 678A.540 1. At all hearings before ~~{the Board,}~~ *a hearing*
29 *officer*:

30 (a) Oral evidence may be taken only upon oath or affirmation
31 administered by the ~~{Board,}~~ *hearing officer*.

32 (b) Every party has the right to:

33 (1) Call and examine witnesses;

34 (2) Introduce exhibits relevant to the issues of the case;

35 (3) Cross-examine opposing witnesses ~~{on any matters~~
36 ~~relevant to the issues of the case, even though the matter was not~~
37 ~~covered in a direct examination;}~~ *in accordance with*
38 *paragraph (c);*

39 (4) Impeach any witness regardless of which party first
40 called the witness to testify; and

41 (5) Offer rebuttal evidence.

42 (c) *Except as otherwise provided in paragraph (d), cross-*
43 *examination is limited to the subject matter of the direct*
44 *examination and matters affecting the credibility of witnesses,*



1 *unless the hearing officer in the exercise of discretion permits*
2 *inquiry into additional matters as if on direct examination.*

3 (d) If the respondent does not testify in his or her own behalf,
4 the respondent may be called and examined as if under cross-
5 examination ~~f~~.

6 ~~(d)~~ *on any matters relevant to the issues of the case.*

7 (e) The hearing need not be conducted according to technical
8 rules relating to evidence and witnesses. Any relevant evidence may
9 be admitted and is sufficient in itself to support a finding if it is the
10 sort of evidence on which responsible persons are accustomed to
11 rely in the conduct of serious affairs, regardless of the existence of
12 any common law or statutory rule which might make improper the
13 admission of such evidence over objection in a civil action.

14 ~~(e)~~ (f) The parties or their counsel may by written stipulation
15 agree that certain specified evidence may be admitted even though
16 such evidence might otherwise be subject to objection.

17 2. The ~~Board~~ *hearing officer* may take official notice of any
18 generally accepted information or technical or scientific matter
19 within the field of cannabis, and of any other fact which may be
20 judicially noticed by the courts of this State. The parties must be
21 informed of any information, matters or facts so noticed, and must
22 be given a reasonable opportunity, on request, to refute such
23 information, matters or facts by evidence or by written or oral
24 presentation of authorities, the manner of such refutation to be
25 determined by the ~~Board~~ *hearing officer*.

26 3. Affidavits may be received in evidence at any hearing ~~of~~
27 *before* the ~~Board~~ *hearing officer* in accordance with the
28 following:

29 (a) The party wishing to use an affidavit must, not less than 10
30 days before the day set for hearing, serve upon the opposing party or
31 counsel ~~either~~ personally, *by electronic mail* or by registered or
32 certified mail, a copy of the affidavit which the party proposes to
33 introduce in evidence together with a notice as provided in
34 paragraph (c).

35 (b) Unless the opposing party, within 7 days after such service,
36 ~~mails or delivers to~~ *serves upon* the proponent *personally, by*
37 *electronic mail or by registered or certified mail*, a request to cross-
38 examine the affiant, the opposing party's right to cross-examine the
39 affiant is waived and the affidavit, if introduced in evidence, must
40 be given the same effect as if the affiant had testified orally. If an
41 opportunity to cross-examine an affiant is not afforded after request
42 therefor is made in accordance with this paragraph, the affidavit
43 may be introduced in evidence, but must be given only the same
44 effect as other hearsay evidence.



(c) The notice referred to in paragraph (a) must be substantially in the following form:

The accompanying affidavit of (here insert name of affiant) will be introduced as evidence at the hearing set for the day of the month of of the year (Here insert name of affiant) will not be called to testify orally and you will not be entitled to question (here insert name of affiant) unless you notify the undersigned that you wish to cross-examine (here insert name of affiant). To be effective your request must be ~~mailed or delivered~~ served to the undersigned personally, by electronic mail or by registered or certified mail on or before 7 days from the date this notice and the enclosed affidavit are served upon you.

.....
(Party or Counsel)

.....
(Address)

Sec. 22. NRS 678A.550 is hereby amended to read as follows:

678A.550 The following procedures apply at all hearings ~~of the Board;~~ before a hearing officer:

1. ~~At least three members of the Board shall be present at every hearing, and they~~ The hearing officer shall exercise all powers relating to the conduct of the hearing. ~~and shall enforce all decisions with respect thereto.~~

2. The proceedings at the hearing must be ~~reported either stenographically or by a phonographic reporter.~~ audio recorded.

Sec. 23. NRS 678A.560 is hereby amended to read as follows:

678A.560 ~~After the Board has initiated~~ Except as otherwise provided in this section, a hearing officer who has been assigned to a matter pursuant to NRS 678A.520 ~~the members of the Board~~ shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or the party's representative, except upon notice and opportunity to all parties to participate. A hearing officer may:

1. Communicate with members of the Board.

2. Have the aid and advice of one or more personal assistants.

Sec. 24. NRS 678A.570 is hereby amended to read as follows:

678A.570 ~~The Board~~ A hearing officer may, before submission of the case for decision, permit the filing of amended or supplemental pleadings and shall notify all parties thereof, and provide a reasonable opportunity for objections thereto.



1 **Sec. 25.** NRS 678A.580 is hereby amended to read as follows:
2 678A.580 If any person in proceedings before ~~the Board~~ *a*
3 *hearing officer* disobeys or resists any lawful order or refuses to
4 respond to a subpoena, or refuses to take the oath or affirmation as a
5 witness or thereafter refuses to be examined, or is guilty of a
6 misconduct during the hearing or so near the place thereof as to
7 obstruct the proceeding, the ~~Board~~ *hearing officer* may certify the
8 facts to the district court in and for the county where the
9 proceedings are held. The court shall thereupon issue an order
10 directing the person to appear before the court and show cause why
11 the person should not be punished as for contempt. The court order
12 and a copy of the statement of the ~~Board~~ *hearing officer* must be
13 served on the person cited to appear. Thereafter the court has
14 jurisdiction of the matter, and the same proceedings must be had, the
15 same penalties may be imposed and the person charged may purge
16 himself or herself of the contempt in the same way as in the case of
17 a person who has committed a contempt in the trial of a civil action
18 before a district court.

19 **Sec. 26.** NRS 678A.590 is hereby amended to read as follows:
20 678A.590 1. Within 60 days after the hearing of a contested
21 matter, the ~~Board~~ *hearing officer* shall render a written decision
22 on the merits which must contain findings of fact, a determination of
23 the issues presented and the penalty to be imposed, if any. The
24 ~~Board~~ *hearing officer* shall thereafter make and enter ~~its~~ *a*
25 written order in conformity to ~~its~~ *his or her* decision. ~~No member~~
26 ~~of the Board who did not hear the evidence may vote on the~~
27 ~~decision. The affirmative votes of a majority of the whole Board are~~
28 ~~required to impose any penalty.~~ Copies of the decision and order
29 must be served on the parties personally or sent to them by
30 registered or certified mail. *If service is made by registered or*
31 *certified mail, service is deemed to be complete 3 days after the*
32 *decision and order are deposited with the United States Postal*
33 *Service.* The decision is effective upon such service, unless the
34 ~~Board~~ *hearing officer* orders otherwise.

35 2. The ~~Board~~ *hearing officer* may, upon motion made within
36 10 days after service of a decision and order, order a rehearing
37 before the ~~Board~~ *hearing officer* upon such terms and conditions
38 as ~~it~~ *he or she* may deem just and proper if a ~~petition for judicial~~
39 ~~review~~ *notice of appeal* of the decision and order has not been filed
40 ~~with the Board pursuant to section 9 of this act.~~ The motion
41 must not be granted except upon a showing that there is additional
42 evidence which is *newly discovered*, material and necessary and
43 reasonably calculated to change the decision of the ~~Board~~ *hearing*
44 *officer*, and that sufficient reason existed for failure to *previously*
45 *discover the evidence and* present the evidence at the hearing of the



1 **[Board]** *hearing officer*. The motion must be supported by an
2 affidavit of the moving party or his or her counsel showing with
3 particularity the materiality and necessity of the additional evidence
4 and the reason why it was not *previously discovered and* introduced
5 at the hearing. Upon rehearing, rebuttal evidence to the additional
6 evidence must be permitted. After rehearing, the **[Board]** *hearing*
7 *officer* may modify ~~its~~ *his or her* decision and order as the
8 additional evidence may warrant.

9 **Sec. 27.** NRS 678A.600 is hereby amended to read as follows:

10 678A.600 If the **[Board]** *hearing officer* finds that a licensee or
11 registrant has violated a provision of this title or any regulation
12 adopted pursuant thereto, the **[Board]** *hearing officer* may take any
13 or all of the following actions:

14 1. Limit, condition, suspend or revoke the license or
15 registration card of the licensee or registrant.

16 2. Impose a civil penalty in an amount established by
17 regulation for each violation.

18 **Sec. 28.** NRS 678B.650 is hereby amended to read as follows:

19 678B.650 The Board shall adopt such regulations as it
20 determines to be necessary or advisable to carry out the provisions
21 of this chapter. Such regulations are in addition to any requirements
22 set forth in statute and must, without limitation:

23 1. Prescribe the form and any additional required content of
24 applications for licenses or registration cards issued pursuant to this
25 chapter;

26 2. Establish procedures for the suspension or revocation of a
27 license or registration card or other disciplinary action to be taken
28 against a licensee or registrant ~~it~~, *including, without limitation,*
29 *procedures governing the conduct of:*

30 *(a) An appeal or review of the decision of a hearing officer*
31 *conducted by the Board pursuant to section 9 of this act; and*

32 *(b) Disciplinary proceedings arising from the issuance of a*
33 *citation conducted by the Board pursuant to section 6 of this act;*

34 3. Set forth rules pertaining to the safe and healthful operation
35 of cannabis establishments, including, without limitation:

36 (a) The manner of protecting against diversion and theft without
37 imposing an undue burden on cannabis establishments or
38 compromising the confidentiality of consumers and holders of
39 registry identification cards and letters of approval, as those terms
40 are defined in NRS 678C.080 and 678C.070, respectively;

41 (b) Minimum requirements for the oversight of cannabis
42 establishments;

43 (c) Minimum requirements for the keeping of records by
44 cannabis establishments;



1 (d) Provisions for the security of cannabis establishments,
2 including without limitation, requirements for the protection by a
3 fully operational security alarm system of each cannabis
4 establishment; and

5 (e) Procedures pursuant to which cannabis establishments must
6 use the services of cannabis independent testing laboratories to
7 ensure that any cannabis or cannabis product or commodity or
8 product made from hemp, as defined in NRS 557.160, sold by a
9 cannabis sales facility to an end user is tested for content, quality
10 and potency in accordance with standards established by the Board;

11 4. Establish circumstances and procedures pursuant to which
12 the maximum fees set forth in NRS 678B.390 may be reduced over
13 time to ensure that the fees imposed pursuant to NRS 678B.390 are,
14 insofar as may be practicable, revenue neutral;

15 5. Establish different categories of cannabis establishment
16 agent registration cards, including, without limitation, criteria for
17 issuance of a cannabis establishment agent registration card for a
18 cannabis executive and a cannabis establishment agent registration
19 card for a cannabis receiver and criteria for training and
20 certification, for each of the different types of cannabis
21 establishments at which such an agent may be employed or
22 volunteer or provide labor as a cannabis establishment agent;

23 6. As far as possible while maintaining accountability, protect
24 the identity and personal identifying information of each person who
25 receives, facilitates or delivers services in accordance with this
26 chapter;

27 7. Establish procedures and requirements to enable a dual
28 licensee to operate a medical cannabis establishment and an adult-
29 use cannabis establishment at the same location;

30 8. Determine whether any provision of this chapter or chapter
31 678C or 678D of NRS would make the operation of a cannabis
32 establishment by a dual licensee unreasonably impracticable;

33 9. Allow for any record relating to the delivery of cannabis or
34 cannabis products that is required to be kept by a cannabis
35 establishment to be created and maintained in an electronic format;

36 10. Prescribe the manner in which the Board will determine
37 whether a person who holds an adult-use cannabis establishment
38 license is ineligible to hold additional licenses pursuant to NRS
39 678B.325 and 678B.328;

40 11. Set forth rules pertaining to the safe and healthful operation
41 of cannabis consumption lounges, including, without limitation:

42 (a) Standards for the air quality in a cannabis consumption
43 lounge;



1 (b) Procedures and requirements for the collection and disposal
2 of cannabis and cannabis products which are left at a cannabis
3 consumption lounge; and

4 (c) Requirements for the training of employees of a cannabis
5 consumption lounge in the sale and safe consumption of single-use
6 cannabis products and ready-to-consume cannabis products; and

7 12. Address such other matters as the Board deems necessary
8 to carry out the provisions of this title.

9 **Sec. 29.** NRS 678A.610, 678A.620, 678A.630 and 678A.640
10 are hereby repealed.

11 **Sec. 30.** This act becomes effective on July 1, 2023.

LEADLINES OF REPEALED SECTIONS

678A.610 Judicial review: Petition; intervention; stay of enforcement.

678A.620 Judicial review: Record on review.

678A.630 Judicial review: Additional evidence taken by Board; review confined to record; court may affirm, remand or reverse.

678A.640 Judicial review: Appeal to appellate court; exclusive method of review for disciplinary hearings; certain actions not subject to judicial review.

