

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eighty-Second Session
April 10, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 8:03 a.m. on Monday, April 10, 2023, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.state.nv.us/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Brittney Miller, Chair
Assemblywoman Elaine Marzola, Vice Chair
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Lesley E. Cohen
Assemblywoman Venicia Considine
Assemblywoman Danielle Gallant
Assemblyman Ken Gray
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Erica Mosca
Assemblywoman Sabra Newby
Assemblyman David Orentlicher
Assemblywoman Shondra Summers-Armstrong
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

Assemblywoman Selena La Rue Hatch (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel

Minutes ID: 754



Devon Kajatt, Committee Manager
Traci Dory, Committee Secretary
Ashley Torres, Committee Assistant

OTHERS PRESENT:

William Horne, representing Coalition for Patient Rights
James Creel, Lobbyist Administrator, Coalition for Patient Rights
Cindy Brown, Private Citizen, Las Vegas, Nevada
Patrick D. Kelly, President and CEO, Nevada Hospital Association
Jeffrey S. Rogan, representing Clark County
Adam Porath, Vice President of Pharmacy, Renown Health; and representing Nevada Society of Health System Pharmacists
Barry Cole, Private Citizen, Reno, Nevada
Chris Anderson, representing Planet 13 Holdings; Jardin Cannabis Dispensary; and RNBW, Encino, California
Robert Whiteley, Licensed Private Investigator, RLW Consulting, LLC
Daniel Stewart, representing Pisos
Brett Scolari, representing CPCM Holding; Cura Cannabis Solutions; GreenMart of Nevada NLV, LLC; and Clark County Natural Medicinal Solutions
Scott Gilles, representing Nevada Cannabis Association
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association
Scot Rutledge, representing Deep Roots Harvest; Moms Meds Management; and Green Life Productions

Chair Miller:

[Roll was called. Committee protocol was explained.] We have two bill hearings this morning and will take them in order. Mr. William Horne will present our first bill, Assembly Bill 411. Mr. Horne, please introduce your copresenter and when you are both ready, please proceed.

Assembly Bill 411: Requires certain medical facilities to allow certain patients who are terminally ill to engage in the medical use of cannabis at the medical facility. (BDR 56-1041)

William Horne, representing Coalition for Patient Rights:

To my right is Mr. James Creel who heads up the organization. He will be making primarily the presentation on Ryan's Law, what we call Assembly Bill 411, which also passed in California. Unfortunately, the PowerPoint is not available, but if it has not already been distributed to members, we will get it to the members to go through it themselves. I will be primarily walking the members through the sections of the bill and what they do. With your permission, Madam Chair, I will turn it over to Mr. Creel.

James Creel, Lobbyist Administrator, Coalition for Patient Rights:

Thank you for the opportunity to present A.B. 411, what we call Ryan's Law. Ryan Bartell was a special needs teacher. He was an instrumental part of his community. When he got pancreatic cancer, it took him very quickly. I related a lot to that because I, too, was in a similar situation watching my father pass away at a similar age. With that, I am connected to Ryan in the sense that he was, in fact, one of our patients at Compassion Center, and unfortunately, we did have to watch him suffer in a hospital even though that hospital was well aware of his recommendation from the doctors and all of the various specialists who were in his continuum of care.

With that, this bill does not allow hospitals to empower patients to smoke. This is strictly for edible, topical, suppository, and noncombustible routes of delivery. It is really important to make sure that we delineate that because a lot of people associate medical cannabis with smoking. While there are definitely a number of patients out there who do choose the smoking route of administration, the patients that we typically represent are categorically complex—terminally ill, they are passing away, they are in retirement and assisted living nursing homes—and there is no way they could possibly smoke. It does not give anyone the ability to have any excessive amounts in the hospital; just enough to be able to consume to mitigate their symptoms. And it also does not put the hospital in any form of liability because we have gone above and beyond and already gotten the Centers for Medicare and Medicaid Services (CMS) of the United States Department of Health and Human Services to sign off on hospitals' participation in this particular program.

We would like to work with Nevada to set that program up to serve your patients, because while Nevada has a very diverse and very healthy health care system, with only 14 percent of your state uninsured, we would like to target and help those who are not currently being served. I would like to turn it back over to Mr. Horne.

William Horne:

Section 2, subsection 1 holds what the patients are required to have and be able to utilize cannabis in a medical facility care if they have a valid registry identification or letter of approval and are also diagnosed as terminally ill. As Mr. Creel mentioned, subsection 3 is the prohibition against inhalations, meaning smoking or vaping. Those types of delivery would not be permitted; strictly edibles, topicals, suppositories, et cetera. Subsection 5 does not require these medical facilities to comply in order to renew their licensing. This is not some type of litmus they would have to comply with in order to maintain their license for their medical facilities.

Section 3 outlines the exemptions for hospitals: If the United States Department of Justice or the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services initiates enforcement actions or adopts provisions expressly prohibiting hospitals from doing this, they would be exempt from allowing patients to do that. These exemptions would expire once the facilities receive notifications from these agencies as described in subsection 1. That concludes our presentation, and we are available for questions.

Chair Miller:

I have a few questions, but I want to give members an opportunity first.

Assemblyman Yurek:

Can you give us an idea of how aggressive has the Department of Justice been going after and trying to stop this sort of stuff, for example, in California where this passed? Are we seeing that they are pretty heavily involved, or do we think they have been backing off the enforcement of this?

James Creel:

We have not heard of any enforcement actions as of yet, but the adoption and roll out in California has also not been as aggressive. We are still educating a lot of doctors. We did set up an American Medical Association-accredited education program to be able to empower those providers. Everything is still slowly rolling out. There are still some hospitals that have yet to fully implement and adopt the program while others are open to it because it has been such a part of their culture for the past 25 years.

Assemblyman Orentlicher:

I have a question about section 2, subsection 5, where the facilities are not required to comply with this bill as a condition for issuance and renewal of a license. What if some agency wants to take a less severe sanction, does that leave them open? They have to renew the license, but could they impose some other sanction short of denying a license?

William Horne:

Just for clarification, Assemblyman Orentlicher, are you asking about sanctions that would be imposed federally against the facility?

Assemblyman Orentlicher:

No. Say a state agency wanted to fine them; you can keep your license, but we are going to fine you. Could they do that? Is that your intent?

William Horne:

That is not the intent in this legislation nor does the language give the state that power to impose such a sanction sans adopting this policy of allowing patients to use cannabis. I do not think the language is there.

Assemblyman Orentlicher:

The reason why I worry is, if you say they cannot deny a license, that suggests that they have power to take action on the basis of this. Why would you not exclude other sanctions?

William Horne:

I believe the purpose was to give comfort to medical facilities to feel like they were not hamstrung in complying with a policy they may not have agreed with or want to implement

without fear of being punished by the state or the Feds for making such a decision on doing that. I think that language is simply to do that; if the language needs massaging, we do not have a problem with doing that.

Chair Miller:

To clarify, Mr. Horne, does the legislation, in itself, in fact protect those facilities from being fined? Obviously, it is permissive and gives a facility the opportunity to decline to offer it, but would the actual legislation protect facilities which do choose to do it?

William Horne:

I believe so. I do not believe there is a mandate in this language that a facility has to do that.

Assemblywoman Considine:

Section 2, subsection 2, paragraph (d) says, "Develop and disseminate written guidelines for engaging in . . . at the medical facility." But in a practical sense, if this is already being done, how is it being done? If there is a patient in a facility that is controlling their own cannabis consumption, is there communication with the rest of the staff? Who is balancing everything? How is it practically being done between the patient and the facility?

James Creel:

In health care there is what is known as continuum of care and continuity of care, and in the medical records, your provider has a list of all of the prescriptions—and the recommendations—that you are on. In this case, it would be treated just like any other prescription or pharmaceutical that you are on. The hospital would still track its dosing; they would still chart everything. They just would not be required to provide it like they are their prescriptions, their opioids, or their pharmaceuticals. That is the only difference. It still provides the full tracking, the full integration so they can properly manage what is known as contraindications, the reactions between the different drugs, but they do not have to provide it. It gives them a certain veil, while at the same token, giving the patients the ability to choose.

Assemblywoman Mosca:

Under section 2, subsection 2, paragraph (e), subparagraphs (1) and (2), for the record—I know that for cannabis you have to be over 21—for people who are working in the facility, how does that work in case they are under 21?

James Creel:

If you are a cardholder or a registry cardholder under 21, you are permitted to utilize cannabis. But for employees of the facility, they would not be coming in contact with the meds to begin with because the administration of the meds is still left in the hands of the patient and the caregivers who are within the room. It is not like you are going to have a hospital staff member come in contact with those meds during that time. This just provides them with the ability to dose and administer it while in what is known as "in-patient care."

Chair Miller:

Assemblywoman Mosca, to clarify, were you asking specifically about the staffer? Would you like to clarify that again and re-ask your question?

Assemblywoman Mosca:

Yes. I am just making sure that the under 21 staff member would not have availability to be in contact.

James Creel:

The medications are being distributed by the patients themselves or the patient's family members who are already within their continuum of care. There is no staff coming in contact with the medications other than the patient or the caregiver telling the staff, Hey, they just took another suppository, or they just took another route of tincture under the tongue, or whatever that happens to be. The staff does not come in contact with the cannabis. There should not be any issues as far as age goes with that unless I am mistaken.

Chair Miller:

I would like to follow up and clarify that as well. I believe the Assemblywoman is asking because in cases, if you recall, most of us had part-time jobs as kids, right? Oftentimes that was as a cashier, and if it was in a facility that sold alcohol and we were not 21 yet, we could not even ring up that purchase. We would have to have someone else who was 21 come ring up that alcohol through our register. I think we want to make sure that it is not so much they would not have access to the cannabis but that they would be protected professionally because, again, we do have younger people working as certified nursing assistants. Is that correct, Assemblywoman? Yes, just making sure that they are protected professionally as well.

William Horne:

In section 2, subsection 2, paragraph (c) there is that requirement that the patients store any of the cannabis or cannabis products in a locked container. That, too, will aid in keeping it away from those who are not authorized to be around it and are under 21, et cetera.

Assemblywoman Cohen:

My question is actually about that lockbox. I very much appreciate the bill because I do want people who are terminally ill to have as easy a passing as possible. But that lockbox can be easily stolen as it is just a box. We have heard about the black market this session in this Committee. How do we ensure that just because it is in a locked box, that the box is not just taken, and the lock is not jimmed open to get to the product inside?

James Creel:

We have been working with medical institutions, hospitals, and hospice centers to affix the lockbox in the room just like they would any safe that provides the security that you are seeking to prevent people from taking it. It has become a little bit of a burden, I admit, because facilities are like, Well then, we have to have lockboxes in all these different rooms. But if you are really looking at it on a statistic level, how many patients do you serve that

have medical cannabis that they use? It is a very small amount. Having a few rooms with lockboxes that you can assign and put patients in, solves that problem versus having to put lockboxes across all the rooms. It is a very small expense for the organization to be able to meet their continuum of care.

Assemblywoman Cohen:

My second question is about the medical card. If the patient does not already have a medical card or the letter before they go into the facility, can they get the medical card or letter while they are in the facility?

James Creel:

What a great question, Assemblywoman Cohen. Yes, they can get the card or the recommendation at the facility. The difference between this law and the current law that you have in place for your medical cannabis program is, currently, in order to qualify, you have to register with the program and have your card. This will give patients the ability, if they are terminal and they are in the facility, to be able to utilize a letter of recommendation instead of having to go through that card process, because that card process might take longer than they have left to live.

Assemblywoman Newby:

I echo the comments of my colleague in wanting patients to experience as comfortable a passing as possible. But I do have concerns in section 1 with the language using the word "shall." It seems like some hospitals would have concerns with this. I am curious why you made it "shall" versus "may," and allowing facilities like your own, which is interested in it to opt in and facilities that might be opposed to it to not opt in.

James Creel:

I agree that organizations should have some choice. I really do. But the fact is whenever you give an organization an ability not to implement something, most of the time they do not do it because they do not want to take the time to have to train their entire staff on how to manage something they are not familiar with. I, too, was in the same situation when I came to work with Compassion Center. I have to tell you, it has been an interesting run, learning the complexities of all these different laws from state to state, because there is such a patchwork and we work in so many states around the country. I can definitely understand where you would want that. However, in our world, whenever a patient is suffering and they are dying, you are obligated to provide them with the comfort and the care that they need at the end of life. When you have seen what this can do, you kind of feel obligated to make sure everyone has that access and not just a limited few people who decide to implement a law over who decides not to. That is why I hope that the Committee will keep the word "shall" and not change it to "may."

Assemblywoman Considine:

We have hundreds of thousands of veterans and a U.S. Department of Veterans Affairs (VA) hospital in this state, and I know that a question about enforcement was asked, but is there a VA hospital anywhere else where this is available where patients can avail themselves of this law, or do you know if the patients in the Nevada VA hospital would be able to?

James Creel:

That is a wonderful question. Yes, there are VAs in the United States that are allowing their patients to utilize cannabis, but not just in the hospitals. For many years, the VA has said that if you are in a state that authorizes medical cannabis and you are not engaging in behavior that is going to compromise your safety with your other medications within your continuum of care, then they have taken a hands-off approach on that. We have been working with the VA in Oregon specifically since about 2004. We have been working with the Roseburg Unit [Roseburg VA Health Care System] to work with, not just the addiction and the mental health side of things, but also for the palliative and the end of life. I am really grateful that you are looking at that, and the VA and federal government are definitely looking at adopting a similar model across their spectrum as well.

Chair Miller:

Do you have a list of those states where it is being utilized by the VA for veterans?

James Creel:

I can do my best to get that list for you.

Chair Miller:

We would appreciate that. I understand, because of federal restrictions, why we cannot allow doctors to prescribe this or facilities to facilitate this, which is either the irony or the hypocrisy. My mother is a retired registered nurse, and when she first became a nurse she worked in a nursing home, and she would tell us about the patients who were prescribed "one beer or one shot" of something a day—I see the heads nodding—and yet we are still struggling with what we know has a lot of medicinal value. I even think of my own grandmother who died 20 years ago from Alzheimer's and dementia, and at the time, all of the antianxiety, antipsychotic, and anti-everything drugs that we attempted made things much worse. Years later, I had said, Ma, if we had just given her some weed, she would have calmed down and slept and that would have been tremendous for her.

I think of my other friend with pancreatic cancer—the same thing, 20 years ago before these discussions even happened. He had been type 1 diabetic his whole life and had transplants and the whole thing, and he decided one day to start smoking weed. His mom says, What do you think about him smoking weed? That is horrible because he is barely hanging on. In my limited experience, I said, Well, I know it will make you eat and sleep, and I think that is the best thing for anyone when you are healing. She asked his doctor, and again, this is 20 years ago, and the doctor said, Yeah, that is literally what we need him to do, is eat and sleep.

We know if, at the minimum, it helps people to just relax and to eat, why is this only available for those who are terminally ill? Because the term "terminally ill," I am not sure if there is a specific definition of, you have this many weeks or this many months or you are just never going to recover. We have people who are enduring and suffering and surviving a number of things where cannabis can also assist with their livelihood or healing. I am just wondering—I am not trying to imply that cannabis heals—but we know the resting piece, eating, those types of things that our bodies actually need in order to heal; why is this limited to terminally ill?

James Creel:

Straight up, it is easier to get committees, like yours, to want to help terminally ill people than it is to help the masses. Because whenever it is terminally ill, everybody has a connection to someone they have been forced to watch suffer and die. Whenever it comes to people being sick, everybody knows someone who is sick. It is a lot easier for someone to say, Everyone is sick, deal with it, versus Everyone is going to die at some point, would you not want to die with some compassion and dignity? I guess while I agree with you, it is hypocritical of us to submit a bill to you for just terminally ill people. However, it is a start; they are the ones who could benefit the most from the relief that we can provide them. And at the same time, it will allow the hospital systems to understand that it is easier to implement than they had originally thought. It will also allow the law enforcement bodies, the government agencies that are regulating at the time, and the energy and the effort to slowly integrate versus everyone having to just figure out how to do it.

We have been working on codifying it since 2010. You mentioned earlier about prescribing it. In Oregon, we actually did get it rescheduled to Schedule II with the Board of Pharmacy at one point and doctors could prescribe it. The problem is it all revolves around doctors and what we call "prescribing practitioners" trying to fall within the guidelines of their U.S. Drug Enforcement Administration (DEA) obligations. We do not want to bring anybody's credentials into the line of fire period; not the hospital, not the provider, not the caregiver, nobody. We want everyone to be able to thrive and everyone to be able to live a life full of dignity and compassion legally.

Chair Miller:

Additionally, is this modeled after other states that you have attempted or passed this in?

James Creel:

Yes, ma'am. From what I understand it is identical to California, with slight tweaks for Nevada.

Chair Miller:

We always appreciate hearing slight tweaks for Nevada. If we are using sample legislation, we always like to make it work for Nevada. I appreciate that.

James Creel:

Nevada is where it is about.

Chair Miller:

Not seeing any other questions at this time, I will open it up for testimony in support of Assembly Bill 411.

Cindy Brown, Private Citizen, Las Vegas, Nevada:

I happen to be one of those people that may end up in the hospital terminally ill. I am currently dealing with breast cancer that does not seem to want to go away. I would love for you to pass this bill. I was too exhausted to get out of bed and come down at this early hour today. Please, please, pass this bill. Thank you.

Chair Miller:

Is there anyone who would like to testify in opposition to Assembly Bill 411?

Patrick D. Kelly, President and CEO, Nevada Hospital Association:

We are concerned about the legality of A.B. 411 under federal law. In *U. S. v. McIntosh*, the Ninth Circuit Court of Appeals, which we are under their jurisdiction, stated that anyone in any state who possesses, distributes, or manufactures marijuana for medical or recreational purposes or attempts or conspires to do so, is committing a federal crime. Now that was cited in a letter from the U. S. Department of Justice to the California Hospital Association when they asked about this situation. My reading of the bill does not protect health care providers. What I see it saying is that if CMS issues a bulletin that says, you cannot do this, then it says, then hospitals do not have to follow it. But the problem is you can still be prosecuted because you committed a crime. I do not see anything that keeps the U.S. Attorney's Office or any agency like that from prosecuting health care providers.

What you are asking people to do is be the test case in a prosecution. We have great concerns about that. I do not think it is fair to the people who work in a health care facility. We have compassion for the people who are terminally ill, but it is not fair to put somebody in a position where they could lose their license to be a pharmacist or a doctor or the hospital to lose its DEA standing, all sorts of things.

The second thing I want to talk about is the fact that acute care hospitals are not the most appropriate setting for this. I can understand why you would say long-term care facility or hospice, because those are residential; they are supposed to be like the patient's residence. But when you go to an acute care facility, it is usually because there is an acute event that has occurred. We started administering drugs to address and provide treatment and those drugs may not interact as well with the medical cannabis. We do not know the strength of the medical cannabis the patients are being provided or how frequently they are taking it when it is brought into the facility. There could be an adverse effect that we just will not be aware of. That could be as simple as somebody who is used to taking so much medical cannabis all of a sudden has a new drug in their system and they get up and go to the bathroom and they just fall because of the interaction, they are not used to it. We think that there are a lot of concerns with this bill.

We would be happy to work with anybody on the Committee who wants to work on this. But I would just caution that I would love for California to be the test case and find out whether the federal government is going to do anything. We know politics change. While it might be acceptable at this time, there could be another election where all of a sudden you have a zealous prosecutor who comes in and decides this is going to be their issue and we are the test case.

Chair Miller:

Thank you. I would add, please work with the bill sponsor as well.

Patrick Kelly:

May I ask you who that is, because it just says it is the Judiciary Committee's bill?

Chair Miller:

It is the Committee's so you can work with us, but also with Mr. Horne.

Patrick Kelly:

Okay, thank you.

Jeffrey S. Rogan, representing Clark County:

We concur with the previous statements of the Nevada Hospital Association. Thank you.

Chair Miller:

Is there anyone else who would like to testify in opposition?

Adam Porath, Vice President of Pharmacy, Renown Health; and representing Nevada Society of Health System Pharmacists:

I have been a practicing hospital pharmacist in Nevada since 2006. I am here today in opposition to A.B. 411. Unfortunately, this bill represents a good concept theory but creates regulatory challenges and patient safety issues in the real world of acute care practice. It was mentioned by the bill sponsor that CMS may have signed off on this concept. However, medical facilities that have pharmacies, like acute care hospitals, are required to be registered with the Drug Enforcement Agency in order to be able to acquire controlled substances that are not only necessary for adequate pain control for hospitalized patients, but also necessary for everyday inpatient and outpatient surgeries and procedures. Allowing a patient to utilize patient-acquired medical cannabis while in the hospital could potentially put our ability to acquire essential medications to patient care at risk.

In section 3, this bill acknowledges the federal status of cannabis as Schedule I, yet states that a facility cannot use this status as a basis for not allowing the use of medical cannabis in their facility. Additionally, there are already United States Food and Drug Administration (FDA)-approved prescription oral forms, both THC and CBD, known as Marinol and Epidiolex, that can be legally prescribed and administered for patients in medical facilities without a medical card today in Nevada that allow patients access to multimodal pain control including cannabis-based therapies. The utilization of these formulations, rather than

dispensary-acquired products, allows hospitals to maintain our patient safety mechanisms like bedside barcoding and allow for evaluation and management of the real potential for drug-to-drug interactions between cannabis-based products and other medications that we would likely be administering to terminally ill patients while they are in the hospital.

Terminally ill patients should have access to all available evidence-based therapies. We can provide cannabis-based therapies in medical facilities today with FDA-approved products that do not potentially put medical facilities in Nevada at risk for sanction by the federal government. For these reasons, we cannot support A.B. 411 as currently written. We welcome the opportunity to sit down with the bill sponsors to discuss further to see if we can come up with mutually agreeable language. I thank you for your time today,

Chair Miller:

Are you still there?

Adam Porath:

I am.

Chair Miller:

I would like to ask you a question if you do not mind.

Adam Porath:

Sure.

Chair Miller:

When you say derivatives, and that is always an interesting term for me, because I know that many of the prescriptions that are used and prescribed are derivatives or their derivatives can also be found on the street. We can all make those connections when it comes to derivatives. But when you are talking about a derivative of cannabis, and I will mess up the term if I try to say it again, but you are saying that there is a derivative, it is available, and it can be prescribed. Can you tell us how often and in which medical cases that it is currently being prescribed here in Nevada? And I know you may not have that exact information, but just kind of anecdotally, in your experience.

Adam Porath:

The prescription THC product is known as the brand name Marinol and that has been on the market in the United States since 1985. It was originally approved for HIV-induced cachexia, which is basically the wasting away associated with HIV. It has since been approved for a number of other disease states including cancer and others. There is a separate product that is pure CBD that is under the trade name, Epidiolex. That was originally approved in the United States for seizure control and has since been studied in many other disease states. These are synthetic forms of the active ingredients of cannabis that are available today.

Chair Miller:

Thank you, and do you know how often it is prescribed?

Adam Porath:

Well, we regularly keep the Marinol in inventory at our hospital pharmacy. It is not infrequently prescribed, but I could not give you an exact on how often.

Chair Miller:

Do you maybe have an assumption on which types of patients or conditions it would be prescribed to, and if and when it is prescribed?

Adam Porath:

Typically, it would be terminally ill patients for the THC product.

Chair Miller:

Thank you, I appreciate that. Is there anyone else who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in the neutral position?

Barry Cole, Private Citizen, Reno, Nevada:

I wish this bill could have been nine numbers later and then it could have been bill 420. How ironic that would have been. I want to let you know, as a psychiatrist, a neurologist, and an anesthesia fellowship-trained pain specialist who has taken care of 300 people at St. Mary's Hospice from admission to hospice to the day and moment of death, that cannabis has been part of medicine since God was a corporal. I know people were eating brownies. I know people were eating cookies. I just did not do anything about it. We have Marinol, you already heard about it. I have prescribed it before. We have delta-9-THC as a prescription product that comes right out of the pharmacy, goes into the patient's medication cassette, and is administered by the staff. Yes, your mother really did give shots and beer to people because 12 ounces of beer, 4 ounces of wine, 1 ounce of whiskey is the analgesic equivalent of 11 milligrams of injectable morphine. A surgical patient gets 10 to 15 milligrams of morphine every 3 to 4 hours after surgery. This is not like new science. This is just sort of rectifying and I guess making it a little less onerous within the hospital environment.

I have never had to worry about cannabis medication cards. I have never worried about what that means. In fact, I have been forbidden in some environments to issue them myself, even though I brought up Americans with Disabilities Act challenges, like how do I deny them? But that is how some systems work.

We can get these products to people with or without this legislation. I understand the intent would be to sort of clarify so that the Feds cannot come in secondarily. But right now, I see no indication that the federal government is concerned any longer about cannabis. They have fentanyl and carfentanil to worry about. We have serious problems. This is kind of like low-level; I think we can work this out and give terminally ill people anything they want, and I will even go out on a limb and say, including mushrooms and MDMA [3-4 methylenedioxymethamphetamine]. I mean, what else? It is not going to hurt them

when they are terminally ill. People should die comfortably. I like to say, 95 percent of my people died very comfortably, and for the 5 percent, that was terminal sedation, we have ways to make the last few days pass in a fog and that helps everybody; patients and family included.

Chair Miller:

Is there anyone else who would like to testify in neutral?

Cindy Brown:

I am in the neutral.

Chair Miller:

Ms. Brown, did you already testify in support?

Cindy Brown:

I did and then a couple of things were brought up that I thought should be addressed by a person who is actually sick.

Chair Miller:

Okay, but I have to ask if are you changing your testimony?

Cindy Brown:

No.

Chair Miller:

I will ask you to please submit your comments by email or in writing.

Cindy Brown:

I will do that, thank you.

Chair Miller:

Is there anyone else who would like to testify in the neutral position? [There was no one.] I would invite the presenters back to the table for any concluding remarks.

William Horne:

Thank you, Chair and members of the Committee, for your time and great questions on Assembly Bill 411. Before I turn it over to Mr. Creel, listening to the opposition on this, I recall some of those same calls that the Feds were coming in in 2013 when we legalized and put into place regulations for medical marijuana in our state. There were concerns about the Feds coming in and taking licenses, et cetera, and it was a process we all worked through in getting there. As you can see, we have pretty much gotten there. Today, ten years later, we have a robust regulatory system dealing with cannabis, and it is still a work in progress but it is working for the most part, and this is not going to be any different. It was mentioned that likely low-lying fruit as what the Department of Justice is looking at enforcing, et cetera. I believe that to be the case, particularly this narrow focus on terminally ill patients. Also,

pharmacies are not required to do any dispensing on this. This is a patient choice at the end of their life, which I dealt with with my mother just a few years ago. She also asked me to bring her gummies in addition to her Popeye's chicken, which for a long time, I would deny her, but at some point, I allowed it. I would leave that with the Committee to ponder on.

James Creel:

Thank you for the great questions and very valid concerns. In the past year and four months that Ryan's Law has been in effect in California, no hospital has been even bothered by it to our knowledge. I am not saying it is not going to happen. If you really look at it systemically, if a regulator is going in and they are looking for a problem, if there is a problem, chances are they are going to find it. Just like with any regulatory body, if you do find problems, there are going to be fines, but that should not penalize those that are properly and compliantly operating within the system.

I really want to thank Mr. Porath from Renown for his testimony because those are also very valid points. Let us discuss Marinol for a moment. Dronabinol is the generic name for Marinol. It has been available for a long time. It is a synthetic version of THC, one of over 140 compounds that have been proven to be beneficial to your body's endocannabinoid system. If you want to look up something and go down a rabbit hole—the "entourage effect" or the "ensemble effect." It has been proven multiple times over that one single isolated derivative of cannabinoid is not going to be efficacious in meeting your needs. You need the whole spectrum.

With that, GW Pharmaceuticals went through all this work to get Epidiolex scheduled. If you look, a lot of states do not even have it scheduled anymore because none of the pharmacies wanted to pay the amount of money necessary to hold it in inventory, much less the patients pay the money to get it. Whenever you can go downtown and purchase CBD in a smoke shop, that is the essential equivalent of what they are charging thousands of dollars for, no one is going to do it. Patients should not be forced—and the patients' family should not be forced—to pay these exorbitant amounts for these scheduled products whenever they are not getting what they want, whenever everything is available in this robust regulatory environment that we have created for them in recreational. There is a lot of stuff in there that they can get their hands on that could also cause problems, and I do not think that cannabis should be singled out as one of those things.

There is plenty of education on contraindications. We have actually provided continuing medical education (CME) to the University of Nevada, Reno, which is the parent organization I believe for Renown, and they understand contraindications on medical cannabis a lot better than others because of their intimate knowledge of that CME.

If there are any questions, I would be more than open to help guide you in the direction of quantifiable research for that, and if not, I am at your service.

Chair Miller:

Thank you so much for that. With that offer, please expect that members may reach out to you. I will close the hearing on A.B. 411.

I will now open the hearing on Assembly Bill 413, which is presented by Chris Anderson and Robert Whiteley.

Assembly Bill 413: Revises provisions relating to cannabis. (BDR 56-1054)

Chris Anderson, representing Planet 13 Holdings; Jardin Cannabis Dispensary; and RNBW, Encino, California:

Mr. Whiteley is my copresenter in Las Vegas.

Chair Miller:

Who is with Mr. Whiteley?

Chris Anderson:

My partner, Ms. Eva Black, I believe. She is there to assist Mr. Whiteley with any technical or reference questions he has.

Chair Miller:

Will you be presenting off of the amendment [Exhibit C] we just received?

Chris Anderson:

Yes, I will be. I feel like the slide on the big screen has been there for a long time and is stealing my thunder [Exhibit D]. It tells a lot of the story. I am pleased to present Assembly Bill 413 as amended. Nevada is struggling to combat a large and dangerous unlicensed cannabis industry. Many of you have heard this through your personal circles and in testimony this legislative session. Nearly six years after Nevada's first adult-use dispensaries opened, the unlicensed industry is alive and well. Our nearly billion-dollar-a-year legal industry is competing with an equally large illegal market. Indeed, all estimates point to illegal sales making up at least half of the total cannabis market. As a result, the state of Nevada is losing literally hundreds of millions of dollars in tax revenue every year.

Illegal operators prey on unsuspecting tourists who may not realize they are purchasing dangerous untested products. Children easily access such products and sometimes require medical attention after suffering adverse reactions. You have a colleague here, Assemblywoman La Rue Hatch, who has firsthand knowledge of children being harmed at school and requiring medical attention. A couple of years ago, thousands of consumers were injured by illegal cannabis vapes that contained harmful filler chemicals. According to the Centers for Disease Control and Prevention (CDC) dozens of Americans died from those tainted vape products.

The bill I am presenting today is designed to efficiently and effectively fight back against this threat to Nevada's tourist economy, our homegrown legal industry, and our public health. The legislation before you is efficient in that it focuses one agency, the Cannabis Compliance Board (CCB), on taking the lead on enforcement of the unlicensed cannabis industry, a natural fit given the agency's experience with licensees and legal cannabis products. This is a civil enforcement approach that can be executed parallel to traditional law enforcement activities, meaning that this enforcement regime will not add to the burden on our existing law enforcement professionals, legal system, or corrections system. Assembly Bill 413 is also cost-efficient. The CCB, if it chooses, can designate existing and additional inspection agents to identify illegal operators as opposed to solely deploying Peace Officers' Standards and Training (POST)-certified law enforcement agents.

Lastly, the efficacy of this legislation is enhanced through multipronged enforcement tactics. This bill creates a whistleblower program within the CCB to deputize and incentivize consumers, advertising platforms, billboard owners, and landlords to help identify and refuse service to unlicensed cannabis operators. I believe that this legislation will allow us to achieve meaningful results without doubling down on the failed war on drugs and overcriminalization of the past. I am excited at the prospect of putting this legislation into action for the benefit of all Nevadans.

I would like to walk you through the bill as amended, followed by a presentation from my copresenter, Bob Whiteley, to discuss the unlicensed cannabis landscape as revealed in the Nevada Cannabis Association's investigative report which Mr. Whiteley coauthored.

Section 2 provides for civil penalties on Internet websites or other advertising platforms for accepting paid advertisements that contain unlicensed cannabis operations [page 3, [Exhibit C](#)]. Section 3 allows civil penalties to be recovered by the Office of the Attorney General at the request of the Cannabis Compliance Board. It also provides for recovery of any excise taxes that normally would be paid through the licensed industry if it is proven, the quantity of unlicensed sales, we can charge back taxes for that.

Section 5 requires the Cannabis Compliance Board to designate agents for investigation and enforcement of these laws and also requires the Board to publish on its website a portal for whistleblower tips, both named and unnamed submission of suspected violations. It also clarifies that the Board, in its enforcement activities, may seize unlicensed cannabis or cannabis products, weapons, or currency associated with unlicensed operations [page 4].

Section 6 amends the Cannabis Compliance Board's powers by explicitly allowing them to treat unlicensed cannabis investigations in much the same way that they treat investigations and enforcement actions against the licensed industry [page 5]. It also requires the Board to do an annual report to the Legislative Counsel Bureau (LCB) to update you all on the status of enforcement actions and efficacy of those activities.

Section 7 is the whistleblower section [page 6]. It provides rewards to people who provide material information to the Cannabis Compliance Board which results in civil actions and the actual recovery of civil penalties. Whistleblowers do not get paid unless the state gets paid.

Section 8 tightens up provisions that capture harmful delta-8-THC products [page 7]. We are revising the definition of synthetic cannabinoid, which if you look at the CDC, it will tell you that synthetic cannabinoids are dangerous and have no positive use. We are adding to the definition of synthetic cannabinoid any product that is not obtained directly from cannabis without the use of chemicals. We are also providing some flexibility for the Board by regulation, to identify other artificial processes that create synthetic cannabinoids so that we can update that in between sessions, if necessary.

Section 9 provides for the increased maximum civil penalty for unlicensed cannabis operations [pages 7 and 8, [Exhibit C](#)]. That new maximum is \$10 million except for if an illegal operator sells specifically "by means of an in-person transaction, an ounce or less of cannabis" products or the equivalent in concentrated cannabis. This section further clarifies that the Board has those powers to regulate unlicensed operators in the same way as licensed operators. I wanted to be very clear about that.

We are skipping a couple of pages that were deleted and moving on to section 10 [page 14] which modifies the definition of "marijuana" to remove seeds. That has been removed in several other states' statutes. That is more of a housekeeping measure. We are also clarifying that any commodity or product that exceeds the THC concentration of hemp is a marijuana product. This is to get at "hot" hemp, which is what it is called colloquially. Basically, even if the ingredients are legal, if the end product is a THC product, it is a marijuana product. Just clarifying that this is again something that will help the CCB fight delta-8 products. Section 10, subsection 2, paragraph (b) removes harvested root balls from the definition of marijuana because they are not viable THC products [page 15].

Section 11 has a small cleanup reference from LCB [page 15]. Finally, section 12 provides for effective dates of this measure [page 16]. With that, I would like to turn over the presentation to my copresenter, Mr. Robert Whiteley, to speak to the Nevada Cannabis Association's investigative report on Nevada's illegal cannabis sales.

Robert Whiteley, Licensed Private Investigator, RLW Consulting, LLC:

I am a retired Las Vegas Metropolitan Police Department sergeant. The report is one that I coauthored with another private investigator, William Schoen [\[Exhibit D\]](#). We put this together after being retained by the cannabis industry to determine what the impact of the unlicensed industry is in Nevada, and this is what we found.

Illegal cannabis poses a threefold problem [page 1, [Exhibit D](#)]. The first one is it is a public health crisis. When you look at that, you look at no age verification or product testing. When we say "health crisis," we say that any type of chemicals or adulterants can make it into the marijuana in the illegal market. There is no regulation to stop that. The second problem is it is a destabilizing threat in the licensed cannabis industry. The more the

unlicensed industry impacts the licensed industry, it could push that out to where we have a situation where it is only an unlicensed industry. The third problem is there is a massive loss of public revenue. The money that is transferred in the unlicensed industry is not taxed, it is not accounted for, and it is not taxed on the state or federal level. They estimated that the state biennial revenue loss is \$614 million, and that is based on 50 percent of the total market in Nevada at a 31.65 percent tax rate on legal cannabis—\$614 million is quite a large number.

We found that there were several methods of distribution [page 2, [Exhibit D](#)]. The first one is going to be delivery dealers and those are the ones who will bring the illicit marijuana directly to you and you pay cash for those items. The second one that we found was through social media, and they work hand in hand. Social media is where you would go to find your dealers and then either they promote the pop-up shops, or they do delivery to your residence. The third one is, of course, the pop-up shops, and those are basically farmer's markets for marijuana that pop-up on a daily basis. The last method is unlicensed retail stores and street sales. We actually have an example [page 6] in my presentation where we had a retail store that acted as a legitimate cannabis distribution store and did not have a license. I believe it is still active today. Then you have got street sales which are your sales that occur in the corridors of Fremont Street and Las Vegas Boulevard.

We talked about delivery dealers [page 3]. I would estimate this is the largest source of distribution. It is dealers who deliver directly to the client—illegal distributors found through various methods such as Craigslist. We found advertisements on Craigslist. When you look at the advertisement, it is not just marijuana that they were advertising; it was other illegal narcotics such as cocaine, heroin, all that kind of stuff. It is basically just a grocery list of Schedule I illegal narcotics that they sell to include marijuana. One of the things we found was, there were business cards that were distributed in a condominium complex at Canyon Willows, and the business card was distributed to 700 different units, which is not allowed in the industry. I went online and investigated the website that is linked to that business card, and I was able to put together a purchase all the way up to me actually buying the illegal product.

When we talk about social media platforms, one of the places that you can go to is Instagram [page 4]. I found numerous places on Instagram that advertise the sale of illegal cannabis. It is easy to find them. You just have to basically find one and then they pretty much all link together, and you can start friending, friending, friending, and get numerous different sellers that are in the market. One example, if you look towards the slide [page 4], it was "smokinbombud" with the link to it and the link sends you to another app called "Telegram." Once you get to that app, it is more of a chat app, and basically, they list all the products they sell. The majority of it they claim is from California, and it is just all day long they are posting new product, different types and forms of cannabis from buds to vapes to edibles. I did a quick Instagram search and found seven accounts.

The other method that we found was the pop-up shops [page 5] and those were quite prevalent, even when I was with the department. In the unit I worked, we would investigate those, and we shut down several of them at the time that I was a sergeant on the Las Vegas Metropolitan Police Department (Metro). Basically, what happens is, a promoter rents a warehouse or industrial space and they just hold illegal cannabis pop-up shops. What they do is they rent tables out to anybody that wants to sell their product and then they sell tickets at the door and the public at large can come in and it is just a farmers' market for marijuana; they can peruse and buy as much marijuana as they want. We found those pop-up shops through advertisements on Instagram. They make sure they have security techniques that potentially eliminate law enforcement from getting into those places. They basically have you communicate with them directly. They send you the address and location via direct message, and then once you get to the door, you have to show that you have an invitation to the pop-up shop.

The other one is unlicensed retail stores and street sales [page 6, [Exhibit D](#)]. I actually went to a place called Exotic Clouds which is off of Sunset Road, and it operates as a licensed retail facility. You go in and purchase delta-8 vape pens, untested flower and edibles, and they did not have an age verification. We were able to purchase buds of marijuana or cannabis and we had it tested and it tested to be illegal marijuana. The last one would be street sales that we talked about, and that is mainly in the tourist corridors. I have been there myself when I was working for Metro where I was solicited numerous times on the Las Vegas Strip and Fremont Street to purchase marijuana. We have done setups where we purchased the illegal marijuana and other narcotics on the Strip. It is not the most prevalent form, but it is definitely out there.

We talk about the effects of what this means, and it is a public health crisis [page 7]. As Chris stated, in February 2020 there were 2,807 hospitalizations and 68 deaths according to the CDC. One of them was reported to be from tainted vape pens. The lack of age verification allows you to easily obtain illegal cannabis products. One of the things that was most alarming to me was, you see the packaging from these illegal sellers and the packaging is geared towards young kids in the form of Froot Loops and Fruity Pebbles and various cereals and gummy worms. Basically, the packaging looks exactly like the real product, and it is all marketed towards the younger audience, and it is a danger in that if somebody underage who does not know any better gets a hold of it, it could be detrimental to their health.

We talk about trafficking sources and where the illegal market is coming from [page 8]. I would say the largest portion right now is California. I think it was back in 2020 and 2021, there was an overproduction in California between the legal and the illegal market. You saw a heavy influx of the product coming to Nevada to be sold. Nevada also has an illegal market that by one estimate, has doubled since 2016. In September 2021, law enforcement conducted a search in Gardnerville, Nevada, resulting in the seizure of illegal cannabis with a retail value of over \$100 million. Eighty-seven individuals were detained and not one was criminally prosecuted. The illegal cannabis sales are dangerous to youth and adult consumers with no age verification and no product testing for harmful chemicals, heavy

metals, or adulterants. One of the issues, in talking with the High Intensity Drug Trafficking Area's program of the Drug Enforcement Administration, is a concern of cross-contamination. If you sell different products—cocaine, fentanyl—and you bring all those together with the marijuana, there is a great potential for cross-contaminations to occur even if it is not intentional; it still could happen.

Illegal sales, estimated at a minimum of 50 percent of all sales, continue to destabilize the Nevada licensed industry. One of the things that I also noticed was the illegal market coming from California is a lot cheaper than it would be to manufacture and sell in Nevada. Just from the economics alone, they can undercut the market by almost half or even more through the unrestrained industry. Finally, the loss of the state revenue is estimated at \$614 million. That concludes my presentation.

Chair Miller:

Are there any questions from Committee members?

Assemblywoman Summers-Armstrong:

My first question, Mr. Anderson, is who is sitting at the table with you today?

Chris Anderson:

Esther Badiata. She is a Director with Sala Consulting.

[Esther Badiata spelled her name.]

Assemblywoman Summers-Armstrong:

Thank you so much. I get that this is an issue for you all. You made a statement earlier saying we are not trying to redo the war on drugs, but these penalties seem extremely excessive to me, so I am concerned about that. I am also wondering if your industry has done any significant marketing to tell the public that although cannabis is legal, there are ways for them to find legal dealers to go to so that they are not fooled into going to illegal dealers. People do not know; they just know that it is legal in Nevada. What are you all doing proactively to inform our visiting public where, who, and how they can find legal dealers?

Chris Anderson:

I think what you are referencing is more or less a public service announcement (PSA) campaign, which is traditionally more of a government function. We represent individual cannabis licensees. I cannot speak for everyone in the industry or for associations in the industry, but I am not aware of a PSA that is industry-sponsored. I was actually at a meeting of the Clark County Commission last week where the county has wheels in motion to initiate a PSA campaign. I think that would be a wonderful thing for the state to pursue as well.

Assemblywoman Summers-Armstrong:

I understand your comment that this could be a government duty, but you are bringing a bill asking the government to protect your business interest, your income, but you do not believe

that there is any responsibility for your industry to participate in this because all the fines that would have to be imposed, hiring people to go and enforce, those are all at the responsibility of the government but on behalf of licensees who are multimillionaires, if not billionaires. Do you believe that you all have any responsibility to help inform the public on this issue?

Chris Anderson:

Speaking on behalf of our clients, they are some of the largest advertisers in the industry, particularly, I think if you live in Las Vegas or spend any time there, you have probably seen a lot of Jardin's advertisements for their legal dispensary over on Desert Inn near Eastern. I think that there could be some appetite within the industry to come together and help fund some sort of PSA. Again, personally, I believe that is more of a government function. Also, I do not think that this legislation is solely focused on protecting business owners. I think this protects youth and adults from untested and harmful products. And it frankly protects the state's tax revenue because I think the cost of not doing anything is far, far higher than the cost of doing something like what you see before you.

Assemblywoman Cohen:

I want to make sure I understood what you had said about the CCB agents, that they are not POST-certified, but they are going to collect weapons. I was a bit concerned about that. Can you get a little more into that? Because I do not want non-POST-certified agents seizing weapons or anything like that.

Chris Anderson:

Thank you very much for the opportunity to expand on that piece of my opening remarks. The Cannabis Compliance Board has dozens of existing inspection agents that today are just doing audits and inspections on legal licensees. I think those folks could do a lot of the investigatory work on the unlicensed market in probably a cost-efficient way and then, when it is time to go and do some kind of a raid or a bust on a large unlicensed operation, I would absolutely envision the CCB bringing in their POST-certified agents, which they have, I believe, four today—I think they have requested more in the budget this session—but absolutely leaning on law enforcement trained agents either in tandem with the non-POST-certified folks or just the POST-certified agents on their own or with other agencies like the Las Vegas Metropolitan Police Department, which the Cannabis Compliance Board does today.

Assemblywoman Cohen:

The facility near Sunset that Mr. Whiteley said is still open that is not legal, why is that still open?

Chris Anderson:

That is a good question. The photos that were on the presentation that you saw this morning, I screenshot those from Yelp three or four days ago, so it is there today. It is operating like a normal business. I know the folks at the county have tried to shut down that operation,

I think through business licensing; for whatever reason that has not worked yet. As a person who is not on the enforcement side of things, I frankly do not know why it is still operating in the open given there is so much awareness of it, but it is still there. That is what I can tell you.

Chair Miller:

Before we go to our next member's questions, I would like to follow up on something Assemblywoman Cohen said. Going back to the question about the ability for enforcement officers or the Board to seize weapons, I wrote it down when you said it because it struck me as well that you said they would be able to seize product, weapons, and money. And yet all throughout this amendment, we keep mentioning civil, but when we start confiscating products, weapons, and money, it no longer seems civil. The Board currently administers fines for infractions and breaking policy. It also seems like, with this amendment too, it is almost bringing the Board up to the level of the Attorney General's Office because it is "or" the Attorney General. I would still like more clarification on who makes the decision of where the fines would come from. Does the Attorney General say we have got this, or is this, in addition—you have mentioned in tandem with Metro and such? Please answer that one first.

Chris Anderson:

When it comes to seizures, specifically when I talk about civil penalties, we are not talking about putting people in jail or putting people into the court system. It is civil in that regard. I do think it is extremely important that even though this is a civil approach, we get dangerous products and the money that supports those products in those operations. I do think it is imperative that we get that off of the street immediately. That is why the seizure provision is included.

With regard to the Attorney General, there is some language in here that was added by LCB. It is conforming language. The way that it works today with the Cannabis Compliance Board is, if they investigate a licensee in the legal market, the investigator or auditor at the Cannabis Compliance Board will compile evidence and then send that to the Attorney General's Office. They have deputy attorneys general assigned to the CCB to compile a formal complaint and detail evidence, and then the Board then adjudicates that and levies the civil fine. I would anticipate that this would happen in the exact same manner.

Chair Miller:

Are there any other questions from Committee members?

Assemblywoman Hansen:

I certainly know that you have worked hard by looking at this amendment, and I do see a need for this, especially looking at the presentation, but I was really stunned that 50 percent of all sales are illegal. That is a mind-blowing number and that is a \$614 million loss in taxes. What I took away is, this legislation is looking to go after those in the advertising space, trying to recover taxes that we are not getting because of illicit sales, and protecting the underaged who are not allowed to get it. In doing so, all I am seeing is you are going

after those who are engaged in illicit sales, you are not going after those who buy it, correct? That would normally fall under the Cannabis Compliance Board. Therefore, we do not need law enforcement per se. The Cannabis Compliance Board would then handle those, if I understand that. I just want to make sure I have not gone off the trail here. Can somebody address what are the kinds of things we see when people have a bad experience with delta-8? Why is that so dangerous and in need of our catching that as well?

Chris Anderson:

Delta-8 products are illegal in this state. They fall to some extent in a gray area federally. I would ask my copresenter, Mr. Whiteley. You probably have a lot of experience in this space. Would you like to comment on that?

Robert Whiteley:

I do not have the expertise in delta-8 to know what the adverse side effects are. I did not look into that as far as my investigation.

Chris Anderson:

I can answer that question with anecdotal things of experiences that have been relayed to me. I think it is sort of a "bad trip," with anxiety, cold sweats, a situation where you require medical attention from the effects of overconsumption. A lot of times delta-8 products are extremely high potency and concentrated. Since they are not part of the regulated market, they can be any concentration that a manufacturer wants them to be. They are sold online. They are sold in illegal pop-up shops or illegal retail locations.

Assemblywoman Considine:

I am just trying to get this process through my head. Somebody contacts the Cannabis Compliance Board and says this entity, this business, this front, this pop-up, is selling marijuana and they do not have a license. That information goes to the Cannabis Compliance Board. The Cannabis Compliance Board compiles that information, sends agents out to the location to bolster that information or just turns it over to the Attorney General for a lawsuit or a fine or whatever; if you could just go over that, please.

Chris Anderson:

Just like the Cannabis Compliance Board does with the legal market, once illegal operations are identified, I would expect that in every case at least some level of investigator or one of the Cannabis Compliance Board's POST-certified agents might go out and collect more evidence in-person, maybe make themselves known, and make a seizure or something, maybe not, at their discretion. But I would expect that as part of the Board's investigation of an illegal operation, at some point there would probably be some physical, first-person contact.

Assemblywoman Considine:

They can potentially make a seizure, make a report, but it does not shut it down. So that is my first question. My second is, because you did say that this is at their discretion, and then in section 2, subsection 2, paragraphs (a) and (b), it is at their own initiative or at the request

of the Board, there seems to be a lot of discretion here. Will this have a data component that will be a report saying where the demographics of the people who were fined or investigated, where those locations are, or something to show that discretion is not abused?

Chris Anderson:

Yes, and that is precisely why we drafted in section 6 a number of data points that must go in the Cannabis Compliance Board's report to the Legislative Counsel Bureau annually about the number of investigations performed pursuant to this policy; the number of referrals to the deputy attorneys general to compile charges in a case; a summary of the findings of investigations; cost of the enforcement activities; amounts recovered through civil penalties and taxes; seizure of currency; the value of unlicensed cannabis products seized; and a summary of actions taken with regard to the whistleblower section of this bill.

Assemblywoman Considine:

I still do not see demographic and location information in there. My first question was, in any of these scenarios if the pop-up is right there, if the store is right there, when the CCB agents or folks go in there, if they can seize, do they shut anything down or do they just walk away and then fine them?

Chris Anderson:

I believe that for the CCB's part they would come in and seize products and currency. I think, in effect, that kind of shuts it down at least for the day and then they fine them. It does not prevent law enforcement from getting a tip potentially from CCB or others and potentially doing whatever enforcement activity they see fit. With regard to the report that is required of the CCB in section 6, I think that is a really helpful suggestion. I think demographic information would be important for that report.

Robert Whiteley:

Say a pop-up shop, one of the illegal sales points—they tend to occur inside warehouses, they tend to occur inside industrial complexes—and just by the very fact that they have that open and are selling marijuana or cannabis, that in itself is a violation and it can be shut down. Just by the act of doing that is already unlawful on the books and it can be shut down right away, plus, whoever owns that building, they are the ones responsible for what happens in there and action can be taken against them as well.

Assemblywoman Gallant:

I do know we have an issue with illegal sales here in the state, but I cannot help but wonder if we have created this because of the high tax structure. Have you looked at the cost of doing this versus maybe even lowering the taxes to make it more affordable? Then it would just naturally make the illegal market less desirable. If you do not have the demand for it, if people can afford to go to the various legal shops, then you are going to have less of an illegal market. Have you looked at that model of the cost benefit between doing it both ways?

Chris Anderson:

I think there are a couple of things that drive people to the unlicensed market. It is price to be sure, but it is also convenience. There are a lot of things that illegal operators can do that the licensed industry cannot do. The unlicensed industry can deliver cannabis as well as other narcotics straight to your hotel room. The licensed industry cannot operate on or near the Strip. It is just a convenience thing. I would welcome any policy to lower taxes on the industry. As far as comparing that to cost savings in this legislation, it would be very difficult just because the tax revenue is so large, you would have to cut taxes by a very significant amount in order for that to be more cost-efficient to the state than the cost of carrying out this enforcement. To give an example, sort of back of the napkin, if we lowered the amount of taxes by a third, we took the tax rate from 30 percent to 20 percent, the state would lose at least tens of millions of dollars in tax revenue there. But the cost of doing this, and I do not have fiscal notes here but I am guessing it is somewhere maybe in the \$5 million range, is a general number that I have heard from the enforcement agencies that would be involved.

Assemblyman Orentlicher:

I am curious about section 2, subsection 1, paragraph (b), about the advertisers who allow placement of ads for unlicensed dealers. I would think we already have something like that because this is a problem with alcohol and cigarettes. Are there already some laws about taking advertisements from illicit sellers or do our laws not deal with the Internet? Why do we need this; are there not some laws already? The other part is, you say "knowingly." Of course, that encourages people to just ignore and turn a blind eye. What is the context to make sure this will work?

Chris Anderson:

I am sure it is illegal to accept an advertisement from a business that you know is illegal. This does levy a potential \$10 million fine on folks who knowingly accept an advertisement from an unlicensed cannabis operator. I think this is just a far greater deterrent to enabling unlicensed operators. The term "knowingly"—I think it is appropriate. As defined in *Nevada Revised Statutes* 193.017, "knowingly imports a knowledge that the facts exist which constitute the act or omission of a crime, and does not require knowledge of its unlawfulness. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person upon inquiry." For operators, landlords, or folks who operate in the digital space where advertising occurs, I think if you are doing your due diligence and making best efforts not to allow illegal activities on property that you control, I think you are fine. But when you start intentionally looking the other way, that is when this section would apply to you. As you heard from Mr. Whiteley today, those commercial spaces and industrial buildings are where a lot of this large pop-up activity is happening. I think that this additional disincentive to allow that to happen is important.

Assemblywoman Hardy:

I think it has been well-established that we have a problem in Nevada with illegal products and illicit, dangerous products and unlicensed people selling these things, and then you have the public that thinks they are going somewhere and buying something that is safe from

a licensed provider and they are not. I appreciate laws and trying to get at that unlicensed, dangerous products for the many reasons stated—people taking it and then you have devastating consequences from that. In all of this discussion, you are able to identify where this is being sold, whether it is on Instagram or they have websites or they have got an actual physical location. I am wondering, like Assemblywoman Cohen, why is a business still open when it is clearly illegal and unlicensed? Is that something to do with the business license division of the counties and cities? I think we can have penalties, we can have all of this, the investigations, but then at some point, they need to be shut down. I understand if they are pop-ups and warehouses and things like that; that is another scenario. But how can we get to shutting them down? What does that take? If they are on Instagram, and you can identify who and where they are, how do they shut them down? Now, granted they could go get another name and pop up somewhere else, but I think all of this needs to work together so that you are shutting them down.

What other businesses are unlicensed and illegal and are allowed to continue operating? Maybe that is a bigger discussion. Maybe include in this report who keeps track of what is being shut down. Could that be included? Just who is keeping track of that somewhere? Is somebody keeping track of what is actually being stopped and shut down? I know that is a lot, but that is what I am hoping can be done if it is already being tracked.

Chris Anderson:

I think one of the key problems we have today with effectively conducting enforcement on this unlicensed industry is the fact that there is not really one agency whose job it is to do it. If everyone has responsibility, then no one has responsibility. If you passed A.B. 413, I think that unlicensed dispensary in Las Vegas that we know about would probably be shut down today by virtue of all of their products being yanked by the Cannabis Compliance Board and all of their currency being seized. I think that is just one example of a reason to pass this legislation. As far as reporting the effectiveness of this enforcement, I think we have tried to capture that in section 6, subsection 11. We are very open to adding additional metrics that you as a body would like to see.

Chair Miller:

I believe that is the end of questions from members, although I have one last clarifying one. In the amendment, in section 3, subsection 1, it talks about penalties could be issued or civil action brought by the city attorney, the Attorney General, and then in subsection 2, it talks about or the Board as well. Are we saying—and I know we are trying to create grand deterrence—that someone could be fined essentially by the city, state, and the Board for the same infraction or offense because it says, "or Board shall order the person to pay a civil penalty in that amount in addition to any other civil penalty imposed."

Chris Anderson:

Section 3 is with regard to recovery of unpaid taxes. Obviously the maximum penalty is the amount of your unpaid taxes. Regardless of who brings the action, the fine amount would be the same. The city attorney is in this statute already. The city attorneys were given

jurisdiction to enforce against the unlicensed market last session by Assembly Bill 326 of the 81st Session, and they are still in this legislation today.

Chair Miller:

I am sorry, I think I am missing that. Where does it say that about the collection and taxes?

Chris Anderson:

In section 3, subsection 2, it says that if the Attorney General or city attorney proves the amount of the excise tax on cannabis, the products would have been liable had the person engaged in the sale as a licensee, that person is liable for the unpaid taxes.

Chair Miller:

In addition to being liable for unpaid taxes, what would the fine from the Board be?

Chris Anderson:

The maximum \$10 million civil fine is in addition to any unpaid taxes, which will probably, realistically speaking, be the hardest thing to prove. You are probably going to see civil penalties congruent with the size of the operation. If it is really easy to prove how much product was sold, I think that is when the collection of unpaid taxes comes in. But otherwise, my expectation is that the Board will seek primarily the civil penalties.

Chair Miller:

I am thinking of personal taxes. If someone does not pay or is late in paying their personal taxes, there are additional fines imposed, but I believe those fines actually come from the federal government, not from another entity. What you are saying essentially is if the business does not pay their taxes, they would have the fines, but then also the Board would issue another fine on top of the whole issue of them not paying their taxes or paying it in full or paying them on time?

Chris Anderson:

That is correct. The state could recover its lost revenues in addition to the civil penalty fine.

Chair Miller:

Okay. Thank you. I think with that then, we are ready to open it up for testimony.

Chris Anderson:

Could I say one more thing to conclude the presentation? This legislation is the product of a lot of conversations over many months. For the folks who gave input—you know who you are—I appreciate you. I want to thank all of my copresenters and coworkers at Sala Consulting, Esther Badiata, Eva Black, and Robert Whiteley, and also three people who specifically gave extremely important insights throughout this process. They are Layke Martin, the executive director of the Nevada Cannabis Association; Riana Durrett; and Leighton Koehler, who is the general counsel for one of our clients, Planet 13 Holdings. I wanted to recognize them. Thank you.

Chair Miller:

Is there anyone who would like to testify in support of Assembly Bill 413?

Daniel Stewart, representing Pisos:

Pisos is a licensed cannabis, recreational and medicinal, operation. We are in strong support of this bill. In the last eight years or so, I have had a chance to work in and out of government multiple times, and strangely enough have been involved in cannabis policy quite a bit, despite my severe unfamiliarity with the product itself. This is probably the thorniest issue that has come in front of policymakers. How do we regulate without recriminalizing? I think it is an incredibly difficult line to walk. And I think this bill has done a great job. We, as you know, are dealing with historic surpluses in a lot of areas of revenue except for cannabis taxation. It is one of the only revenue sources that we have that has actually declined in large part because of the illicit market. When the voters approved legalizing recreational cannabis, it was part of a trade. They got more tax revenue in exchange for legalizing the market. I feel like this bill honors the will of voters in that trade. Thank you.

Brett Scolari, representing CPCM Holding; Cura Cannabis Solutions; GreenMart of Nevada NLV, LLC; and Clark County Natural Medicinal Solutions:

We are in support of A.B. 413. Anything that can be done to disrupt the illicit market without recriminalizing—the balance that Mr. Stuart talked about—that is what we are trying to achieve this session. I can tell you we are working on a piece on the Senate side that would go along with this, and what it really does is attack that last slide there. Having a civil system for this could end up being kind of a whack-a-mole situation. What you really need to focus on, in our opinion, is the large-scale crimes and criminal organizations that are behind those operators and those unlicensed activities. If you do not get at the root of the problem, I do not think we are going to make a big dent in that \$614 million tax loss. And another piece we are working on, and it goes to Assemblywoman Summers-Armstrong's question is, we have an idea to redirect some of the taxes that are being paid by the licensed industry for a public education campaign that would be very aggressive and hit those tourists, hit the public, to notify them of the dangers involved with participating in the illicit market. Hopefully, that can also make a big dent because I do agree with the sentiment there that the industry does need to participate in that and there are tax dollars that could be available for that of those that we are paying already. Thank you.

Scott Gilles, representing Nevada Cannabis Association:

The Nevada Cannabis Association (NCA) supports A.B. 413 as amended as it addresses one of the greatest threats to the licensed cannabis industry. The bill provides tools for meaningful enforcement and additional resources through the recovery of civil penalties. I appreciate the Assembly Committee on Judiciary for bringing this bill and Mr. Chris Anderson for all his work. I would note that we are happy to make the NCA-sponsored report prepared by Mr. Whiteley available to you, Madame Chair and Committee members,

as needed. I would also note, in response to the question by Assemblywoman Summers-Armstrong, NCA is currently working with the Clark County Commission, particularly Commissioner Tick Segerblom, on some sort of education and outreach campaign on this topic. Thank you.

John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association:

We are in support of A.B. 413. We do support adding additional tools to go after the illicit illegal marijuana market and we also believe that the enforcement of this new civil penalty should be at the state level. I want to thank Mr. Anderson for working with us on our concerns and the amendment.

Chair Miller:

Is there anyone in Las Vegas who would like to testify in support?

Scot Rutledge, representing Deep Roots Harvest; Moms Meds Management; and Green Life Productions:

We are here in support of A.B. 413. Just a couple of things I wanted to note: the illegal market of cannabis looks very much like the regulated market. A lot of the products you will see being sold illegally are products coming from California or Oregon. They are packaged to look like legal products. There are consumers who do not understand that cannabis products from another state are not eligible to be purchased in a state like Nevada, and they just assume that it could be legal because it looks just like the product you would buy in a retail store. When we passed Question 2 in 2016, the idea of decriminalizing and then legalizing cannabis and setting up a regulated market, the goal here with A.B. 413, as I see it and as most of my colleagues understand it to be, is we are not trying to recriminalize this market, especially for your low-level offenders. If folks are selling small amounts of cannabis, that is not the issue. The issue is the larger enterprise scale businesses that we have to go after. We believe that this is one of the solutions that can get us there. So again, we just wanted to show up today in support of A.B. 413. Thank you for your time.

Chair Miller:

Is there anyone else who would like to testify in support? [There was no one.] Is there anyone who would like to testify in opposition?

Jeffrey S. Rogan, representing Clark County:

We have limited opposition this morning. Our concern was in sections 11 through 13 that would have allowed, after a change in federal law, for cannabis facilities to be included in our airport. That has been fixed by the amendment that is before you. Nonetheless, pursuant to the Committee's rules, I am testifying in opposition. Thank you very much.

Chair Miller:

Is there anyone else who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in the neutral position? [There was no one.] I would invite the presenters back to the table for any final remarks.

Chris Anderson:

We appreciate all of the thoughtful questions that have been asked in this Committee. I think a couple of things are clear. There is a desire to make sure—particularly for our locals and also visitors—that they make sure, to the extent that they do not know they are purchasing from the unlicensed market, to make that aware. I think you heard from the industry there is a lot of willingness to make sure that that is the case. We will move forward either with provisions in this bill or other legislation and efforts at the local level to make sure that is addressed.

To the points made by members of the Committee about some additional reporting functions of metrics related to these enforcement actions, I will absolutely pursue some draft language that increases the number of topics that are reported by the Cannabis Compliance Board that come out of the enforcements. Thank you.

Robert Whiteley:

I just want to say that as the situation sits right now, there is zero enforcement going on in the illicit market. The district attorney's office finds that the juries do not convict on criminal charges for marijuana offenses, which causes the district attorneys to be reluctant to bring cases forward. The fact that the district attorneys are reluctant to bring cases forward makes it difficult for Metro to want to go out and do the investigations because it is time and cost prohibitive if they are not going to get prosecution out of it. It leaves this vacuum of any type of enforcement going on. In my view, we have got to do something because right now there is just absolutely nothing and continued on, it will just continue to grow because the prices that they can sell their illegal product for undercuts the legal market by more than half.

Chair Miller:

I will close the hearing on Assembly Bill 413. The last item on our agenda is public comment. [Public comment was heard.] We have finished all of our business on our agenda today. A reminder that we will be back at 8 a.m. tomorrow morning. This meeting is adjourned [at 10:10 a.m.].

RESPECTFULLY SUBMITTED:

Traci Dory
Committee Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to [Assembly Bill 413](#), submitted and presented by Chris Anderson, representing Planet 13 Holdings; Jardin Cannabis Dispensary; and RNBW, Encino, California.

[Exhibit D](#) is a copy of a PowerPoint titled, "Investigative Report: NV Illegal Cannabis Sales," submitted by Chris Anderson, representing Planet 13 Holdings; Jardin Cannabis Dispensary; and RNBW, Encino, California; and presented by Robert Whiteley, Licensed Private Investigator, RLW Consulting, LLC.