

**MINUTES OF THE  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Eighty-first Session  
February 4, 2021**

The Senate Committee on Health and Human Services was called to order by Chair Julia Ratti at 3:31 p.m. on Thursday, February 4, 2021, Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Julia Ratti, Chair  
Senator Dallas Harris  
Senator Joseph P. Hardy  
Senator Ben Kieckhefer

**COMMITTEE MEMBERS ABSENT:**

Senator Pat Spearman, Vice Chair (Excused)

**STAFF MEMBERS PRESENT:**

Megan Comlossy, Policy Analyst  
Eric Robbins, Counsel  
Norma Mallett, Committee Secretary

**OTHERS PRESENT:**

Tyler Klimas, Executive Director, Nevada Cannabis Compliance Board  
Michael Miles, Deputy Director, Nevada Cannabis Compliance Board  
David Staley, Chief Compliance/Audit Investigator, Nevada Cannabis Compliance Board  
Steve Gilbert, Marijuana Program Manager, Nevada Cannabis Compliance Board  
Marla McDade Williams, Strategies 360  
Steven Cohen  
Mona Lisa Samuelson

CHAIR RATTI:

I will call the meeting to order at 3:31 p.m. This is our first virtual meeting of the 2021 Session. Due to the Covid-19 pandemic and for the safety of our staff, legislators, and the public, the building is currently closed for any physical attendance. We have worked hard to ensure there are various opportunities for the public to participate with our Committee and be sure we get their input.

All committee information is available on the Nevada Legislature Website, the Nevada Electronic Legislative Information System (NELIS). There is also a Help link that provides information on how to participate in the meetings by either testifying, submitting written testimony or exhibits, sharing your opinion through the application on NELIS, and watching the meetings either through the Website or on the YouTube channel.

I will entertain a motion to adopt the Senate Committee on Health and Human Services Rules for the 2021 Session ([Exhibit B](#)).

SENATOR HARDY MOVED TO ADOPT THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES RULES FOR THE 2021 SESSION AS SUBMITTED.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SPEARMAN WAS EXCUSED FOR THE VOTE.)

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I want to note for the public and members of this Committee; typically, we have about two weeks of introductory presentations from the Department of Health and Human Services (DHHS) to establish a baseline understanding about DHHS and its divisions. Given that we have a relatively tenured Committee, we will not do those basic agency presentations in this Committee. The Assembly Committee on Health and Human Services, which does have new members, will be hearing those presentations. If the public or a member of this Committee wish to view those presentations, they can watch them at the Assembly Committee on Health and Human Services meetings.

The only presentation before this Committee is the Cannabis Compliance Board because we are new to this area.

TYLER KLIMAS (Executive Director, Nevada Cannabis Compliance Board):  
I will provide an overview of the Nevada Cannabis Compliance Board (CCB). My testimony will address how this agency has operated over the past 12 months. I will read from my written testimony, ([Exhibit C](#)) pages 1 through 3.

I will now present, the Nevada Cannabis Compliance Board Agency Overview ([Exhibit D](#)) on slides 1 through 19. I will be reading from my written testimony, [Exhibit C](#), pages 3 through 9.

Last Session, there was considerable discussion on cannabis consumption lounges contained in A.B. No. 533 of the 80th Session. The CCB was required to submit a report on these lounges to the Legislature by January 1, 2021. I included that report as supplemental material for the Committee, the Study on Nevada Cannabis Consumption Lounges ([Exhibit E](#)).

I can answer any questions and then will move on to Senate Bill (S.B.) 49.

**SENATE BILL 49**: Revises provisions relating to cannabis. (BDR 56-268)

SENATOR HARDY:

I had misgivings about the Cannabis Compliance Board, but I have been very impressed with Mr. Klimas's presentation and appreciate the work the CCB has done.

CHAIR RATTI:

We will now open the hearing on S.B. 49.

MR. KLIMAS:

The CCB is presenting S.B. 49, which is our only bill this Session. It is primarily housekeeping and clarifying language and includes the CCB proposed amendment ([Exhibit F](#)). My staff will give a presentation on S.B. 49 ([Exhibit G](#)).

MICHAEL MILES (Deputy Director, Nevada Cannabis Compliance Board):

I will be discussing section 1 of S.B. 49 that requests the removal of *Nevada Revised Statute* (NRS) 678A.530, subsection 2, which addresses depositions as

set out on page 3 of [Exhibit G](#). My written testimony begins on page 9 through page 10 of [Exhibit C](#). I will also be discussing the proposed CCB amendment to [S.B. 49](#), [Exhibit F](#).

DAVID STALEY (Chief Compliance/Audit Investigator, Nevada Cannabis Compliance Board):

I will be discussing section 2 of [S.B. 49](#) that requests additional language be included in NRS 678B.340 as set out in [Exhibit G](#), page 4. My written testimony is on page 10 of [Exhibit C](#).

SENATOR HARDY:

I am not sure what this does with regard to the 5 percent rule. Does it allow people to potentially get out of being identified as an owner, volunteer or under a contract as it pertains to less than 5 percent ownership? What are you looking to do that is new and different than before?

MR. STALEY:

The request for additional language does not provide for anything new. We felt there could be potential confusion because the language provided in NRS 678B.340 was used by the CCB to craft the waiver regulations we have in place. We are moving that language from NRS 678A.450, duplicating and putting it in NRS 678B.340 to clarify the CCB has the opportunity to promulgate regulations that provide the ability to waive the requirement for agent cards for individuals with less than 5 percent ownership.

The NRS provides that anyone with ownership interest and that could include one single share of a company or 1 percent of ownership, our regulations require a background investigation. They receive an agent card registering them with the CCB for their ownership of the company. Most companies have four or five different owners. It is not a burdensome process for us or the industry to conduct the background investigation on all those individuals.

The various publicly traded companies and some of the private companies have many investors who have no control or involvement in the operations of the cannabis establishment. For instance, we have closely held private companies wherein one of the owners gave his or her share to someone in the family. That person has no involvement in the running of the cannabis establishment. The Covid-19 issues make it difficult for anyone to get their fingerprints taken or have a background check performed.

Following the gaming model, one of the premises we have identified is the concept of controls being important with all of our different cannabis establishments and licensees. If a company initially requests a waiver according to *Nevada Cannabis Compliance Regulations* (NCCR) 5.112 or NCCR 5.125 and provides information it has less than 5 percent shareholders and is not involved in control or operation of the company, it gives CCB leeway to allow those individuals not to go through the agent card process.

For a publicly traded company that has thousands of shareholders, such a requirement is onerous and restricts the ability of that company to have its shares traded on a daily basis. Without the waiver, someone who wanted to buy ten shares of that company today and sell them tomorrow would not be able to because our regulations would normally require their licensure. The proposed language does not eliminate our regulations that require individuals in a control position who have shares or even no shares to file an application for a cannabis executive card. A chief executive officer, chief financial officer, chairman of the board of directors, or any other individual who can exercise control in the company's operations or participate in the profits of a marijuana company, are required to be found suitable and obtain an executive agent card even if they have no ownership in the company.

SENATOR HARDY:

What waivers exist now and what are the changes?

MR. STALEY:

The waivers already exist under NCCR 5.112 and 5.125 and were promulgated based on the ability provided to the CCB under NRS 678A.450. We are not adding any new regulations or anything new to the statute. We are simply duplicating the language already in statute and moving it to areas where it clarifies any questions there may be under NRS 678B.340. We already have the waivers in place that were approved by the CCB at its July 21, 2020 meeting. The CCB has approved waivers both for individuals on closely held companies and larger numbers of shareholders for publicly traded companies.

SENATOR HARDY:

What will happen to the individual family member who was given one share?

MR. STALEY:

Nothing will happen unless the company first applies for a waiver. The individual we discussed is required to submit fingerprints and go through our background investigation to get an agent card even though he or she has never been to the cultivation production site. If a company submits an application for a waiver under NCCR 5.112 or NCCR 5.125 and is able to provide sufficient evidence that a shareholder has no involvement or control over the operations of the cannabis establishment, the CCB can approve the waiver. The individual then does not need to get an agent card or submit fingerprints for a background investigation because the individual has no ability to influence the operations of the cannabis establishment. We look closely at the concept of control and ability for someone to be involved in control that would not be suitable under the requirements of our regulations and statutes.

SENATOR HARDY:

If an individual had a 1 percent ownership and that individual's family members equally had 1 percent, this regulation would allow each one of them not to be fingerprinted or investigated. By the time each of them had 1 percent collectively, they would have a controlling interest and would have control.

MR. STALEY:

Your question provides evidence of control. We would look at familial ownership, ownership from a spouse or through a family, as just mentioned. If the amount of ownership indicated they could exercise a certain amount of control over the operations, then the CCB would likely determine such a waiver was not appropriate. Through ongoing audits and investigations performed during a transfer of interest, our investigators and agents are looking for hidden ownership or people who may be exerting control that do not have an agent card. I would expect anyone exerting any significant control over the operations of a company, and both exist within the statutes and regulations, to call them forward at the CCB's discretion even if a waiver is in place.

SENATOR HARDY:

Have you already come across this situation?

MR. STALEY:

No, we have not. The CCB has approved seven or eight waivers at this point. In all cases, the companies provided us with information indicating either the individual or group of individuals they were waiving did not have an element of

control over the company. The agent's independent review of company records includes asking the company to provide further information, including disclosures included in their audited financial statements with the Canadian Securities Exchange (CSE) or the U.S. Securities and Exchange Commission (SEC). The agents tested the attestations of the licensee and were able to find it did not appear any of the individuals that would be affected by that waiver would have any level of control which would have necessitated an agent card.

SENATOR HARDY:

If you depend on the company to tell you things and you investigate based on what they tell you, what are the consequences if the company lies to you, and they did have some control?

MR. STALEY:

A question of consequences would go to the CCB members, who are the individuals that make those decisions. If we determined that there were individuals in a control position and had tried to circumvent our agent card requirements, we would identify the circumstances. We would do a personal interview with them and the other executives. The CCB would receive the information under an areas of concern section in our investigative report in which we would lay out all the facts that were ascertained. It would not surprise me where an individual exerted a level of control without submitting the agent card application. What would surprise me is if they did so with the express intent to circumvent our requirements. I would initially expect it would be a communication problem or mistake; however, we would allow the company an opportunity to address our areas of concern. If we were able to determine it was done specifically to circumvent our regulatory structure, knowing the CCB, there would be a wide range of public and difficult penalties assessed against that company.

SENATOR HARDY:

Could the company then lose its license?

MR. STALEY:

Yes. Our statutes provide that the CCB has a wide range of penalties it can assess against those companies, up to and including the revocation of their license.

CHAIR RATTI:

I understand this amendment is generally a clarification of language. What about a publicly held corporation where a person technically has an ownership interest because they are a stockholder and do not have control. How do you decide if a large publicly held corporation has to have this kind of screening?

MR. STALEY:

Publicly traded companies, both in the CSE and SEC, have certain reporting requirements. They have to make public disclosures annually, and individuals have to make disclosures when they acquire certain levels of shares. The statutes provide an under 5 percent threshold and a 5 percent and over threshold. According to regulation, the waivers we have adopted allow us to waive the requirement that an under 5 percent individual may assess the waiver if they prove they are not in a control position. Anyone 5 percent or over is required to get a cannabis executive card and we do not have the ability to waive that requirement for them.

In a large publicly traded company, a 5 percent position would be a significant position and is uncommon. A 5 percent position may not give them control, in the case of an institutional investor who may not want to disclose that it is for investment purposes only and will not be exerting any control. The 5 percent threshold has been determined by statute. We automatically assume that because the potential of a controlling or influencing position exists at a 5 percent threshold or above, any individual or company with an ownership of 5 percent or above is required to get an agent card. The CCB can call that company forward if they conclude that it should be licensed like an owner or licensure as an acquisition control.

CHAIR RATTI:

If I am in a retirement system that has a 5 percent ownership, how do you provide me with a card?

MR. STALEY:

In the case of a large institutional investor of investment funds or other entities that have pooled the investment ability of many, none of the individual shareholders or participants of the investments guaranteed by the fund have any control of their investment or of the activities of the fund itself. In the case of a fund or investment company that operates a couple of different funds, they will have fund managers or have executives identified that manage or run the



investing activities of the company and are responsible for those investments. If that is the case, they are identified by the company for us, and we require that the fund or institutional investors provide us with an understanding of how decisions are made for the fund and the individuals that can make those decisions are required to have an agent card.

These concepts mirror the best practices of the Nevada Gaming Control Board. While our statutes and regulations are not as detailed or far reaching, it was important that we look to the premises and concepts of control and basic premises of regulations by the Board, take those best practices, and use them for the cannabis industry.

CHAIR RATTI:

Are you saying the practices mirror the gaming industry, but the statutory or regulatory framework does not?

MR. STALEY:

Our regulatory framework does mirror gaming though it is not as expansive. The Board has separate regulations for limited liability companies, corporations and publicly traded companies. When we crafted our regulations pursuant to statute, we did not lay out the specific delineations as the different types of companies. Instead, we went to the core concept of control over the operations of a cannabis establishment.

STEVE GILBERT (Marijuana Program Manager, Nevada Cannabis Compliance Board):

Section 3 of S.B. 49 cleans up language in NRS 678B.520 and helps address consistent labeling of products as set forth on page 5 of [Exhibit G](#). I will read from my written testimony on bottom of pages 10 and 11 of [Exhibit C](#).

CHAIR RATTI:

I have a question about existing stock and if it grandfathered in anything that has been produced within a certain time frame. How are you working through the transition of existing labels?

MR. GILBERT:

We are allowing the industry to work through the existing labels. We will be looking at their time frame to work through those labels, whether the labels have been approved and if the packaging must change.

CHAIR RATTI:

Do you see that happening through a regulatory process where it is clear what the cut-off date is for using those labels?

MR. GILBERT:

That will be guidance that is given from the CCB to the industry.

CHAIR RATTI:

It seems like the CCB has more flexibility to get things done than perhaps some other agencies with whom we are accustomed to dealing. There might need to be more clarity in either the NRS or the *Nevada Administrative Code*. Am I reading that wrong?

MR. GILBERT:

We are in the process of looking at the regulations and potential upcoming workshops to go over the packaging labels and guidelines.

CHAIR RATTI:

You are basically on the record saying that if people have existing stock they will be able to use that stock?

MR. GILBERT:

Yes.

SENATOR HARRIS:

By removing the difference in labeling to medical cannabis and regular cannabis products, would this inhibit police enforcement's ability to know if someone has a medical product even if they do not have a medical card?

MR. GILBERT:

No, it would not. Cannabis is cultivated and labeled up to the point of sale. It is labeled as a single source and that product is designated as medical at that point of sale. If a person was questioned on the cannabis they have in their possession, they should have their medical marijuana registration card for that purpose.

SENATOR HARRIS:

In order for law enforcement to ask the individual to provide a medical card, how would they be able to tell if the marijuana is medical grade?

MR. GILBERT:

If the product was medical-grade level, possession limits for medical cannabis allowed is two and one-half ounces while possession for non-medical cannabis is a one-ounce purchase.

SENATOR HARRIS:

Am I incorrect in assuming that there are some strains that are allowed to be sold as medical but not recreational?

MR. GILBERT:

Yes.

CHAIR RATTI:

I think clarity on this is essential so we have it on the record. All products that contain cannabis can be used for either adult or medical use, but there are a small subsection of products that can only be used for medical use because of the concentration within that product. Is that correct?

MR. GILBERT:

Yes.

CHAIR RATTI:

Are the higher concentration products only sold for medical use? The rest of it is a matter of taxation; whether or not you pay the extra 10 percent?

MR. GILBERT:

That is correct.

MR. KLIMAS:

I will go through the amendment, [Exhibit F](#), which includes language to provide additional flexibility to extend the 45-day requirement for the CCB to hold a hearing after a licensee answers a complaint. In some cases, especially in complicated disciplinary matters, 45 days is not enough time for either side to gather the resources to hold an appropriate hearing. The aim will always be to move expeditiously through these hearings and complaints.

This amendment allows for a request to be made to the CCB Chair for approval of an extension of the 45-day hearing requirement. Section 2 simplifies the process for serving complaints against a licensee. The way the statute is written, the CCB has to vote blindly on approving service of a complaint that should be a procedural matter. They do not get to see the complaint or know who the complaint is filed against; they just know that the CCB and the Office of the Attorney General recommended that it be filed. It becomes an onerous process that is not a good use of staff or their time. The CCB Chair and board members made this point known at our first meeting.

This amendment allows the Executive Director of the CCB to serve the complaint and does not change any part of the process. Section 3 of the amendment allows the CCB to employ additional services to assist in disciplinary proceedings when necessary. This is a part-time Board that needs to utilize services of an administrative law judge in certain disciplinary matters. This keeps the hearing process moving and is critical to allow for an appropriate pace in its oversight responsibilities.

SENATOR HARRIS:

I have a question about the extension of the 45-day hearing requirement. Can you tell me about why you chose to give the CCB the ability to extend that indefinitely as opposed to giving yourselves more time? Instead of 45 days, why not change it to 90 days or 120 days?

MR. KLIMAS:

The goal is to always move quickly within the 45 days. We thought allowing 90 to 120 days to the process would further delay the hearing. We have cases two years old we inherited. We want to keep the hearings on a tight schedule.

SENATOR HARRIS:

Would you be willing to consider putting constraints on the CCB so people know they have the right to have their cases heard within a certain time period. If extensions can be continually granted, then it will never be known how long it might take and there is no further guarantee. The 45 days becomes irrelevant.

MR. KLIMAS:

I understand what you are saying and we can look into adding some guidelines. If someone applies for an extension, and the Chair grants a certain amount of time, the option would be to continually grant an extension. I do not think that

would be the intent and would not work out well for the CCB, staff or licensee. I would hope that practice would not be common. I can tell you that I, as Chair, would not make it a common practice.

CHAIR RATTI:

We are going to want to get clarity on this issue. The CCB or staff would not request an extension, the request for an extension would only come from the petitioners, correct?

MR. KLIMAS:

The request for an extension would come from either our deputy attorney generals or the licensee.

MARLA MCDADE WILLIAMS (Strategy 360):

I will read from my written testimony in opposition to S.B. 49, ([Exhibit H](#)).

STEVEN COHEN:

I am testifying neutral to S.B. 49. The issue of jurisdictions in legalizing cannabis, while being federally illegal, creates a policy concern when State agencies are primarily federally funded.

CHAIR RATTI:

I will now close the hearing on S.B. 49.

MONA LISA SAMUELSON:

I represent medical cannabis patients living in Nevada and we want you to know that medical patients are very pleased the issue of cannabis has moved from the Judiciary Committee to the Health and Human Services Committee.

Senate Committee on Health and Human Services  
February 4, 2021  
Page 14

CHAIR RATTI:

The Senate Committee on Health and Human Services Committee Brief has been submitted ([Exhibit I](#)).

This meeting is adjourned at 5:04 p.m.

RESPECTFULLY SUBMITTED:

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Norma Mallett,  
Committee Secretary

APPROVED BY:

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Senator Julia Ratti, Chair

DATE: \_\_\_\_\_

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit Letter</b>	<b>Begins on Page</b>	<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	1	Senator Julia Ratti	Committee Rules
	C	1	Tyler Klimas / Nevada Cannabis Compliance Board	Written Testimony
	C	9	Michael Miles / Nevada Cannabis Compliance Board	Written Testimony
	C	10	David Staley / Nevada Cannabis Compliance Board	Written Testimony
	C	10	Steve Gilbert / Nevada Cannabis Compliance Board	Written Testimony
	D	1	Tyler Klimas / Nevada Cannabis Compliance Board	Board Agency Overview
	E	1	Tyler Klimas / Nevada Cannabis Compliance Board	Study on Nevada Cannabis Consumption Lounges
S.B. 49	F	1	Tyler Klimas / Nevada Cannabis Compliance Board	Proposed Amendment
S.B. 49	F	1	Michael Miles / Nevada Cannabis Compliance Board	Proposed Amendment
S.B. 49	G	1	Michael Miles / Nevada Cannabis Compliance Board	Presentation on S.B. 49
S.B. 49	G	4	David Staley / Nevada Cannabis Compliance Board	Presentation on S.B. 49
S.B. 49	G	5	Steve Gilbert / Nevada Cannabis Compliance Board	Presentation on S.B. 49

Senate Committee on Health and Human Services  
 February 4, 2021  
 Page 16

			Cannabis Compliance Board	
S.B. 49	G	6	Tyler Klimas / Nevada Cannabis Compliance Board	Presentation on S.B. 49
S.B. 49	H	1	Marla McDade Williams / Strategies 360	Written Testimony
	I	1	Senator Julia Ratti	Committee Brief