

CANNABIS REGULATORY ADVISORY COMMITTEE

March 10, 2022
1 P.M.
MINUTES

I. CALL MEETING TO ORDER

Chair Emily Kaltenbach called the meeting to order at 1:08 p.m.

II. ROLL CALL

Members present via WebEx were Chair Emily Kaltenbach, Vice Chair Gov. Perry Martinez, Bennett Baur, Steven Jenison, Lou Ann Branch, Ginger Baker, Harold Trujillo, Debbi Moore, Andrew Vallejos, and Rachael Speegle.

Excused were Chief Phil Smith and Sheriff Adan Mendoza.

Also present at the meeting were Regulation and Licensing Department Deputy Superintendent Victor Reyes, Cannabis Control Division Director Kristen Thomson, CCD Deputy Director Robert Sachs, CCD staff member Terry Last. Committee member Harold Trujillo, Regulation and Licensing Department attorney Patrick Schaefer, and Chris Moander of the state Office of the Attorney General later joined the meeting.

Deputy Superintendent Reyes introduced Andrew Vallejos, director of the state's Alcohol Beverage Control Division, as a new member of the committee, replacing Paul Heidle in the position representing a state or local agency.

III. APPROVAL OF THE AGENDA

Motion to approve: Bennett Baur

Second: Debbi Moore

Motion passed unanimously

IV. APPROVAL OF MINUTES: Feb. 3, 2022, meeting

Motion to approve: Gov. Martinez

Second: Bennett Baur

Motion passed unanimously with Vallejos abstaining

V. PUBLIC COMMENT

Mariah Kelly, of Souder Miller & Associates, an engineering company based in Albuquerque, said that there didn't seem to be any prescribed methods in the cannabis rules for measuring toxins and potency. She wondered if the CCD would formulate methods and, if so, who would write them.

Kristina Caffrey, an attorney with Ultra Health, said she wanted to make sure the committee was aware of the rule regarding medical patients' access to cannabis, referencing 16.8.2.40 NMAC. She said the rule allows patients to purchase up to a certain volume of cannabis tax free. Ms. Caffrey said that under the rules going into effect patients will be taxed for cannabis purchases that exceed that volume. The cannabis excise tax plus gross receipt taxes increases the price about 20 percent for medical patients, she said. Acknowledging that Ultra Health is engaged in an administrative appeal

lawsuit over the matter, Ms. Caffrey said that medical cannabis patients were being treated as second-class citizens.

James Vermeer said he would like to see more clarification on the social and economic equity plan for those seeking a producer license.

Mariah Kelly, who spoke earlier, commented that she had attempted to contact the Cannabis Control Division but had gotten no response.

VI. COMMITTEE ACTIONS AND BUSINESS

Legislative update: Deputy Superintendent Reyes updated the committee on the recently concluded legislative session. He said Senate Bill 100, which would have “cleaned up” some issues in the Cannabis Regulatory Act and allowed microbusiness producers to grow up to 1,000 plants, was not adopted by the Legislature. The bill passed the Senate but failed to make it to a House vote. However, he said the CCD received significantly more funding from the Legislature: \$6.3 million in recurring funding, plus a one-time allocation of \$1.7 million, which would be spent on hiring additional staff and other resources.

In response to a question from Chair Kaltenbach, Deputy Superintendent Reyes said some of the funding would be directed toward the social and economic equity component, including hiring a staff member.

Discussion of impact of plant count on microbusinesses:

Chair Kaltenbach began the discussion by asking the division what it could do to assist microbusiness producers now that increasing plant counts was off the table.

Director Thomson said the division planned to hire more staff to help microbusiness producers navigate through the application process. She also mentioned the microbusiness loan program being offered by the New Mexico Finance Authority as another potential resource for new licensees.

Deputy Superintendent Reyes noted that the plant count for microbusiness producers was established legislatively, so the division could not increase plant counts on its own.

Deputy Director Sachs said the division was also looking at ways it could reduce costs for microbusiness producers. Ideas included the sharing of premises, security systems and business structures similar to co-operatives, he said.

Update on intergovernmental agreements with tribes, nations and pueblos: CCD general counsel Patrick Schaefer reported that intergovernmental agreements (IGAs) have been made with Picuris and Pojoaque pueblos but have not yet been signed. He explained that the agreements established jurisdictional coordination and boundaries between law enforcement agencies. That communication between the state, tribes, and law enforcement was important not only for cross-jurisdictional coordination, he said, but also to create a unified voice in discussions with federal parties. It was agreed that Mr. Schaefer, Gov. Martinez and other interested parties would meet to discuss issues that impact tribal jurisdictions.

Discussion, consideration and possible vote on advisory guidance of rules relating to licensing requirements and packaging and labeling rules: Deputy Director Sachs gave an overview of rules affecting license applicants being formalized into law following two recent rule hearings. He said the new rules removed language concerning the deadline for the equity plan and formalized emergency rules covered in 16.8.2 that removed the premise diagram and criminal history background requirements, modified reporting requirements, and defined courier functions. Rules also being formalized included those for packaging edible cannabis finished products covered under 16.8.3, with



different limits for commercial and medical sales, and rules related to plant counts and fees under 16.8.8 and 16.8.11.

Motion to accept changes: Bennett Baur

Second: Andrew Vallejos

Motion passed unanimously

Update on CCD rulemaking timeline and involvement: Deputy Director Sachs reported that the division recently promulgated emergency rules regarding required cannabis testing and testing protocol for producers. He said rules the committee just approved would be submitted to the state Register that day and become effective March 22. In addition, current rules for microbial and pesticide testing would be extended until July 1, 2022, while those covering sample collecting would be extended to March 1, 2023, he said.

Update on CCD licensing: Deputy Director Sachs reported that based on data from the Salesforce platform 141 applications had been approved and another 130 applications had been submitted. Altogether, there were 310 licensed premises, he noted.

He also provided a demographic breakdown of applicants. In response to questions from committee member Trujillo, Director Thomson said the division didn't currently have the capability to produce reports that aligned production and plant count data with demographics, as the information comes from two different sources.

Update on CCD Equity Plan: Chair Kaltenbach reported that the division's equity plan had been finalized and was posted on the CCD website. Deputy Director Sachs added that the committee's recommendations aided the division in formulating the final plan. He said that the microbusiness loan program administered by the New Mexico Finance Authority was close to being launched.

Director Thomson said she felt the state was ready for the opening of commercial sales on April 1. She said the division's current focus was on ensuring systems, like the seed-to-sale tracking system, were functioning as they should be and working with the industry to prepare for the opening date.

Update on Public Education Campaigns Prior and Beyond April Start Date: Chair Kaltenbach said she added this item to the agenda because she's often asked if there was going to be any campaign in advance of April 1. She said she thought it was important to educate the public about what is and isn't allowed under the new law and to promote safe, responsible use.

Deputy Director Sachs said he wasn't aware of any planned educational campaigns and that the division had mostly engaged in providing guidance to applicants and licensees.

VII. COMMITTEE ACTION ITEMS

Subcommittee Updates: None

Committee Administrative Business: Chair Kaltenbach said that the committee will begin meeting less frequently. She proposed that the next meeting be held in May, and another one be held in July before the committee started a quarterly schedule. She noted that there were now two vacant positions on the committee: one to be filled by someone in higher education and another with expertise in environmental science.



VIII. ADJOURNMENT

Chair Kaltenbach adjourned the meeting at 3:07 p.m.

Approved this 12th day of May, 2022


Emily Kaltenbach, Chair

