



WAITING FOR APPROVAL – STILL SUBJECT TO CHANGE

CANNABIS CONTROL DIVISION CANNABIS REGULATORY ADVISORY COMMITTEE

**April 14, 2023
1 P.M.
MINUTES**

I. CALL MEETING TO ORDER

Chair Moore called the meeting to order at 1:10 p.m.

II. ROLL CALL

Members present were Chair Debbi Moore, Bart Faris, Chris Duvall, Steve Jenison, Esther Lopez, Ginger Baker, Lou Ann Branch, Nina Wells, Phillip Sanchez, Rachael Speegle, and Philip Larragoite as designated by Chief Public Defender Bennett Baur.

Member Chief Christopher Williams was present via WebEx.

Members absent were Nathaniel Paolinelli, David McDermid, Harold Trujillo, Mary Carmack-Altwies, and Emily Kaltenbach

Staff present at the meeting were New Mexico Regulation and Licensing Department (NMRLD) Superintendent Linda Trujillo, NMRLD Acting General Counsel Kevin Graham, Cannabis Control Division (CCD) Deputy Director Carolina Barrera, CCD Division Counsel Robert Sachs, and CCD staff members Autumn Marquez and Victoria Kaniatobe. Other NMRLD staff present via WebEx were Raymond Valles and Samantha Montoya and members of the public present via WebEx were Duke Rodriguez, Kristina Caffrey, and Xan Valdovinos Anguiano.

III. APPROVAL OF THE AGENDA

Motion to Approve: Steve Jenison

Second: Bart Faris

Motion passed unanimously.

IV. APPROVAL OF PROPOSED MINUTES

Motion to Approve: Bart Faris

Second: Nina Wells

Motion passed unanimously with 1 abstention.

V. PUBLIC COMMENT

No public comments were made.





VI. COMMITTEE ACTIONS AND BUSINESS

A. Introduction of new CRAC Chair and Chair Remarks

Chair Moore introduced herself as the newly selected CRAC chair. Chair Moore commented on her position on the Las Cruces Chamber of Commerce and her privilege to be elected the new chair for CRAC.

B. Welcome new CRAC Member

Chair Moore introduced newly appointed member Christopher Williams to the position of Municipal Chief of Police. Chief Williams is currently serving the City of Portales, NM.

C. Overview of CRAC

a. Member roles & per diem:

Chair Moore read the statutory roles of the CRAC per the Cannabis Regulation Act (CRA):

Per NMSA § 26-2C-3(G) and (H), “the Cannabis Control Advisory Committee shall advise the Division on the development of rules pursuant to the Cannabis Regulation Act, including best practices and the promotion of economic and cultural diversity in licensing and employment opportunities and protection of public health and safety while ensuring a regulated environment for commercial cannabis activity that does not impose unreasonable barriers that would perpetuate, rather than reduce and eliminate, the illicit market for cannabis.

The Cannabis Regulatory Advisory Committee shall elect from among its member a chair and such other officers as it deems necessary. The Committee shall meet at the call of the chair, the Director or the Superintendent. A majority of members currently serving constitutes a forum for the conduct of the business. Members serve at the pleasure of the Superintendent.”

Deputy Barrera stated a reminder to the committee the privileges of per diem and mileage reimbursement to the committee:

Per the Cannabis Regulatory Act § 26-2C-3(I), “public voting members of the CRAC are entitled to receive per diem and mileage as provided for state employees pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite, or allowance. The Division has reached out by phone and email to all eligible committee members with information on reimbursement for travel. Please be sure to respond to our Financial Manager and provide the required information to ensure reimbursement is not delayed. An additional email will go out after this meeting as a reminder.”





b. General ground rules:

Chair Moore stated general ground rules expected for the public during CRAC meetings. Chair Moore asked for a point of clarification from Acting General Counsel Graham that if a member of the public who wanted to make a comment but could not make it in person/attend virtually, if there a process in place for a member of the public to submit written testimony to the committee. Counsel Graham responded that there is no prohibition in receiving testimony and that if the committee were to receive any written testimony it would be distributed to the committee members to review during the meeting and would read the testimony during the Public Comment section of the agenda on a case-by-case basis.

D. CCD Overview:

a. One-year anniversary report:

Deputy Barrera reported that New Mexico saw \$300 million in adult-use sales in the first year. As of March 2023, New Mexico saw \$32.4 million in recreational sales, \$15.4 million in medical sales, and \$27 million in cannabis taxes have been collected in the General Fund. As of early April 2023, over 10 million transactions have been recorded. In the last year, Albuquerque had the most adult-use sales with \$96 million. Santa Fe and Las Cruces each saw \$22 million in adult-use sales, Sunland Park recorded \$19.4 million, Hobbs \$17 million, and Clovis, Farmington, and Ruidoso each saw \$7 million in adult-use sales. In this time, \$50,000 has been collected in fines.

Deputy Barrera also reported between April 1, 2022, and April 11, 2023, New Mexico cannabis retailers sold over \$500 million in adult-use and medical cannabis sales combined, \$192.5 million in medical sales and \$311.7 million in recreational sales. During the same period, the top ten cities in sales were Albuquerque, Santa Fe, Las Cruces, Sunland Park, Hobbs, Rio Rancho, Carlsbad, Clovis, Alamogordo, and Ruidoso. Between January 1, 2023, and April 11, 2023, New Mexico cannabis retailers have already sold \$145 million in adult-use and medical sales combined, \$48 million for medical and \$97 million. Between the same period, the top ten cities were Albuquerque, Las Cruces, Santa Fe, Sunland Park, Hobbs, Rio Rancho, Carlsbad, Clovis, Alamogordo, and Ruidoso.

b. Licensing & Compliance Update:

Deputy Barrera reported that there are 325 applications across all licensing categories that are currently pending. 55 are vertically integrated which includes: 4 retail, 6 manufacturer, 25 producer, and 20 premise licenses. 94 micro integrated that includes: 19 retail, 31 manufacturer, and 44 micro producer licenses which is down





97 from the January 26, 2023, CRAC meeting presentation. Also, 176 individual licenses that includes 16 retailer, 9 manufacturer, 41 producer, 65 producer

microbusiness, 25 consumption areas, 15 courier, 5 testing laboratories, and no research laboratories.

Deputy Barrera also stated 1,518 cannabis establishment licenses have been issued to date, 420 more since the CRAC last met on January 26, 2023. Of the approved applications, 765 are vertically integrated businesses that include: 423 retail, 199 manufacturer, and 143 producer licenses. 535 micro integrated applications that include: 163 retail, 209 manufacturer, and 163 producer licenses. 1,233 individual applications have also been approved, which include: 454 retailer, 204 manufacturer, 250 producer, 274 producer microbusiness, 11 consumption areas, 35 courier, 4 testing laboratory licenses, and 1 research laboratory.

Stand-in member Larragoite asked the CCD staff if they have enough staff members to process the license applications. Deputy Barrera stated that while there are some hurdles, there are enough individual licensing staff members to process all the new and renewed licenses. Superintendent Trujillo expanded on that to say there are still some issues with technology causing slow downs in the licensing process but once they are addressed then the licensing department is sufficiently staffed. Then, Chair Moore continued to expand on the licensing process that she, as a small business expert, would like to see educational tools available to potential licensees to help them know the basics of having a business in the cannabis industry. Member Speegle then asked as a follow-up what type of tools may be available and if we are seeing any deficiencies in them currently. Chair Moore answered that the only prohibition is one-on-one counseling with the Small Business Association (SBA) due to federal ties with the SBA. However, individuals may attend any meetings or seminars conducted through the SBA or any other business entity on their own to be as successful in the long term as possible, especially for any microbusiness licensees. Member Speegle then commented that, as someone currently in the cannabis industry and working with the CRAC, that the measure of success of the industry will be only as strong as the demand of the market, explaining that businesses may have enough tools for business success but unless they have a strong customer base they may still not thrive. Superintendent Trujillo recognized that this is a current concern and asked the committee to continue advising on topics such as the quantity a micro producer should be able to grow. Counselor Graham noted that the best defense we have at this time is to educate members of the public who are interested in investing in the cannabis industry as much as possible before they commit to the financial investment. Member Lopez then asked if the number of licenses issued cannot be limited, how can the saturation of the market be controlled, to which Superintendent Trujillo commented that the only way possible to control saturation is to change the language of the statute through legislation. Member Lopez expanded her question by asking if local jurisdiction limitations are something we are seeing to which Superintendent Trujillo commented that local jurisdictions cannot limit the number of licenses, but they can limit saturation based on reasonable time, place, and manner (i.e., how close





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together large businesses can be from each other, but no limits on distance between microbusinesses). Counselor Sachs added to this response by noting

that the Division does have some limitation authority by having the ability to track the number of plants producers are able to grow and adjust the plant counts in the industry regulations based on the Division's yearly reporting. Stand-in member Larragoite asked if there is a saturation measurement benchmark to which Superintendent Trujillo commented that, though there is not a current benchmark, the statutory plant counts are set to expire in December of 2025 and the New Mexico Department of Health is required to produce an analysis report that could help to create these benchmarks limiting saturation.

Chair Moore then asked of the Division if there are any particular areas the CRAC could help advise them on. Superintendent Trujillo responded with topics such as packaging, access by children, and impaired driving. Member Jenison then asked what the major concerns were from the last legislative session that the CRAC could help advise on. Superintendent Trujillo responded by stating that the first concern was the amount of out-of-state products being sold in licensed retail premises and packaging that could be enticing to children.

Deputy Barrera closed with reporting that from April 1, 2022, to the present that there have been 539 total inspections in the state, an increase of 168 total inspections. These include 336 retail inspections (up 127), 167 production inspections (up 22), and 36 manufacturing inspections (up 19). Additionally, there have been 290 Notice of Violations issued (up 50), 124 of which are open cases (up 33), 166 closed (up 17), and 4 Notice of Contemplated Actions (up 1). Member Duvall posed a question on what the geographic information on inspections was and specifics compliance and safety inspections. Deputy Barrera commented that at the moment, the geographic information and licensing information can be accessed through the C.R.O.P tool on the CCD website but that we are not releasing any specifics on that data publicly as of yet. Counselor Graham added that those types of inquiries are subject to having a request of public information request submitted and the only information that cannot be released with an IPRA request are social security numbers.

c. Rule & Legislative Update:

Legislative Update: Counselor Sachs began the legislative update by reflecting on the discussion of the "repeal and replace" strategy for any statutory changes during the 2023 legislative session mentioned at the CRAC meeting in January, 2023. Counselor Sachs stated that there were eleven total bills related to cannabis that were introduced during the last legislative session. Two of the bills passed, one related to expungement, which is not something that is handled by the Regulation and Licensing Department, and one related to changes in qualified patients, which is something regulated by the Department of Health. He also mentioned the legislative concerns Superintendent Trujillo spoke of earlier





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(packaging, access by children, and impaired driving). One bill that was not passed was a “clean-up” bill that will continue to be brought up in future legislative sessions.

Counselor Sachs then mentioned that there was some language added to the Uniform Licensing Act that allows the Division to immediately suspend a licensee’s activity while an investigation is ongoing. The bill also changed the penalty fee for unlicensed cannabis activity from \$1,000 to \$10,000, which takes effect June 18, 2023.

Stand-in member Larragoite posed the question what the role of the committee is when it comes to advising the Division on rulemaking, if it was exercised in the last session, and what bill the committee advised on was adopted. Counselor Graham commented that the role of the committee is to advise on any topic the Division brings to them but has no authority to execute any changes on their own. Counselor Graham then stated that there were no bills in the last legislative session the committee could have advised on as there were no agency bills introduced. Superintendent Trujillo commented that the process should be that the staff and committee have conversations on any legislative ideas to bring to the Superintendent that can be brought forward in legislation to improve the agency and industry together. Counselor Graham then noted that, though the members of the committee may exercise their First Amendment rights to bring concerns to legislators on their own behalf, they cannot speak on behalf of the CRAC unless it has been authorized. Member Jenison then asked how the committee can proceed to advise the Division and respond to legislative questions if asked. Chair Moore then stated that they must maintain an active advisory role to support the Division on pending legislation. Superintendent Trujillo expanded on that answer by stating that in her role as Superintendent, she expects the Division and committee to work collaboratively to guide the regulatory process, but that expectation can change depending on administration. Member Jenison then brought up a concern in the medical field of unfounded medical claims of cannabis being advertised to the public and how this could be addressed. Counselor Sachs commented that he has seen this issue come up and mentioned that it is written into the rules that, “a label shall not contain any untruthful or misleading statements including, but not limited to, health or benefit claims,” (16.8.3.9 (I) (1) NMAC), and if any person is found to be making unfounded medical claims they are subject to violation of 16.8.3.9 (I) (1) NMAC.

Rule Update: Counselor Sachs stated that, though there were no statutory changes in the last legislative session, there is still some improvement to be made in the rules. The process would be collect as much information and feedback as possible on how to improve the rules of 16.8 NMAC and asked of the committee to consider the rules and make any recommendations to improve the rules. He noted that the hope would be to create a balance between protecting the public and ensuring a healthy marketplace for cannabis licensees. Counselor Sachs then mentioned that in the last few CRAC meetings there was an expressed interest in creating subcommittees to address specific rule topics that they would then advise the Division on. The subcommittees included: packaging, labeling, advertising and marketing (potentially including access by children); social equity; microbusinesses; compliance; licensing;





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qualified patients and medical products. Counselor Sachs stated that the rule hearings will take place in a few months from the date of the meeting, which would allow the

committee time to collect information on these topics and advise as necessary if they decide to follow the subcommittee model. Stand-in member Larragoite then asked if there are any active pending rules to advise on to which Counselor Sachs responded that there are no active pending rules to publish at this time, but he is taking note of any suggested rule changes at this time.

E. Social Equity

a. Demographic Data:

Deputy Barrera said that based on information applicants provided, of the 2,720 total listed controlling persons, approximately 1,875 (69%) of the 2,698 people who self-identified their gender identified themselves as male, while about 798 (29.5%) identify as female and approximately less than 1% (25 people) identify as gender non-conforming or non-binary. She also stated that of the 2,720 total licensees, approximately 2,493 self-identified their race and ethnicity, with 1,227 (49%) of controlling persons reporting having Hispanic, Latino, or other Spanish origin. About 1,266 (51%) reported having no Latino, Hispanic, or other Spanish origins. Of these, 1,020 (41%) identified as white, non-Hispanic; 87 (4%) as black or African American, non-Hispanic; 74 (3%) as Asian, Asian-American, or Pacific Islander, non-Hispanic; 20 (.8%) as American Indian or Alaska Native, non-Hispanic; 40 (20%) as mixed, non-Hispanic; and 25 (%) as another, non-Hispanic race.

b. Micrologo Announcement:

Deputy Barrera presented to the committee the new microbusiness logo that was released by the CCD in March of 2023. Deputy Barrera stated that the logo is meant to be issued to any licensed integrated microbusiness or production microbusiness upon their request to use for the business's marketing purposes. This logo is a marketing tool intended to create recognition by cannabis consumers and community support for microbusiness in the industry.

F. 2023 Goals & Objectives

a. Rule Recommendations:

Counselor Graham commented on the Open Meetings Act (OMA) and the 2023 Open Meetings Resolution. This resolution is a recitation of the OMA for the committee to adopt for the coming year. This adoption will be made as an agenda item for the next meeting. Chair Moore also commented that, per the Inspection of Public Records Act, the committee is unable to communicate in a public group email chain and the Division has been advised to only blind carbon copy committee members in email communications.





VII. DISCUSSION ITEMS

A. Vice-Chair Nominations

Chair Moore opened the floor to nominations for Vice-Chair, to which member Phillip Sanchez was nominated by stand-in member Larragoite and seconded by member Lopez. Member Sanchez thanked the committee but declined and withdrew the nomination. Chair Moore then declared adding the Vice-Chair nominations to the next meeting.

B. Meeting Location & Frequency

Chair Moore opened to the committee discussions on the meeting locations and frequency of the next CRAC meetings. Chair Moore also asked if subcommittees must comply to the OMA regulations to which Counselor Graham commented that as long as they are not formal subcommittee meetings, they are not subject to OMA but if the committee were to designate official subcommittees, they must adhere to the OMA rules. Chair Moore made the recommendation to keep the committee as a whole to discuss the priorities of the Division until the whole committee is in attendance to come to a decision. Chair Moore then asked for input from the committee on the frequency of meetings, to which member Lopez commented that monthly may be impractical and bimonthly would be preferred. Member Speegle then asked if meetings can be scheduled to include subcommittee break-out sessions within the full committee meetings. Chair Moore added to this in suggesting topic of discussion break-out sessions rather than official subcommittee assignments at regular meetings and if so, is that something that needs to be made available to the public via in-person or virtual attendance of break-out sessions. Counselor Graham responded by stating that committees must adhere to notice and agenda items as outlined in OMA, including notifying the public of any planned break-out sessions. The committee then agreed to having the next meeting in June or July 2023.

VIII. ADJOURNMENT

Chair Moore adjourned the meeting at 3:10 p.m.

Approved by:

Debbi Moore, Chair

Date

