



**CANNABIS CONTROL DIVISION
CANNABIS REGULATORY ADVISORY COMMITTEE**

**July 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:

Chair Debbi Moore
Bart Faris
Chris Duvall
Steve Jenison
Christopher Williams
Phillip Sanchez
Philip Larragoite, as designated by Chief Public Defender Bennett Baur
Kim Stewart
Eric Speegle, as designated by Rachael Speegle

Members absent:

Nathaniel Paolinelli
David McDermid
Harold Trujillo
Mary Carmack-Altwhies
Ginger Baker
Lou Ann Branch
Esther Lopez
Nina Wells
Emily Kaltenbach

Staff present in person:

Linda Trujillo, NMRLD Superintendent
Kevin Graham, NMRLD Acting General Counsel and Interim CCD Director
Robert Sachs, CCD Division Counsel
Autumn Marquez, CCD Executive Assistant to Policy
Victoria Kaniatobe, CCD Law Clerk
Bernice Geiger, NMRLD Communications Director
Andrea Brown, NMRLD Public Relations & Marketing Specialist





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Other NMRLD staff present via Teams:

Christopher Romero
Laura Romero
Joel Wigelsworth

Members of the public present in person/via Teams:

Leigh Jenke
Kristina Caffrey
Hayley Peterson, DOH
Mary Kay Root
Dan Pabon
Drew A Goretzka
Tiffany Grice
Roberta Duran

III. APPROVAL OF THE AGENDA

Quorum requirements not met. No motion to approve agenda made.

IV. APPROVAL OF PROPOSED MINUTES

Moved to next meeting when a quorum is present.

V. PUBLIC COMMENT

No public comments were made.

VI. COMMITTEE ACTIONS AND BUSINESS

A. Introduction of new CRAC Member

Chair Moore introduced newly appointed member Sheriff Kim Stewart of Dona Ana County. Sheriff Stewart is appointed by the Executive Director of the New Mexico Association of Counties per the Cannabis Regulation Act.

B. CCD Overview:

a. Licensing and Compliance Update

CCD staff Autumn Marquez, Executive Assistant to Policy, reported that New Mexico saw over \$640 million in adult-use sales between April 1, 2022, and





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July 10, 2023. In this time frame, the top ten cities from one to ten are as follows: Albuquerque, Santa Fe, Las Cruces, Sunland Park, Hobbs, Rio Rancho, Carlsbad, Clovis, Alamogordo, and Rowell.

Between April 1, 2022, and April 1, 2023, New Mexico sold nearly \$500 million in recreational sales, with Albuquerque still the top-ranking city for total sales. Between April 1, 2022, and December 31, 2022, New Mexico cannabis retailers sold nearly \$360 million in total cannabis sales. Then, between January 1, 2023, and July 10, 2023, retailers have reached \$285 million in total cannabis sales so far. For all these ranges, Albuquerque has remained the highest ranking in sales thus far.

CCD staff assistant Marquez then reported that there are approximately 244 pending applications the week of July 14, 2023. Of those, 38 pending applications were for Vertically Integrated Cannabis Establishments, and of those 4 are retail functions, 7 are manufacturing functions, 17 are producer functions, and 10 are for cannabis premises. Then, 69 pending applications are Micro Integrated Cannabis Business licenses, 19 of which are retail functions, 16 are manufacturing functions, and 34 are micro producer functions. Last, of the pending applications, there are 137 pending individual functions across retailer (8), manufacturer (11), producer (32), producer microbusiness (42), consumption areas (23), courier (15), and testing laboratories (6). There are no pending research laboratory applications at this time. Staff assistant Marquez reported that one of the main reasons for pending applications is that the Division is waiting for applicant actions (i.e., missing application details, application payments, water rights, waiting for follow-up documentation from background reports) as well as pending action from Department of Public Safety for initial background reports.

CCD staff assistant Marquez went on to report that there are 1,523 approved applications total. Of these, there are 159 Vertically Integrated Cannabis Establishment parent licenses, with 440 retail functions, 217 manufacturer functions, and 160 producer functions for a total of 817 vertically integrated premises. Then, of the approved licenses, there are 289 Micro Integrated Cannabis Business parent licenses, with 190 retail functions, 255 manufacturer functions, and 205 producer functions for a total of 650 total premises. Last, there are a total of 1,210 approved individual function licenses: 415 retailer, 230 manufacturer, 241 producer, 255





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producer microbusinesses, 17 consumption area, 45 courier, 6 testing laboratories, and 1 research laboratory. The total of all approved premises is 2,677.

CCD staff assistant Marquez also reported on total compliance inspections from April 1, 2022, to July 2023. There have been 675 total inspections conducted across New Mexico, with 454 retail, 182 producer, and 39 manufacturer inspections. Out of these there have been 329 Notice of Violations issued, with 126 of the cases still open and 203 closed. To date, there have been 4 Notice of Contemplated Actions issued.

At this time, Chair Moore asked if the inspection numbers being tracked are a part of the initial licensing process to which Counselor Graham stated the CCD compliance officers do inspect all cannabis facilities at least once a year, but the tracked inspection numbers do not include the inspections for initial licensing. Member Faris then asked a follow up question that if the Notice of Violations are based on compliance inspections. Counselor Graham responded, stating that the Notice of Violations are based on findings that can come either from regularly scheduled inspections or complaints filed with the CCD. Counselor Graham then elaborated by stating that not all Notice of Violations will result in a Notice of Contemplated Action issued or revocation of a license because the Division will give reasonable amount of time to licensees to correct some potential violations, and unless there is more severe violations or repeated violations, they can be issued. Counselor Graham then stated that at this time there have been Notice of Contemplated Actions and revocations already issued based on inspection findings.

Member Faris asked what the expectations of the compliance department are as far as their priorities to which Counselor Graham stated that the top priority is public safety, which will include notifying law enforcement of any criminal activity that is found during inspections. This will consist of being good witnesses and cooperation with law enforcement as much as possible, including testifying and keeping applicable evidence in case of any criminal proceedings. Superintendent Trujillo elaborated on this statement by informing the committee that House Bill 384 became effective on June 16, 2023. This bill grants the CCD the authority to issue a preliminary injunction as well as gives the Division the authority to immediately suspend any licensee activity if the noted violations are “a clear, and immediate danger to public health and safety”, including the sale of out-of-state product, improperly labeled product, improperly documented product, etc. Counselor Graham





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gave a follow-up statement that the CCD has been working with BioTrack to help licensees with the track-and-trace system to try and reduce the number of potential violations by providing licensees with on-line videos and live webinars that address common issues with track-and trace compliance and that the Division is increasing their staffing numbers to be more available to licensees across the state.

Member Stewart posed a follow-up question based on Superintendent Trujillo's statement about violations of licensees bringing in out-of-state product, asking if there is a part of the state that CCD is noticing these types of violation more than others. Counselor Graham responded that it is something seen across the state as a whole. Member Stewart then asked if the Division is seeing any problems with federal checkpoints in the southern part of New Mexico seizing licensed producer's product during their transports of sample products to testing laboratories in the central part of the state as the only licensed testing labs are in Central New Mexico, and if so, are there steps being made to allow licensees to test in the southern part of the state. Counselor Sachs stated that the Division has received very few reports of issues from federal checkpoints, but the Division has worked diligently with the checkpoints since legalization to prevent issues for that reason. He then expanded the answer by reporting that a licensee is planning to have a satellite testing laboratory in the southern part of the state to accommodate southern licensees. Member Williams then posed a follow-up question asking if there is any mechanism in place to assure that producers are not importing out-of-state product and re-testing and repacking this product as New Mexico-produced products. Counselor Graham responded by stating that the track-and-trace system (BioTrack) is the key point for that concern as it is designed to track product from seed to sale and if there are discrepancies with the system and physical product or recorded sales, it would be an indication of illicit activity. Superintendent Trujillo expanded by stating that the Division is looking at contracting a third party, national expert to train the Division to better analyze data to identify illicit activity in addition to physical evidence found during on-site inspections.

b. Demographic Update and BioTrack Training Programs

CCD staff assistant Marquez gave demographic updates on the controlling persons of licenses. As stated, of the 2,916 total listed controlling persons, approximately 2,012 (70%) of the 2,892 people who self-identified their gender identified themselves as male, while about 851 (29%) identify as female and 29 (1%)





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identify as gender non-conforming or non-binary. Of the 2,916 total licensees, approximately 2,673 self-identified their race and ethnicity, with about 48.2% of controlling persons reporting having Hispanic, Latino, or other Spanish origin and about 51.8% reported having no Latino, Hispanic, or other Spanish origins. Of these, 1,970 (73.7%) identified as white; 119 (4.4%) as Black or African American; 91 (3.4%) as Asian, Asian-American, or Pacific Islander; 81 (3.1%) as American Indian or Alaska Native; 163 (6.1%) as mixed; and 249 (9.3%) as another race.

Lastly, the committee was given CCD announcements of BioTrack webinars, as mentioned previously and the CCD Rapid Hire Event in Santa Fe to increase CCD staffing.

Member Jenison then inquired about whether New Mexico is seeing any trends showing a decrease of medical sales since recreational legalization, to which Ms. Marquez responded that the sales data being tracked are available for the public to view on the CCD website on the C.R.O.P. page. Counselors Graham, Sachs, and Superintendent Trujillo expanded this by stating that, unlike other states, New Mexico medical cannabis sales have not decreased since legalization, but rather recreational sales have increased.

Member Williams then asked if there is any difference in medical versus recreational product testing requirements, to which it was answered that there is no difference. Designated Member Eric Speegle then elaborated that medical products can have different dosing compared to recreational products, which is an example of an incentive for medical patients versus recreational customers. Member Larragoite then asked if New Mexico allows reciprocity for medical patients, to which it was answered that, yes, New Mexico allows and welcomes patients from other states to purchase cannabis products while within the state, but the products cannot be transported across state lines by any means, and there are no approved licenses that are operating out of state that can legally transport products to New Mexico cannabis businesses.

Chair Moore then inquired about whether cannabis licenses can be included in a business sale (i.e., if a cannabis business is sold to another company), to which Counselor Graham confirmed that, no, a cannabis license cannot be sold. If there is to be a change of controlling person or new business owner, the purchaser must apply for a new cannabis license and the existing license becomes void. The only exception





being the death of a controlling person or if there is change of the percentage of control per controlling person. However, the change of a controlling person(s) processes is to be clarified by rule change soon. Member Larragoite then asked if there will be any legislation brought up in the short session next year that the committee should be aware of. Superintendent Trujillo responded with that she is not aware of anything being brought to session at this time but there are Representatives that have brought up specific issues that may addressed during the session, including asking for law enforcement to be included in the Regulation and Licensing Department to exclusively conduct initial investigations and pass information to other departments as needed.

VII. DISCUSSION ITEMS

A. Summary of Proposed Rule Changes

Counselor Sachs began by mentioning that the CCD is planning on issuing a notice on July 31, 2023, for a rule hearing in August 2023, for proposed rule changes to the licensing process. The first of the changes would be to require an initial inspection of any potential cannabis premise prior to licensure by a CCD compliance officer. The next change would be that the Division will be striking the rule that allows for provisional licenses to licensees before an official license is issued. The second rule that will be stricken will be the rule that allows for a petition for variance from licensees. Lastly, the CCD will propose that the Division will require licensees to complete a training course before the approval of cannabis licensing. Superintendent Trujillo expanded on the summary by explaining that the training courses will be covering things like the acquirement of a business license for business operations, certificate of occupancy for Construction Industries compliance, jurisdictional differences, etc.

Chair Moore began comments by stating her recommendation of there be a partnership between the different jurisdictions and the Division and that the committee members know the local rules within their local jurisdiction in order to be more resourceful to the Division on their part. Designated Member Speegle then commented that he agrees that the strike of variances will be beneficial for those in the industry who are complying with the regulations because it would deter noncompliant licensees from operating against local jurisdiction regulations because they were granted a special permission from the variance.





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Superintendent Trujillo then asked the committee their suggestions on what license type should be prioritized for inspections moving forward as the Division does not have the staffing at the moment to inspect as many facilities at one time. Member Speegle responded that the first priority would be retail facilities as they pose the highest risk to public health, and the least would be producers. Member Speegle also stated that if facilities start getting inspected before license approval it would help reduce initial potential violations during later inspections.

B. Nominations for Vice Chair

None recommended at this time.

VIII. COMMITTEE ACTION ITEMS

None.

IX. ADJOURNMENT

Approved by:

Debbi-Moore, Chair

9/29/2023

Date

