



RIANA DURRETT
3365 PEPPER LANE • SUITE 102 • LAS VEGAS, NEVADA • 89120
(702) 782-4180 • RIANA@NVDISPENSE.COM
WWW.NVDISPENSE.COM

Regulatory and Planning Services
Division of Public and Behavioral Health
4150 Technology Way Ste. 300
Carson City, NV 89706

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Dear Division Administrators,

Thank you for considering comments from stakeholders and medical marijuana establishment (“MME”) owners during the regulation change process. The NDA appreciates that Division administrators have allowed MME owners to provide feedback on proposed regulations. The NDA recognizes and appreciate that some of that feedback has been incorporated into the proposed regulations issued on December 16, 2015. The NDA continues to urge the Division to make the following changes to the proposed regulations:

- 1) Amend NAC to allow the Division to issue registry identification cards. The Division should issue registry identification cards rather than requiring patients to apply for a card at the Department of Motor Vehicles once the Division has approved the patient’s application. The Division should also make policy changes to reduce the current barriers and delays in the registry identification card process.

2) Under the proposed NAC 453A.370, section (j) requires a label of an edible or infused product to include the 10 milligram serving size. This limit does not apply to concentrates, but section (j) appears to apply to concentrates as currently written. The regulation should clarify that the 10 milligram serving size and the requirement to put the serving size on the package does not apply to concentrates, as there is currently no prescribed serving size.

3) NAC 453A.404 is unclear as to whether the written notification required to send usable marijuana to a production facility prior to quality assurance testing is necessary each time a batch is sent to production or whether each facility will only need to gain permission one time.

4) NDA requests that the proposed regulations set forth requirements for edibles and concentrates separately. For example, NAC 453A.414 requires a 10 milligram serving size, which only applies to edibles and infused products and NAC 453A.512 similarly limits serving size, which does not apply to concentrates because the State has not issued a serving size for concentrates.

5) Further, under NAC 453A.414(3)(a)(4), the proposed regulation imposes a vague requirement to inventory THC, but is unclear as to whether raw material must be included; whether batches being processed must be included; and with which method or formula the THC must be measured. Under the proposed regulation the raw material can be sent to a production facility prior to testing so the MME would not know the THC content of the material. The NDA requests that this section of the proposed regulation specify that each MME must inventory the THC levels of “finished and tested” products.

6) Under the proposed NAC 453A.404, an MME can send material for extraction prior to testing. Previously, an MME was required to send each 15-pound batch of

“trim” for testing. The NDA requests clarification as to whether the 15-pound requirement is still in place and whether trim can be comprised of different harvests and strains.

7) Under NAC 453A.414, the Division requires MMEs to connect to the seed to sale inventory program managed by the Division’s independent contractor. The NDA would like to provide feedback as to the seed to sale programs that have been most effective and efficient.

8) As previously requested, NDA urges the Division to allow cultivators to chose their own samples and deliver the samples to laboratories for testing to avoid potential cross-contamination.

The current delays in the patient card process are the most critical concern to the Nevada Dispensary Association because patients are unnecessarily waiting months to obtain medicine their physician recommended and the delays jeopardize the entire program. Even when the application is approved within 30 days, as required by NRS, the entire process entails additional steps, such as requesting an application and appearing at the DMV, which greatly lengthens the process. As such, the NDA has prepared a memorandum regarding this subject, which will be submitted at the same time as the instant comments. The NDA is aware that some of the requested changes are policy changes, rather than regulation changes, but the request that the Division issue registry identification cards would entail a regulation change.

Thank you for your time and attention to these comments and all the time and attention that is focused on the medical marijuana program.

Respectfully,
/s/ Riana Durrett, Esq.
Executive Director
Nevada Dispensary Association