

MEETING MINUTES

INDEPENDENT LABORATORY ADVISORY COMMITTEE

The Independent Laboratory Advisory Committee held a public meeting on May 6, 2019, beginning at 2:00 p.m. at the following locations:

VIDEO-CONFERENCE SITE:

Department of Taxation
1550 College Parkway, Large Conference Room
Carson City, Nevada

VIDEO-CONFERENCE SITE:

Department of Taxation
2550 Paseo Verde Parkway, Suite 180
Henderson, Nevada

1. Call to order; determination of quorum

ILAC Chairperson Brenda Shaloo called the meeting to order at 2:10pm.

Present: Brenda Shaloo, Craig Kowl, Duke Fu, Ed Alexander, Nick Malmquist

Teleconference: none

Absent: Cindy Orser, Darryl Johnson

2. Public Comment (No action may be taken on this item of the agenda.)

Mona Lisa Samuelson prepared a list of items medical marijuana patients need the ILAC to address. Samuelson was advised that medical marijuana patients are not allowed to serve on ILAC and that members should be representatives of marijuana establishments. In regards to the request to have a member come from Department of Agriculture and from the Department of Health and Human Services, she understood this was not viable. Samuelson felt that all cannabis industry scientists should be required to become members in good standing with the American Chemical Society and the American Society of Microbiology. All of the industry's scientists should be required to retain membership in full and non-scientists should be mandated to join. Every ILAC member, lab owner, cultivator, and production house owner who is responsible for making or using cannabis concentrates should be required to abide by the professional and ethical standards put forth by these scientific societies. Patients need scientists in the industry that they know can be trusted. Samuelson brought a list of eight items for ILAC members to review that are the most important to ensure that cannabis is safe. Medical marijuana patients want the ILAC to realize that they know the consumer safety of Nevada's cannabis and cannabis infused products can only be guaranteed if all lab methods used, and the validation of those methods, follow the standards put forth by the American Chemical Society, the American Society for Microbiology, and ISO 17025 as they are mandated to follow. Product currently being prepared is not safe for consumers. She will participate in future meetings.

3. New ILAC Members appointed.

Shaloo gave overview of newly appointed ILAC members. Shaloo and Alexander reappointed on the committee. Cindy Orser is a Ph.D. in plant pathology and chief scientific officer at Digipath. Nick Malmquist Ph.D. is a biochemist and director of research and production development at Silver State Trading. Craig Kowl is a bachelor of science in Earth Science, Environmental Studies and is refining operator of The Grove. Duke Fu is a doctor of pharmacy and board certified Nuclear Pharmacist; he is the CEO of Green Therapeutics. Darryl Johnson is a Ph.D. in Bioanalytical Chemistry and the scientific director at Ace Analytical.

Shaloo asked for approval of members. Unanimous approval.

4. Approval of March 25, 2019 meeting minutes

Shaloo asked if any errors, corrections, or additional comments were needed. There was none.

Shaloo made motion to approve the minutes. Unanimous approval.

5. Request to open nominations for two more ILAC positions

This agenda item was to discuss reopening nominations for ILAC positions. Shaloo stated there are currently seven positions filled. Per the bylaws, there is a minimum of seven members and there can be up to nine members. Shaloo commented that if there are nine members on the committee, it might be more difficult to have a quorum; however, if

there are only seven members then it is difficult to release any members if needed because the minimum seven members would be lost. Shaloo recommended a possible solution of amending the bylaws to have a minimum of five members on the committee.

Alexander asked how many applications were received at the last opening and if there was a pool to draw from for more members. Shaloo responded that she believed they would be starting from scratch. Ky Plaskon commented that there was interest from about twelve to fourteen people at the last request for nominees but thought that there was more interest now. A new notice would be sent out requesting nominations, receiving and forwarding for review. People could also reapply. Alexander would like to identify what the criteria is for ILAC membership; it seemed strange that medical marijuana patients are not eligible. He would like to see a more proportionate ratio of north to south representation, as their challenges can be different.

Shaloo asked the members if they would like to recommend adding new members and bring the committee to nine by asking the Division to open up the nominations. Malmquist asked if it was possible to do both, amend bylaws to require five and potentially add new members.

Shaloo made motion for by the working group that will be created to review the number of required members in the bylaws and request that the Division seek new nominations for ILAC members. Alexander wanted to clarify that Shaloo recommended amending the bylaws to a minimum of five members and seconded the motion. Unanimous approval.

Alexander asked if it was required to make the recommendation or was that an automatic amendment of the bylaws. Plaskon responded that ILAC can make the recommendation, but it would have to be put on the agenda and then voted on. Shaloo commented that an upcoming working group would be assigned in agenda item nine to review the bylaws. Alexander stated that the recommendation to review the bylaws should be done under a separate agenda item.

Shaloo amended recommendation to request that the Division open nominations for new members. Alexander seconded. Unanimous approval.

6. ILAC Proposed meeting schedule

Shaloo proposed June 10, August 5, and November 4 as the dates for ILAC meetings for the remainder of 2019. June 10 will be the first meeting where there will be discussion of the working groups that will be assigned under agenda item nine. After the June meeting, there will be quarterly meetings if that is agreed upon by the committee.

Alexander stated that in the past it was difficult to get members to participate during the summer months due to vacations and schedules. He asked that the members look into their calendars to determine their availability since it does not make sense to hold an ILAC meeting if the members cannot attend.

Shaloo stated that she might not be available for the June meeting, in which case Ed Alexander would need to conduct the meeting. She asked if anyone else had an issue with the June 10 meeting date. Shaloo made motion to approve meeting schedule as presented. Malmquist seconded. Unanimous approval.

7. ILAC Bylaws, Article VI

Plaskon read from the bylaws regarding qualifications regarding membership and terms. The Advisory Committee shall be composed of seven to nine members appointed by the Administrator from a list of persons provided by the Medical Marijuana Program which “ensure that the membership of the Advisory Committee is representative of the independent testing laboratories and other medical marijuana establishments in this State” in accordance with the provisions of NAC 453A.666. Those are terms of membership. If ILAC would like to adjust this, for example “Medical Marijuana Program” to “Department of Taxation” or “Marijuana Enforcement Division.” The committee can make the recommendation to change from seven to nine members to minimum of five members. It was noted that this article of the bylaws is Article IV and not Article VI.

Shaloo asked for discussion. Malmquist commented that the bylaws were prepared when Health was in charge of the program so there are many updates needed. Shaloo stated that this matter would be assigned in a working group under section nine of the agenda. Shaloo made motion to postpone the matter until working group presents recommended amendments to the bylaws. Malmquist seconded. Unanimous approval.

8. ILAC Bylaws, Article VII

Plaskon stated that Sarah Bradley from the Attorney General's office gave a presentation on Open Meeting Law. As a general requirement, it stated that to the extent a multimember group is appointed by a public body and given the task of making recommendations to that public body, that group is also a public body. So if a committee was created that had two members to talk about bylaws for example, that meeting would require public noticing. Appointing a single member of the committee to work with the Department or to conduct research on their own, there would be no meeting associated with there would be no public notice requirement. Those are the two options, to appoint people to work on a subcommittee and have public meetings, or assign one person to do research and come back with recommendation to the public body.

Alexander commented that he had seen a similar presentation regarding open meeting law and at that time, when ILAC was looking into an issue such as MRLs for pesticides, there would be an ongoing email forum amongst the ILAC members. Alexander started the email chain, and they could never do a "reply all" response, but it allowed for subject matter experts to provide input and insight into any given topic of discussion. The challenge was trying to get volunteers to do independent research outside of the public body. The reason why subject matter experts have been put together is so there can be an open dialog as the committee moved forward. He would like to see if it is still allowable for one ILAC member to send an email other members who can then respond independently. The originator of the email could then compile the responses and present findings. It would be helpful if this process were still allowable. If not, there will be many challenges ahead based on his experience with ILAC.

Plaskon stated that could potentially be considered a public meeting, to have the communication between members and decisions being made. Public meeting law changes. Shaloo asked if they would be able to send the notices to Plaskon who could then distribute them and have them reply to Plaskon. Plaskon responded that would work.

Shaloo asked how does open meeting law apply in regards to phone calls, and calling one member to ask a question (for example if they will attend the meeting, how are the working groups going, or a topic relevant to ILAC, etc.). Plaskon responded that he would need to ask the Deputy Attorney General for guidance on that question. Alexander commented that for local government for example, no two commissioners would attend the same event. If two ILAC members are seen in public together, does that violate open meeting law? Plaskon stated that it does not violate open meeting law to be together, but avoid talking about industry topics.

Malmquist asked for clarification in regards to the subcommittee, because there seems to be a difference between recommendations and disseminating facts. Plaskon responded that an ILAC sub-committee is subject to the open meeting law even if it is mere fact-finding because ILAC is not exempted by statute. This is the case when there is more than one ILAC member present.

Alexander commented that it seemed counter-intuitive that no subject matter experts can talk to each other outside of the meetings. Plaskon responded that the place to discuss the issues is at the public meetings.

Duke Fu asked for a delineation on what ILAC members could and could not do. Alexander stated that you couldn't talk to anyone else on the committee about anything that pertains to anything ILAC may or may not deal with, which is the primary focus of your day-to-day job in the marijuana industry. You cannot have any discussions as it relates to ongoing cannabis related topics with a fellow ILAC member or it violates open meeting law.

Shaloo added that you are not supposed to email other ILAC members. Emails and phone calls should be filtered thru Ky Plaskon. Plaskon will get clarification regarding communication by phone. Tasks will be assigned to one ILAC member, the member will need to find an expert or the Department, utilize non-ILAC members to gather facts, and then present facts to the committee at the next ILAC meeting.

Shaloo closed discussion.

9. Assignment of Tasks

The first item assigned was ILAC working with the Governor's Advisory Panel for creation of a Cannabis Compliance Board. Assigned to Ed Alexander. Alexander agreed and Plaskon will provide contact information to the Governor's office.

The second task assigned was to work with the Department of Taxation to determine what revisions, if any, should be made to the ILAC Bylaws. Assigned to Cindy Orser. This will be discussed with Orser later since she was not able to participate in the meeting.

The third task assigned is the determination of a proper system to track Department of Taxation's actions taken from ILAC recommendations. Assigned to Brenda Shaloo.

The fourth task is to work with the Department of Taxation to determine how the ILAC committee can work with the Department of Agriculture. Assigned to Nick Malmquist.

Alexander commented that based on his involvement with the Department of Agriculture, he does not think they are inclined to work with ILAC without any budgetary considerations. Since Department of Agriculture employees are not allowed to be members of ILAC, what are we trying to accomplish without being able to offer compensation? Shaloo stated her intention is to determine if it is a financial issue, and if so how can this be resolved? It may overlap with the Governor's advisory panel. Shaloo would like effort from ILAC to see if there is a way to work with the Department of Agriculture. If it is financing, then it will need to be made publicly known that is the issue.

Shaloo would like findings on all of these assignments at the next ILAC meeting on June 10.

Shaloo made motion to approve the tasks as assigned. Alexander seconded. Unanimous approval.

10. Public comment (no action may be taken on this item of the agenda)

Mona Lisa Samuelson would like to thank Ed Alexander for patient consideration. She would like the Bylaws amended to include as a member a medical marijuana patient advocate. She hoped that it would be her because she is the most adamant. Medical patients have the right to make RICO claim when it is such a terrible situation that they have. She remembered when ILAC was initially created to put forth a corporate agenda. The industry lobbyists know how to get regulatory scheme managed without problematic input. The patients were not considered. She hoped that the Cannabis Control Board includes financing to allow for interdepartmental cooperation. Patients are aware that there are professional and ethical codes that should be followed.

Ed Alexander recommended that ILAC and the State work together to create a list of the top one hundred items that need to be addressed. The way in which the current ILAC meetings are being run, there is not a lot of time for the members to get educated on a specific topics. If there were an annual agenda, there would be more time to gather information on specific topics. When ILAC was put together, there was not a corporate structure in mind. It was put together based on the fact that there was very little regulatory framework to guide the industry. He and the other founding members of ILAC dedicated themselves to making sure that there is the most prescriptive and restrictive regulatory language that exists anywhere, and the safest product for medical and recreational consumers. To infer that is not the case is inaccurate and undervalues the work the committee has done for the last four or five years.

Jason Strull from 374 Labs, in regards to open meeting law, stated as long as there is not a quorum, the working groups should be able to meet. If not, it will be very difficult to get anything done. He suggested looking into whether a group of members less than a quorum could meet.

11. Adjournment

Meeting adjourned at 2:50 pm.