GOVERNOR’S TASK FORCE
ON THE IMPLEMENTATION OF BALLOT QUESTION 2:
THE REGULATION AND TAXATION OF MARIJUANA ACT

MEETING MINUTES

Nevada State Capitol Building
Old Assembly Chambers
101 N. Carson Street
Carson City, NV 89701

Office of the Governor
Grant Sawyer Office Building
555 Washington Avenue, Ste. 5100
Las Vegas, NV 89101

Friday, March 31, 2017
10:00 a.m.

Members Present:
Deonne Contine, Chair
Chuck Callaway, Vice Chair
Jill Tolles, Assemblywoman
Nelson Araujo, Assemblyman
Dr. Joe Hardy, Senator
James Wright
Wes Henderson
Dagny Stapleton
Joe Pollock
Tom Robinson
Kevin Schiller
Michael Pawlak
John Ritter
Alec Garcia
Andrea Zeller
Cody Phinney present on behalf of Richard Whitley

Members Absent:
Dr. John DiMuro
Tick Segerblom, Senator
Richard Whitley
Lynn Hettrick

Madam Chair called the meeting to order at 10:04 a.m.

I. Public Comment.

Thomas Haynie of the Las Vegas Medical Marijuana Association stated that he has witnessed miraculous healing provided by the plant. There is a member of the Task Force that should recuse themselves from the panel. This person has benefitting from their enterprise and is part of the largest entity in the state. This business has a track record of not paying and tying things up in court. A person’s actions represent their character.
Senate Bill 374 was cleverly put together by Senator Segerblom. This bill does not state attorneys. This bill should be picked apart. This is nothing but corruption and collusion.

Jason Sturtsman, of Wellness Education Advocates of Nevada and Hope Productions, thanked the Task Force and the Department of Taxation for all of the hard work. Cannabis is medicine. People need multiple choices both recreationally and medically. Please consider the current medical regulations under NRS 453A. Please help the medical industry get up and running with recreational sales so we can add needed money to the education system. Please keep the regulations simple, which is always better than complicated. Thank you for your contributions to Nevada.

Vicki Higgins agreed with Jason Sturtsman’s comments. Simple is best. Streamlined is wonderful. Thank you.

Cole Azare, representing Joey Gilbert and the Mint Dispensary, hopes to see simple and efficient taxation and regulation which will not promote a black market industry. Thank you.

Sam McMullen, a representative for the Independent Alcohol Distributors of Nevada, stated that he testified yesterday with regard to the tax regulation. Mr. McMullen represents wholesale dealers of alcohol that are under the impression they would be the primary, and perhaps the only, distributors for marijuana. The voters’ intent is not being carried out by the regulation. The Department has already made an internal decision without regulation, without public hearing, and without standards being set in the public eye. We are of the opinion that there is enough interest from the alcohol distributors. There will be a maximum of approximately 160 licenses. There are 13 distributors that expressed interest. This is an average of 10 to 20 businesses per distributor. They know their business and do hundreds of locations per day. We are not sure what the analysis of sufficiency was, it sounds like it was just based on the numbers. Every law has to be implemented by regulation and public action, especially under 233B.038, which says law must be done publicly by regulation. My primary point is that we have reached out to the Department of Taxation and we testified yesterday. Before we do anything rash, we would like to work with the Department. We do not want to disrupt any of this work, we would like to follow the voters’ intent and we would like to do it in a way that follows the law. We have some ideas and we are meeting with the Department on Monday. Thank you.

II. Consideration for Approval of the March 3, 2017 Governor’s Task Force for the Regulation and Taxation of Marijuana Act Meeting Minutes.

Tom Robinson asked to amend Section II to add Tom Robinson and Dagny Stapleton in the introductions.

Chuck Callaway made a motion to approve the Minutes of the March 3, 2017 Task Force, as amended. Wes Henderson seconds. All in favor. Motion carries.

III. Introductions.

Madam Chair announced that Cody Phinney is present on behalf of Director Whitley, Senator Segerblom is doing legislative business, Mr. Hettrick was not able to make today’s meeting, and Dr. DiMuro was called out of town.
IV. Review and Consideration of Approval of Draft Recommendations from the Working Groups.

A. Production / Manufacturing

Tom Robinson presented the Production/Manufacturing recommendation for Co-Location to the Task Force. This recommendation was drafted by Jacob Ward, Jennifer Lazovich and Alex Woodley. The recommendation is to allow the co-existence of marijuana production, cultivation, dispensary and distribution establishments within the same facility. This recommendation also allows the co-existence of medical and recreational marijuana establishments within the same facility.

Tom Robinson stated that discussion within the working group was to provide more control to the local jurisdictions.

Chuck Callaway asked if laboratories are intentionally excluded from this recommendation.

Tom Robinson stated that it was the working group’s intent to exclude laboratories.

Chuck Callaway referred to Page 2, Number 8 and Senate Bill 329. Mr. Callaway asked if local jurisdictions would have the power to allow dispensaries in residential areas.

Senator Hardy asked if distance from schools is included in this recommendation.

Alec Garcia mentioned that Question 2 addresses distance requirements which are similar to the rules for medical marijuana establishments.

Senator Hardy made a motion to approve the recommendation. Chuck Callaway seconds the motion with the exception of striking commercial and industrial zones, and to strike medical in Section 8.1. Senator Hardy agreed to include Chuck Callaway’s recommendation in his motion. All in favor. Motion carries.

B. Cultivation

John Ritter presented the recommendation regarding regulatory organizational structure. Mr. Ritter stated that the point of this recommendation is to use the existing recommendations for the medical marijuana program as a foundation for the regulations for the recreational program and to adapt it as needed based on Initiative Petition 1 and NRS 453D.

Alec Garcia stated current medical regulations regulate everything from inventory, testing, transportation, licenses, as well as the testing requirements.

Senator Hardy made a motion to approve the recommendation.

John Ritter stated that this recommendation is being considered by other working groups. There has been discussion regarding analyzing NRS 453A, NAC 453A and other laws and statutes to be sure the changes are appropriate based on Initiative Petition 1.

Cody Phinney commented that the purpose and basis of the measure is to ensure that the products are safe for human consumption, and for the public to know what they are consuming.
Chuck Callaway mentioned that he worked with Senator Segerblom on NRS 453 for the dispensaries, and attended all of the regulatory meetings for medical marijuana. The recommendation is to use this as a basic foundation.

Assemblywoman Tolles mentioned that the recommendation recognizes both medical and recreational programs. Assemblywoman Tolles suggested not striking medical, and keeping both medical and recreational. There may be a purpose to differentiate as we move forward.

Senator Hardy understands there will be two statutes and two administrative codes, one for medical and one for recreational. The recreational would be adapted as the regulatory structure for both.

John Ritter stated the existing program will be strengthened through this process.

Chuck Callaway made a motion to change the language in Number 3 to recommend NRS 453A and NAC 453A be used as the regulatory foundation for both the medical and recreational marijuana programs, and that the programs be administered by the Department of Taxation.

Senator Hardy withdrew his initial motion and seconds Mr. Callaway’s motion. All in favor. Motion carries.

C. Law Enforcement

Jim Wright stated that the law enforcement working group has two draft recommendations to present today, one is regarding driving under the influence of drugs and the second is regarding statutory change for persons under 21 years of age.

Adam Page, Captain with the Department of Public Safety - Nevada Highway Patrol, presented the law enforcement working group recommendations regarding driving under the influence of drugs. At this present time, we feel that the law enforcement community is adequately prepared to enforce the laws as it pertains to driving under the influence of marijuana. However, we submit the following recommendations to improve measures through public safety, training, review of data collection and review of scientific findings.

Alec Garcia asked about data collection through drug screening for forensic testing.

Adam Page stated there is a gap with that specific data source. Currently, if there is a suspicion that a person is under the influence of both drugs and alcohol, the laboratories first test the blood for alcohol, if the person tests positive for alcohol, they do not test for drugs. We do not currently have an accurate number of how many people are driving under the influence of marijuana at this time.

John Ritter asked what the current limits are in terms of marijuana and how it is determined.

Adam Page stated officers are currently trained statewide in Advanced Roadside Impairment Driving Enforcement training. Roadside sobriety testing is used to detect both alcohol and drugs. Per se limits are also used.

Senator Hardy suggested Assembly Bill 135 will be looking at defining under the influence. Senator Hardy left attendance at the meeting at 10:56 a.m.
Tom Robinson stated his agency is not adequately prepared to enforce marijuana laws. This seems to have a financial component.

Adam Page stated the Department of Traffic Health of Safety has started a campaign for driving under the influence of marijuana. There will not be a huge cost to law enforcement agencies, although there will be training costs. Improved data collection will incur the most expense.

Chuck Callaway stated the law enforcement working group will be bringing other recommendations forward in the future that may help to clear issues regarding data collection and revenue.

Dagny Stapleton suggested that the final report to the Governor mention the associated costs.

Tom Robinson asked to amend the recommendation to include a statement asking that the Governor develop funding to support sections A., B., C. and D of the recommendation.

Madam Chair mentioned the intent of the Task Force is to have a discussion and create a guiding document that includes the issues that have been reviewed and the possible consequences of legalization.

Wes Henderson suggested that the Governor's report include information pertaining to costs.

John Ritter motioned to approve the recommendation regarding DUID. Wes Henderson seconds. Tom Robinson voted - No. Motion carries by majority.

Adam Page, Captain – Nevada Highway Patrol, presented the law enforcement working group recommendation regarding statutory change for persons under 21 years of age. NRS 453.411 currently states the penalty for being under the influence of marijuana is a Class E felony. The working group is recommending the addition of a subsection to NRS 453.411 changing the penalty to a misdemeanor.

John Ritter commended the law enforcement working group for the work they have done.

Andrea Zeller asked if it will always be a misdemeanor for minors, or if it goes up with multiple offenses.

Chuck Callaway answered that it would be a misdemeanor for multiple offenses, similar to the laws for a minor in consumption of alcohol.

Tom Robinson moved to approve the recommendation. Chuck Callaway seconds. All in favor. Motion carries.

Madam Chair stated she will discuss legislative changes needed with the Governor's office.

Adam Page stated there will be one future recommendation needing legislative change.

Jim Wright suggested that Assemblyman Araujo assist with guidance needed regarding legislative change.
D. Labs

A recommendation was not presented from the laboratory working group.

E. Transportation / Storage / Disposal

Shellie Hughes, Kurt Brown and Tim Conder drafted the Transportation, Storage and Disposal working group recommendation with regard to commercial transportation and storage. Shellie Hughes and Tom Robinson presented the recommendation to the Task Force.

John Ritter suggested amending the recommendation to include a licensed distributing warehouse in the event of a dual license holder. The premises holding the original medical marijuana establishment license would then become the licensed distributing warehouse.

Tom Robinson stated the recommendation is for distribution and transportation, not for warehousing.

Joe Pollock suggested changing the wording to any vehicle transporting marijuana or marijuana products must only travel between licensed establishments. Mr. Pollock suggested striking “distributing warehouse”.

Chuck Callaway suggested there be a limit on weight restrictions for security reasons. Mr. Callaway asked how law enforcement verifies the legitimacy of transport vehicles.

Joe Pollock stated agent cards can be verified, but not the vehicles.

Alec Garcia stated a trip plan is currently submitted to the Sparks Police Department.

Shellie Hughes mentioned that Number 11 of the recommendation states the Department will issue an identification card for each vehicle included on the distributor license and the card is to be kept in the vehicle at all times.

John Ritter questioned if a trip manifest would be needed if product from a cultivation facility is walked down the hall to a production facility and would it need to be loaded in a vehicle.

The recommendation for commercial transportation and storage was returned to the working group for further review.

Joe Pollock presented the transportation, storage and disposal working group recommendation with regard to storage requirements. This recommendation is focused on transport and storage by a licensed distributor.

John Ritter commented that marijuana facilities go to great lengths to store products properly, at the right temperature, humidity level and in the right containers. There is concern that independent distributors be required to have procedures that are similar to the way we store product. If the product is handled incorrectly, the product can lose its value. Liquor distributors are talking about establishments giving them the product, they put it in their warehouse and establishments would not have any control over the product. The liquor distributors would not buy the product. Upon delivery, the distributor would collect the money and we would hope they would pay us. We feel like the liquor distributors are seeking a monopoly. We also believe that the liquor distributors are seeking to do a
business that violates their federal liquor license. We have no control in their process of
delivery and storage of our delicate product. In a dual license situation, where a marijuana
establishment is the distributor, the recommendation for storage for not more than 3 days
without written consent from the Department is problematic. In a cultivation facility, we have
harvest happening regularly, the harvest has to be dried, tested, cured, and this takes
weeks. Mr. Ritter mentioned possible issues regarding felony criminal history, which he
believes to be addressed by agent registration cards which include FBI fingerprinting and
background checks.

Tom Robinson stated the working group thought that temperature control and the purchase
of product by a distributor would be best regulated in a contract between a marijuana
establishment and a distributor. Question 2 addresses monopolies. Mr. Robinson stated he
could not address issues regarding liquor distributors violating federal laws. The working
group created process controls by requiring the logging of products by distributors. The
recommendation is specific to licensed distributors.

Madam Chair read a portion of 453D.300.1 which states marijuana establishments shall
determine the criminal history of any person before they work or volunteer at a marijuana
establishment.

Madam Chair suggested the recommendation possibly say “not more than one business
day” and to take the weekend into account.

John Ritter agreed with Madam Chair’s suggestion.

Madam Chair asked if the working group considered not including storage in this
recommendation.

Mr. Robinson stated that a lot of the group’s discussion was centered on the exclusive
distributor certificate holding entity. We also contemplated companies that do nothing but
transport marijuana.

Joe Pollock stated the intent of the working group was to allow the marijuana establishments
to work with and negotiate with distributors.

Assemblyman Araujo returned to the meeting at 12:12 p.m.

The recommendation regarding storage requirements was returned to the working group for
further review.

F. Taxation / Revenue / Regulatory Structure

John Ritter reviewed the Taxation/Revenue/Regulatory working group recommendation to
avoid having to track medical inventory separately from recreational inventory. The industry
and the working group support the concept of applying the same 15% wholesale excise tax
that is in Initiative Petition 1 to the medical program, in lieu of the current 3 tier system (2% at
cultivation, 2% at production and 2% at the dispensary). Essentially, this 15% excise tax
would replace the three tier system. All products would be the same until it reaches the
point of retail sale, with a few exceptions. Other states that do not have a single tax system
have to track medical inventory separately from recreational inventory. It is the same
product, created at the same time. There will be different limits on THC levels in edibles and
other products on the recreational side. At the retail level a medical patient with a medical
card must be at least 18 years old. Recreational buyers must be at least 21 years old.
Joe Pollock stated the biggest benefit to this recommendation is that it will streamline the regulatory side. This will require an NRS change. One thing that will need to be addressed is the distribution of the excise tax. Currently in medical, 25% go to the school account, 25% to the program. We would need to reconcile the distribution of the excise tax.

Jill Tolles returned to the meeting at 12:20 p.m.

Chuck Callaway stated that the common theme from medical patients is that this is a medicine and medical patients need specific products and strains. This recommendation sounds like it goes against the grain of the message.

Joe Pollock stated Nevada has chosen to hold our medical program at the highest standards and we have chosen to hold our recreational program at the same standards. As for patients getting the strain or product they need, this could allow more flexibility for patients. If the medical side is out of a product, the medical patient could buy it from the recreational side, but the recreational tax would apply.

Tom Robinson made a motion to approve the recommendation. Wes Henderson seconds. All in favor. Motion carries.

G. Retail

A recommendation was not presented from the retail working group.

H. Consumer Safety / Education / Health

A recommendation was not presented from the consumer safety/education/health working group.

V. Public Comment.

Mona Lisa Samuelson, Medical Marijuana Patient Advocate, stated medical patients consider marijuana medicine, but all products are of the same constituents. It doesn’t make sense to have two arms of government working on this and then it comes to us at the cash register. We are fine tuning medical patients’ needs and we are excited to have recreational marijuana because we not breaking the back of our industry. We do not have a medical marijuana program until we allow for the sale of live plants and seeds. We require fresh whole plants and we need to grow them at home. Law enforcement has done a great job working with the medical marijuana patients, but DUID per se limits need to be looked at.

Vicki Higgins thanked the Task Force for keeping patients in their minds when creating this program. The DUID impairment levels are very high. Documented reasonable suspicion of impairment should be added. We need to evaluate tests for a disabled person. As a patient, I could not stand on one foot with my head back. It is unfair to go straight to blood.

Cindy Brown agreed with Ms. Higgins’ comments. Ms. Brown stated that she could not stand on one foot. Thank you for considering live plant matter, it is very important.

Alan Nassau, of Red Rock Wines and a member of the Independent Alcohol Distributors of Nevada, would like to rebut the erroneous comments that Mr. Ritter made today. Mr. Ritter made comments asserting that the alcohol distributors are not ready to handle the transportation and storage of marijuana products. We are aware that certain products
require certain requirements. We are familiar with transporting fine wines that also have special requirements, some of which cost $7,000. We store wines in air conditioned warehouses and they are delivered in refrigerated trucks. Equipping our vehicles and marijuana warehouses with proper humidity and refrigeration controls to accommodate all types of cannabis products will not be a problem. We welcome any potential customers to examine our facilities. It is not true that we want to buy their products and build a retail establishment. We do not want this responsibility. We are not trying to build a monopoly, it is quite the opposite. Opening this up is going against what the voters voted on.

An unknown caller asked that small business owners be allowed to participate in a fair manner. He isn’t hearing anything to support small businesses that are going to be involved in the program. Cannabis use in businesses has not been addressed.

Bob Summers is concerned with businesses that have cultivation and production on the same APN, and asked if we would need to pay a distributor to move product down the hall.

Assemblywoman Tolles commented that she had stepped out during the discussion regarding breaking out medical and recreational marijuana as opposed to simply striking out medical marijuana, specifically related to the recommendation of co-location, which is being addressed in Senate Bill 329. Before we moved on this recommendation, there was an agreement to cross out medical marijuana. After the recommendation moved, Assemblywoman Tolles asked to consider leaving both medical and recreational in Chapter 453.

Madam Chair commented Senate Bill 329 would only apply to the medical. The recommendation is trying to duplicate this language and use it for recreational. Madam Chair confirmed that we want this recommendation to state both recreational and medical.

VI. Adjourned at 12:48 p.m.