



**Marijuana Control Board
Meeting Minutes
December 19, 2017
Telephonic Meeting**

● **ADMINISTRATION**

11:03am

A. Call to Order

B. Roll Call

Board Members Present:

Peter Mlynarik, Chair, Public Safety Member
Mark Springer, Vice Chair, Rural Member
Brandon Emmett, Industry Member
Nick Miller, Industry Member
Loren Jones, Public Health Member

Staff Members Present:

Erika McConnell, Director
Sarah Oates, Program Coordinator
James Hoelscher, Enforcement Supervisor
Jedediah Smith, Local Government Specialist

Legal Counsel Present:

Harriet Milks, Assistant Attorney General

Marijuana Testing Facility Licensees Present:

Jonathan Rupp, CannTest
Brian Coyle, Steep Hill

● **TESTING RESULTS**

11:05am

Erika McConnell informs the Board that the staff sent two samples to both testing facilities. The first strain was Eskimo Bubblegum, which passed for microbials but the THC potency results from the two testing facilities were substantially different. The second strain was Paradise Nebula, which failed for two species of Aspergillus at both testing facilities. She informs the Board that an administrative hold has been placed on the batch of Paradise Nebula.

Mark Springer joins the meeting at 11:06am.

James Hoelscher informs the Board that the investigators purchased the samples from two different retail stores, had the retail stores grind the marijuana flower at the store, and then divide them equally by weight into two separate bags.

Erika McConnell informs the Board that she has reached out to the DEC environmental health lab, as well as both licensed marijuana testing facilities, and all parties have agreed to an audit of the marijuana testing facilities by the DEC environmental health lab.

Brandon Emmett states that he would like to hear from each testing facility to see if they have ideas as to why there are discrepancies in testing results.

Jonathan Rupp, CannTest, states that he believes the issue may be with the ways in which things are reported.

Brian Coyle, Steep Hill, states that he agrees with the suggestion that there be standardization for reporting. He adds that both facilities now report for the dry weight of the sample.

Erika McConnell informs the Board that both of the samples were taken from batches that had originally been tested by CannTest.

Brandon Emmett states that one of the first issues for the testing working group would be to determine standardized reporting procedures for the testing facilities.

James Hoelscher and Erika McConnell ask for clarification regarding how moisture content is determined and what it means.

Jonathan Rupp clarifies that the moisture content reported is equal to the amount of moisture that is lost during the drying process by the testing facility.

Peter Mlynarik states that he knows that there is a testing committee, but the Board needs to determine what it should do now to address this issue.

Brandon Emmett states that he does not believe that the idea of closing businesses should be on the table, but that the Board needs to be assured that there is consistency in testing and that product manufacturers are homogenizing the THC in their products. He suggests that the best thing would be for the Board to put out a notice to the public that there may be some variance in the THC reporting between the testing facilities, and that the State is working on a solution to more-closely define how these facilities operate.

James Hoelscher informs the Board that both testing facilities have passed the Emerald testing for proficiency. He adds that he believes the Board needs to focus on the methodology of sample preparation before it gets to the machine.

Brandon Emmett states that he believes the staff and committee could quickly come up with some standardized methods for sample preparation and reporting. He adds that there needs to be discussion about what's reported on the labels, like a range or maximum potential of THC.

Peter Mlynarik states that 3 AAC 306.645(b)(1)(B)(iii) already lists a very clear range of acceptable test results for potency.

Brandon Emmett states that something else that should be assessed is how the THC is being supplied for marijuana products (eg: through butter or concentrate).

Mark Springer states that the Board may want to reopen the labeling regulations, as it may be helpful to the consumer to know exactly what the THC ingredient is, as well as the tested THC content of the concentrate or THC ingredient that is included in the product.

Brandon Emmett states that there has not been an uptick in the number of reported overdoses of THC from consumption of marijuana products.

Nick Miller asked if the muffins that were sent to the testing facilities were just cut in half, or if they were also mixed before sending to the testing facilities.

Erika McConnell stated that the muffins were just cut in half and sent to the testing facilities.

Nick Miller requests that the edible tests be redone with sample preparation by enforcement done consistent with how the marijuana flower was prepared before being sent to the testing facilities.

Peter Mlynarik states that at the very least, he feels like there should be some public notice that there is inconsistency in testing results.

Harriet Milks suggests that if the Board is contemplating putting out a public notice, that it consider coming up with an outline that accurately reflects what the Board wishes to have in the notice.

*Peter Mlynarik asks if there is any interest of the Board to put out a notice.
No other Board members voice interest.*

Brandon Emmett states that he would like to discuss the advisory notice that was sent out to the cultivation and testing facilities regarding testing and harvest batches. He states that the Board needs to look at amending the interpretation or amending the regulation.

Nick Miller states that he thought that each five-pound batch had to be tested.

James Hoelscher states that if harvesting was performed on different days, then each day would have a different harvest batch.

Brandon Emmett moves to adopt Chief's Hoelscher's interpretation in the interim until such time that the testing work group can bring forward recommendations to this Board on this issue.

Mark Springer seconds the motion.

Motion carries unanimously.

Nick Miller asks if the director is not allowing for marijuana that has failed for Aspergillus to be sold to manufacturers now.

Erika McConnell states that she has been finding information that solvent-based extraction does not kill Aspergillus, and that the inhalation and ingestion of Aspergillus can cause a number of medical conditions, particularly in people who are immunocompromised. She says that she is trying to do

additional research on the matter, but until she feels comfortable that concentrate that contains Aspergillus is not a health hazard, she will not be approving this. She adds that this is a matter that she plans to bring to the Board at its next meeting. Concentrate is not tested for microbials.

Brandon Emmett states that the director is correct in that hydrocarbon extraction does not kill Aspergillus species or its spores. However, in the "Journal of Applied Microbiology" by Gabler et al, 2004, they determined that the Aspergillus species and its spores are destroyed by ethanol in conjunction with heat. Furthermore, they can be filtered out through a low-micron or submicron filtration process.

Nick Miller asks if they could reach out to the product manufacturers and ask them what process they have to remove (Aspergillus).

Erika McConnell recommends that the Board consider a regulations project to address this. She adds that she will reach out to the manufacturing facilities to find out whether they filter and what sort of heating process they use, and that she does not feel like she can require microbial testing on concentrate when that's not required by the regulations.

Brian Coyle states that one way to deal with the flower issue is to increase the sample size. He adds that some states require a sample size of 0.5% of the total harvest batch, which gives the testing facility a more-representative sample of the harvest batch.

● **ADJOURN**

12:34pm

*Brandon Emmett moves to adjourn.
Mark Springer seconds the motion.
None opposed, motion carries.*

Minutes prepared by:



Sarah D. Oates
Program Coordinator