U.S. Hemp Roundtable

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State of Nevada
Legal Division
Legislative Counsel Bureau
401 S. Carson St.
Carson City, Nevada 89701

Via Email: Regulations@lcb.state.nv.us

RE: Comments on Proposed Regulation – LCB File No. R034-20

The U.S. Hemp Roundtable appreciates the opportunity to comment on the Nevada Department of Health and Human Services ("DHHS") Proposed Regulation LCB File No. R0-34-20 concerning the testing, labeling, and related requirements for the sale of hemp or cannabidiol ("CBD") products intended for human consumption ("the Proposed Regulation"). The Roundtable is the industry's leading national business advocacy organization that represents over 80 firms from across the country – at each link of the hemp supply and sales chain – and includes the ex officio membership of the industry's major grassroots organizations.

The Roundtable applauds DHHS's efforts to establish requirements for the sale of hemp and CBD products in Nevada. We offer the following comments and recommended revisions to the Proposed Regulation that we believe will provide clarity and promote compliance within the industry, as well as uniformity and consistency with applicable federal requirements.

• Section 3.

- o "CBD" is defined by reference to NRS 453.033 of Nevada's Uniform Controlled Substances Act, which defines "CBD" as "cannabidiol, which is a primary phytocannabinoid compound found in marijuana." We request the deletion of this definition, or the modification suggested below to clarify that CBD that meets definition of "hemp" is not a controlled substance subject to Chapter 435.
 - "CBD" means a cannabinoid derived from "hemp" as defined under NRS 557.160, except that CBD derived from marijuana has the meaning ascribed to it in NRS 453.033.

Section 4.

We recommend the following modification to the definition of "Hemp or CBD product" as products "intended for human consumption" may be understood to apply to products intended for ingestion only. In addition, the definition should be expanded to allow hemp or CBD products intended for pets. "Hemp or CBD product" means a commodity or product, other than marijuana, containing hemp or CBD which is intended for human or animal consumption or topical use. "Animal" does not include livestock raised for commercial purposes or food animals.

• Section 5, 1.

- We request the following modification, as the language includes a vague, broad reference to "federal law or regulation." Federal laws and regulations concerning hemp and CBD products are currently in a state of flux, and the language will create confusion within the industry as to which hemp and CBD products are permitted for sale in Nevada. We recommend the Proposed Regulation clearly point to compliance with Nevada laws and regulations concerning hemp and CBD products as a prerequisite to the legal sale of such products, with appropriate references to specific federal regulations or laws where necessary. For example, Section 5.1.(b) and (c) appropriately require products to be manufactured and labeled in accordance with the applicable provisions of Title 21 of the Code of Federal Regulations, and chapters 446 and 585 of NRS.
 - 1. Unless federal law or regulation otherwise requires, a A person shall not sell or offer to sell a hemp or CBD product in this State or sell or offer for sale a hemp or CBD product that is manufactured in this State unless the hemp or CBD product...

• Section 6, 1.

- We recommend the following modification to allow companies to use independent, accredited labs without requiring such labs be approved by the state of Nevada. Many states allow the use of independent, accredited labs to perform testing for hemp products without requiring the use of state-approved labs only. Mandating the use of state-approved labs will also force companies to expend additional time, burden, and expense on duplicative testing.
 - 1. A hemp or CBD product that is manufactured, sold or offered for sale in this State must be tested by an independent testing laboratory certified by the Department of Taxation pursuant to NRS 453A.368 or the Cannabis Compliance Board pursuant to NRS 678B.290 in the same manner as an equivalent marijuana product is required by the regulations adopted pursuant to NRS 453A.368 or 678B.290 to be tested, or an independent testing laboratory that does not have a direct or indirect interest in a facility that cultivates, processes, distributes, dispenses, or sells hemp, hemp products, CBD products, and is accredited by a third-party accrediting body as a competent testing laboratory pursuant to ISO/IEC 17025 of the International Organization for Standardization.
- Section 6, 2. We recommend deletion or substantial revisions to this subsection. We are not aware of any other state that imposes homogeneity testing requirements for hemp-derived products. Concerns regarding THC can be addressed through standard potency testing as provided for in Section 6.1.(a) of the Proposed Regulation, rather than imposing additional testing that does not reflect industry-wide practices that uniformly and effectively ensure hemp-derived products do not exceed state and federal limits for THC.
 - Alternatively we recommend DHHS clarify that standard potency tests for THC (performed by an independent, accredited laboratory) would satisfy the requirements of this subsection.
 - Except as otherwise provided in this section, the homogeneity of the THC content of a hemp or CBD product must be verified by testing multiple samples from a single

production run. If the THC content of a production run of a hemp or CBD product has been verified by an independent testing laboratory pursuant to this section and the recipe of the product has not been changed, the homogeneity of the THC content of an additional production run of the product may be verified by testing a single unit or serving from the production run.

• Section 7, 2.

- We request the following modification to allow additional time for manufacturers or third parties to notify the Division of testing results.
 - 2....The manufacturer or third party, whichever performs the test, shall notify the
 Division of the results of the testing not later than 24 48 hours after the completion of the
 testing.

In closing, we appreciate the opportunity to comment on the Proposed Regulation and respectfully urge DHHS to modify the Regulation as described above, as we believe these changes will provide much needed clarity and further encourage compliance within the hemp and CBD industry.

Thank you for your consideration.

Sincerely,

Jonathan Miller General Counsel

U.S. Hemp Roundtable

2020 U.S. HEMP ROUNDTABLE

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