

1 **BEFORE THE CANNABIS COMPLIANCE BOARD**  
2 **STATE OF NEVADA**

3 STATE OF NEVADA, CANNABIS  
4 COMPLIANCE BOARD,

Case No. 2020-006

5 Petitioner,

6 vs.

7 NEVADA WELLNESS CENTER, LLC,

8 Respondent.  
9

10 **COMPLAINT FOR DISCIPLINARY ACTION**

11 The Cannabis Compliance Board of the State of Nevada (the "CCB"), by and through  
12 counsel, Aaron D. Ford, Attorney General of the State of Nevada, L. Kristopher Rath, Esq.,  
13 Senior Deputy Attorney General, and Ashley A. Balducci, Esq., Senior Deputy Attorney  
14 General, having a reasonable basis to believe that RESPONDENT NEVADA WELLNESS  
15 CENTER, LLC ("Nevada Wellness" or "Respondent") has violated provisions of Chapters  
16 453A and 453D of the Nevada Revised Statutes ("NRS") and Chapters 453A and 453D of  
17 the Nevada Administrative Code ("NAC"), hereby issues its Complaint, stating the CCB's  
18 charges and allegations as follows:  
19

20 **JURISDICTION**

21 1. During all relevant times mentioned in this Complaint, Nevada Wellness  
22 held, and currently holds, the following certificates and licenses:

| 23 ID    | License/Certificate                             | Last Issued /<br>Renewed | Address  |
|----------|---|--------------------------|--|
| 24 RD009 | 93968461789695028039<br>Recreational Dispensary | 07/01/20                 | 3200 S. Valley View Blvd, Las<br>Vegas, NV 89102 |
| 26 D009  | 30064186279328795105<br>Medical Dispensary      | 07/01/20                 | 3200 S. Valley View Blvd, Las<br>Vegas, NV 89102 |

27 2. During all relevant times mentioned in this Complaint, Nevada Wellness is  
28 and was registered as a domestic limited-liability company in the State of Nevada. Frank

1 Hawkins and Andre Rhodes are the managing members of Nevada Wellness. Frank  
2 Hawkins is currently the Point of Contact for Nevada Wellness and has been since  
3 September of 2015.

4 3. The ListServ is an online platform that allows the Marijuana Enforcement  
5 Division of the Department of Taxation (the "Department") and now the CCB to transmit  
6 notifications and other communications to the cannabis industry and the public.

7 4. Frank Hawkins is and has been subscribed to the dispensary and all  
8 establishments ListServ lists since August 2, 2019 to receive the notifications and  
9 communications transmitted by the Department and now the CCB.

10 5. Laws 2019, c. 595, § 240, eff. July 1, 2020, states, in pertinent part, as follows:

11 1. The administrative regulations adopted by the Department of Taxation  
12 pursuant to chapters 453A and 453D of NRS governing the licensing and  
13 regulation of marijuana establishments and medical marijuana  
14 establishments remain in force and are hereby transferred to become the  
15 administrative regulations of the Cannabis Compliance Board on July 1, 2020.  
16 On and after July 1, 2020, these regulations must be interpreted in a manner  
17 so that all references to the Department of Taxation and its constituent parts  
18 are read and interpreted as being references to the Cannabis Compliance  
19 Board and its constituent parts, regardless of whether those references have  
20 been conformed pursuant to section 244 of this act at the time of  
21 interpretation...

22 3. Any action taken by the Department of Taxation or its constituent parts  
23 pursuant to chapter 453A and 453D of NRS governing the licensing and  
24 regulation of marijuana establishments and medical marijuana  
25 establishments before July 1, 2020, remains in effect as if taken by the  
26 Cannabis Compliance Board or its constituent parts on and after July 1, 2020.

27 6. Effective July 1, 2020 and pursuant to NRS 678A.350, the CCB superseded  
28 the Department in enforcing Nevada's laws and regulations for the cannabis industry.

7. This administrative action was originally commenced on March 23, 2020,  
when the Department served a complaint on Nevada Wellness via a civil penalty letter of  
that same date. As set forth in Paragraphs 5 and 6, above, as of July 1, 2020, jurisdiction  
of this matter transferred from the Department to CCB and this matter must therefore be

1 adjudicated under CCB. Hence, this Complaint is now filed under CCB<sup>1</sup>. The charges  
2 remain the same as in the original complaint. This CCB Complaint is filed to conform to  
3 the jurisdictional and other requirements under Title 56 of NRS (NRS 678A through 678D).

4 8. As set forth below, the events at issue in this CCB Complaint occurred prior  
5 to July 1, 2020, when Nevada Wellness was licensed pursuant to NRS Chapters 453A and  
6 453D and NAC Chapters 453A and 453D. Therefore, Nevada Wellness is subject to the  
7 jurisdiction of the CCB and subject to discipline pursuant to NRS 678A through 678D and  
8 the relevant provisions of NRS Chapters 453A and 453D and NAC 453A and 453D.  
9 Violations are referenced herein to the statutes and regulations in effect at the time each  
10 said violation occurred.

11 9. Pursuant to NRS 678A.500 and 678A.510(1), the CCB's Executive Director  
12 has transmitted the details of the suspected violations of Nevada Wellness to the Attorney  
13 General and the Attorney General has conducted an investigation of the suspected  
14 violations to determine whether they warrant proceedings for disciplinary action. The  
15 Attorney General has recommended to the Executive Director that further proceedings are  
16 warranted, as set forth in this CCB Complaint. The Executive Director has transmitted  
17 this recommendation and information to the CCB. Pursuant to NRS 678A.510(2)(b), the  
18 CCB has voted to authorize service of this CCB Complaint upon Respondent pursuant to  
19 NRS 678A.510(1) to proceed with appropriate disciplinary action under NRS 678A.520  
20 through 678A.600.

### 21 **FACTUAL ALLEGATIONS**

22 10. CCB incorporates all prior Paragraphs as though fully set forth herein.

23 11. On March 12, 2020, Nevada Governor Steve Sisolak issued a Declaration of  
24 Emergency to facilitate the State's response to the COVID-19 pandemic.

25 12. On March 20, 2020, Nevada Governor Steve Sisolak issued Declaration of  
26 Emergency Directive 003 ("Directive 003"). Section 5 of Directive 003 specifically addressed  
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28 <sup>1</sup> This Complaint supersedes the complaint via civil penalty letter served by the  
Department of Taxation on March 23, 2020.

1 retail cannabis dispensaries, and the manner in which they could conduct sales, effective  
2 March 20, 2020, at 11:59 p.m., ordering as follows:

3           Retail cannabis dispensaries may operate by *delivery only* pursuant to the  
4 guidance that shall be issued by the Department of Taxation in conjunction  
5 with the Cannabis Compliance Board effective March 20, 2020, at 11:59 p.m.  
(Emphasis added.)

6           13. That same day, the Department of Public Safety, Division of Emergency  
7 Management, Homeland Security submitted emergency regulations, which Governor  
8 Sisolak approved, specifying essential business operations. NAC 414.XXX(1). Specifically,  
9 NAC 414.XXX(1)(h) listed Licensed Cannabis entities, including dispensaries, producers,  
10 and cultivators, as essential licensed businesses. NAC 414.XXX(3)(a) and (c) provided that  
11 all essential licensed businesses must “[c]omply with social distancing guidance issued by  
12 the Centers for Disease Control and Prevention document entitled ‘Implementation of  
13 Mitigation Strategies for Communities with Local COVID-19 Transmission,’ the Governor’s  
14 Medical Advisory Team, a Governor’s Directive, any other Nevada state regulatory agency  
15 or board;...and “[c]ease all door-to-door solicitation, even if the good or service offered for  
16 sale is considered essential, excluding the delivery of a good or service that has been  
17 ordered by a resident or business.” NAC 414.XXX(3)(d)(4)(I) further specified all cannabis  
18 entities must ensure sales to consumers *by direct delivery* under guidance that shall be  
19 issued by the Department of Taxation in conjunction with the CCB. (Emphasis added.)

20           14. On March 20, 2020, the Department issued the COVID-19 Guidance  
21 referenced in Paragraph 10 at 4:16 p.m. to the all establishments’ ListServ subscribers.  
22 The Department titled the guidance “Nevada Recreational and Medical Cannabis Sales  
23 Now Delivery Only – Virtual Delivery Vehicle Inspections in Place to Meet Demand” and  
24 provided, in pertinent part, as follows:

25           Per the Declaration of Emergency issued today by Governor Steve Sisolak,  
26 licensed cannabis retail stores and medical dispensaries will be required to  
27 shut down all public store fronts by midnight tonight. Legal cannabis sales  
will continue but will be available by *delivery only*. (Emphasis added)...

28           **CURBSIDE PICKUP WILL NOT BE PERMITTED.**

1           15.    The Department also posted this guidance online at  
2 [https://tax.nv.gov/uploadedFiles/taxnvgov/Content/Home/Features/March20PRCannabisF](https://tax.nv.gov/uploadedFiles/taxnvgov/Content/Home/Features/March20PRCannabisFINAL.pdf)  
3 [INAL.pdf](https://tax.nv.gov/uploadedFiles/taxnvgov/Content/Home/Features/March20PRCannabisFINAL.pdf) for any member of the public to access.

4           16.    On the evening of March 21, 2020, Channel 8 News reported that Nevada  
5 Wellness, located at 3200 S. Valley View Blvd, Las Vegas, NV 89102, would be allowing  
6 call in orders and pick up of marijuana and marijuana products through a process in which  
7 a customer could call in an order, then drive to the Nevada Wellness facility, wait in their  
8 car, and then be called to enter into the front portion of the facility's building to retrieve  
9 their order. In the news interview, owner Frank Hawkins detailed how the Nevada  
10 Wellness implemented sales procedure would occur and that it would begin the following  
11 day, Sunday March 22, 2020, with a request for approval submitted to the Department on  
12 Monday, March 23, 2020. Based on Mr. Hawkin's statements that Nevada Wellness had no  
13 intention of following the directives of the Governor or the guidance issued by the  
14 Department, on March 20, 2020, Department staff conducted an investigation at various  
15 times to verify that the facility was, in fact, continuing to operate in contravention of  
16 Directive 003 and the Department's guidance. The lead investigator was Shandon Snow.

17           17.    The Department notified Las Vegas Metropolitan Police Department's Special  
18 Investigation Section ("Metro SIS") of the situation. Metro SIS shut down the continued  
19 operation of onsite sales and issued a warning letter to Nevada Wellness.

20           18.    Throughout the investigation the Department investigator Shandon Snow  
21 directly interviewed all three owners<sup>2</sup> of the facility onsite and all three confirmed  
22 knowledge of the Directive 003 and the Department guidance that no cannabis sales other  
23 than delivery sales could occur again until the Department granted approval otherwise. In  
24 spite of this, Investigator Shandon Snow observed sales take place at Nevada Wellness on  
25 March 22, 2020, under the process set forth in Paragraph 16, above.

26           19.    Department staff requested and obtained Nevada Wellness sales documents  
27 for March 21, 2020 through March 22, 2020, which detailed that there were 195 sales that  
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<sup>2</sup> Frank Hawkins, Andre Rhodes, and Luther Mack.

1 occurred on Sunday March 22, 2020, that were conducted in direct violation of Directive  
2 003 and the Department's March 20, 2020 guidance.

3 20. On March 22, 2020, Nevada Wellness owner Frank Hawkins sent  
4 correspondence to Investigator Shandon Snow stating Mr. Hawkins believed the "delivery  
5 only" directive from the Governor was detrimental to Nevada Wellness' customers, who  
6 vigorously complained about it on March 21, 2020. Mr. Hawkins further explained that he  
7 did not believe it was the Governor's intent to harm his customers and requested the  
8 Department approve his "express pick up procedure" that allowed customers to enter the  
9 Nevada Wellness facility one at a time.

### 10 VIOLATIONS OF LAW

11 21. CCB incorporates all prior Paragraphs as though fully set forth herein.

12 22. As to license RD109 and certificate D009, Respondent Nevada Wellness  
13 violated NAC 453D.905(3)(b)(9) by failing to cease prohibited operations during an  
14 imminent health hazard. Specifically, Nevada Wellness permitted cannabis sales on March  
15 22, 2020, in contravention of Directive 003 and the Department's guidance by allowing 195  
16 non-delivery sales at its facility, when Directive 003 and the Department's guidance  
17 permitted delivery sales only. These acts constitute a Category II violation, which carries  
18 a \$10,000 civil penalty and a suspension of not more than 20 days.

19 23. As to license RD109 and certificate D009, Respondent Nevada Wellness  
20 violated NAC 453D.905(3)(d)(8) by allowing activity which violates the laws of this State.  
21 Specifically, Nevada Wellness allowed 195 cannabis sales in violation of Directive 003 and  
22 NAC 414.XXX(3)(d)(4)(I), which both mandated that sales of cannabis were to be by direct  
23 delivery only. These acts constitute a Category III violation, which carries a civil penalty  
24 of \$2,500.

### 25 DISCIPLINE AUTHORIZED

26 Pursuant to the provisions of NRS 678A.600, NAC 453A.332, NAC 453D.312, NAC  
27 453D.405, NAC 453D.900, and NAC 453D.905, the CCB has the discretion to impose the  
28 following disciplinary actions:

- 1 1. Suspend the license and certificate of Nevada Wellness;
  - 2 2. Impose a civil penalty of not more than \$35,000 for each separate violation of  
3 Chapter 453D on the license and certificate of Nevada Wellness; and
  - 4 3. Take such other disciplinary action as the CCB deems appropriate.
- 5 The CCB may order one or any combination of the discipline described above.

6 **RELIEF REQUESTED**

7 Based on the foregoing, counsel for the CCB respectfully requests the CCB impose  
8 civil penalties against Nevada Wellness in the amount of \$12,500. Counsel for the CCB  
9 further requests the amount expended for CCB's time and effort, pursuant to NAC  
10 453A.352(4) and 453.200(3), in the amount of \$777 in costs to date. In sum, counsel for the  
11 CCB respectfully requests the CCB order fines, penalties and costs in the total amount of  
12 \$13,277. CCB reserves its rights to seek additional costs incurred as this matter proceeds  
13 through hearing and rehearing, if applicable.

14 **NOTICE TO RESPONDENT**

15 **PLEASE TAKE NOTICE**, that Respondent has a right to request a hearing on the  
16 charges set forth herein, pursuant to NRS 678A.510 through 678A.590. **Failure to**  
17 **demand a hearing constitutes a waiver of the right to a hearing and to judicial**  
18 **review of any decision or order of the Board, but the Board may order a hearing**  
19 **even if the respondent so waives his or her right.** NRS 678A.520(2)(e).

20 **PLEASE TAKE NOTICE**, you, as the respondent, **must answer this Complaint**  
21 **within 20 days after service of this Complaint**, unless granted an extension. Pursuant  
22 to NRS 678A.520(2), in the answer Respondent:

- 23 (a) Must state in short and plain terms the defenses to each claim asserted.
- 24 (b) Must admit or deny the facts alleged in the complaint.
- 25 (c) Must state which allegations the respondent is without knowledge or information  
26 form a belief as to their truth. Such allegations shall be deemed denied.
- 27 (d) Must affirmatively set forth any matter which constitutes an avoidance or  
28 affirmative defense.

1 (e) May demand a hearing. **Failure to demand a hearing constitutes a waiver**  
2 **of the right to a hearing and to judicial review of any decision or order of**  
3 **the Board**, but the Board may order a hearing even if the respondent so waives his  
4 or her right.

5 **Failure to answer or to appear at the hearing constitutes an admission by**  
6 **the respondent of all facts alleged in the Complaint. The Board may take action**  
7 **based on such an admission and on other evidence without further notice to the**  
8 **respondent. NRS 678A.520(3).**

9 The Board shall determine the time and place of the hearing as soon as is reasonably  
10 practical after receiving the respondent's answer. The Board shall deliver or send by  
11 registered or certified mail a notice of hearing to all parties at least 10 days before the  
12 hearing. The hearing must be held within 45 days after receiving the respondent's answer  
13 unless an expedited hearing is determined to be appropriate by the Board, in which event  
14 the hearing must be held as soon as practicable. NRS 678A.520(4).

15 Respondent's answer and Request for Hearing must be either: mailed via registered  
16 mail, return receipt; or delivered in person; or emailed to:

17 Tyler Klimas, Executive Director  
18 Cannabis Compliance Board  
19 555 E. Washington Avenue, Suite 4100  
20 Las Vegas, Nevada 89101  
21 [tklimas@ccb.nv.gov](mailto:tklimas@ccb.nv.gov)

22 If served by email, Respondent must ensure that it receives an acknowledgement of receipt  
23 email from CCB as proof of service.

24 As the respondent, you are specifically informed that you have the right to appear  
25 and be heard in your defense, either personally or through your counsel of choice at your  
26 own expense. At the hearing, the CCB has the burden of proving the allegations in the  
27 Complaint. The CCB will call witnesses and present evidence against you. You have the  
28 right to respond and to present relevant evidence and argument on all issues involved. You  
have the right to call and examine witnesses, introduce exhibits, and cross-examine  
opposing witnesses on any matter relevant to the issues involved.



1 You have the right to request that the CCB issue subpoenas to compel witnesses to  
2 testify and/or evidence to be offered on your behalf. In making this request, you may be  
3 required to demonstrate the relevance of the witness's testimony and/or evidence.

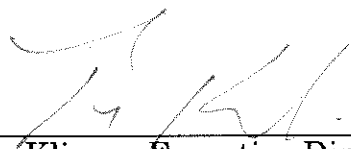
4 If the respondent does not wish to dispute the charges and allegations set forth  
5 herein, within 30 days of the service of this Complaint, Respondent may pay the civil  
6 penalties and costs set forth above in the total amount of \$13,277 to:

7 Tyler Klimas, Executive Director  
8 Cannabis Compliance Board  
9 555 E. Washington Avenue, Suite 4100  
10 Las Vegas, Nevada 89101

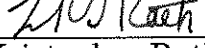
11 YOU ARE HEREBY ORDERED to immediately cease the activity described above  
12 which is a violation of Nevada law.

13 DATED: July 21, 2020.

14 STATE OF NEVADA, CANNABIS COMPLIANCE  
15 BOARD

16 By:   
17 Tyler Klimas, Executive Director  
18 555 E. Washington Avenue, Suite 4100  
19 Las Vegas, Nevada 89101  
20 (702) 486-2300

21 AARON D. FORD  
22 Attorney General

23 By:   
24 L. Kristopher Rath (Bar No. 5749)  
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Attorneys for the Cannabis Compliance Board