

March 13, 2023

Dave Tuason, Deputy Counsel
NJ Cannabis Regulatory Commission
225 East State Street, 2nd Floor
Trenton, NJ 08608

Dear Mr. Tuason:

My name is Paul David Roman. I am the President of the New Jersey Local Boards of Health Association.

Our Association in consultation with members of member boards and with other interested organizations and parties herewith submits a comment in regard to the proposed amendments and new rules to N.J.A.C. 17:30 et seq. These rules were promulgated under the authority of N.J.S.A. 24:61-31 et seq signed by Governor Murphy in 2021.

In summary, our organization objects to the addition of a cannabis consumption area to be created in this rule. Specifically, we object to allowing for on-premises consumption of cannabis items in its endorsed consumption area. We do agree that a medical cannabis dispensary or cannabis retailer shall not operate as a retail food establishment as amended in 17:30-9.5(b). However, we object to the proposal at 17:30-9.5(b)1 to allow for consumption of food in a cannabis consumption area unless allowed by law for medical reasons.

If the new proposed rule changes are adopted, then in regard to 17:30-9.8(e) which would require all personnel of cannabis retailers that operate a cannabis consumption area to complete any additional trainings required by the Commission should specifically include certification at the Life Saver level of training in cardiopulmonary resuscitation (CPR).

Although we strongly object to the creation of cannabis consumption areas both in the case of an indoor area generating primary smoke or an outdoor area generating primary or secondary smoke, we support the inclusion of the reference to and the possible violations created by the New Jersey Smoke-Free Air Act N.J.S.A. 26:3D-55 et seq, including stringent separate ventilation standards. Even an outdoor area is capable of creating secondhand smoke for those on-site who may or may not be smoking cannabis at that time and at that place.

We also support the provision in 17:30-14.10(f) which requires the temporary cessation of such on-site consumption until public safety workers, called to the location, have completed their work and have left the premises.

In the social impact statement included in the proposal it indicates that the new cannabis consumption area rules are expected to have a beneficial social impact by advancing social equity. It goes on to anticipate a positive social impact by further promoting general public safety. We believe that both statements are incorrect. Creating a place for the homeless to use cannabis does not advance social equity and only adds to the possible negative lifestyle and behavior of these individuals thereby creating an increase in such activities which negatively impacts the general public safety.

The proposed rule also provides for consumption in areas such as tourist enclaves and commercial lodging facilities. We object to these proposals in that they do not have a positive impact on social equity and would often become the breeding ground for resultant public safety problems.

In the Federal Standards Analysis provided in the proposal, the Federal government in memoranda to U.S. attorneys regarding the Controlled Substances Act focuses on eight enforcement interests in states that have enacted laws authorizing marijuana-related conduct. The most relevant and our main concern is Item #6 which focuses on preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use. It is our considered opinion that the creation of cannabis consumption areas will have a negative impact on the enforcement of these problems and therefore should be taken into consideration by the Commission.

Except for New York and Connecticut which both legalized recreational marijuana in 2021, states that legalized cannabis continue to prohibit public consumption with the exception of nine states. Massachusetts and some of the other nine states have advanced legislation that would put a regulatory framework in place to operate consumption lounges but are doing so on a multi-year pilot program involving a small limited number of municipalities. In the absence of deleting consumption areas from this proposal, a similar limited pilot program should be considered so that appropriate data may be collected for review of any future considerations.

In the State of California, consumption areas must not be visible from a public place and the sale or consumption of alcohol is also not permitted in these lounges. A significant study was performed in California (<https://ehp.niehs.nih.gov/doi/10.1289/EHP8689>), for the record the following is a quote pointing to a scientific conclusion as to the danger of exposure. "Our data demonstrate that consumption of cannabis products indoors increased PM_{2.5} concentrations. Psychoactive effects through passive exposure are unlikely (Herrmann et al. 2015). However, exposure to PM_{2.5} can cause changes in cardiovascular function that increase the risk of myocardial infarction and death (Brook et al. 2010). In healthy nonsmokers, even 30 min of exposure to cigarette smoke, at concentrations of <200 µg/m³ PM_{2.5}, decreased endothelial function, a well-validated predictor of increased risk of cardiovascular disease (Yeboah et al. 2009; Frey et al. 2012). It is possible that the aerosols from vaporizers and dabbing are less toxic than standard combustion aerosols. However, even brief increases in ambient PM_{2.5} from mixed sources are associated with increases in myocardial infarction and total mortality (Brook et al. 2010) and these effects are detectable even at PM_{2.5} increases of 10 µg/m³ (Di et al. 2017). **It is likely that the PM_{2.5} concentrations we observed are high enough to cause health problems for some individuals.** Further research on the toxicity of cannabis smoke and vaporizer and dabbing aerosols is necessary."

We also want the record to reflect the fact that Dr. Schick, a recognized author and an acknowledged expert in the field of worker respiratory protection, presented to the NJ Cannabis Control Commission one year ago this past February. After her presentation when she invited questions, NONE WERE ASKED. While we would like to think that the Commission accepted her assertion that there are no practical engineering mitigations (i.e., ventilation and filtration) that would meaningfully effect this potential harm, in fact it appears that the Commission ignored her presentation and her data. Here are five key points related to Dr. Schick's presentation and which point to serious concerns shared by the New Jersey Local Boards of Health Association.

- 1) Cannabis consumption lounges lead to a demonstrable increase in small airborne particulates that are associated with harm.
- 2) There are no practical (monetary, noise based) interventions to lower these levels to an acceptable OSHA level.
- 3) These harms are what the NJ Smoke-Free Air Act (it's not titled the TOBACCO Free Air Act) is meant to prevent.
- 4) The Commission was informed of these harms in February 2022 with no meaningful response.
- 5) In 2023, we should be INCREASING worker protections from smoke rather than CREATING workplaces that are unsafe, such as in our Atlantic City casinos.

N.J.S.A. 26:3D-55, The New Jersey Smoke-Free Air Act, is not a perfect document and is constantly being challenged by advocates of smoking, especially tobacco and vaping products. However, its content and its positive impact on the citizens of New Jersey have been demonstrated affirmatively in studies and in writings on the subject. Most challenges to this Act are motivated by those who seek financial gain and constantly seek legal loopholes or public apathy to win the day. These challenges do not speak to social impact, equity or social justice. In the same way, this proposed rule does not create a positive impact in these same three areas, but creates negative impact based on fact and should be dismissed as bad science and a detriment to the general community and those subsets of our society whom the proposed rule purports to benefit.

We ask that the Commission give due consideration to our comments and the facts enumerated in this writing. Thank you for the opportunity to comment.

Respectfully,

Paul David Roman
President