ATTACHMENT E

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CLERK OF THE COURT

ADAM PAUL LAXALT
Attorney General
Linda C. Anderson
Chief Deputy Attorney General
Nevada Bar No. 4090
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DISTRICT COURT
CLARK COUNTY, NEVADA

SAMANTHA INC. d/b/a SAMANTHA'S REMEDIES, a domestic corporation

Petitioner,

vs.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH; et. al.

Respondent.

Case No.: A-14-710874-J

Dept. No. VIII

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, Nevada 89101

NOTICE OF ENTRY OF ORDER:

PLEASE TAKE NOTICE that on the 13th day of February, 2015, an ORDER was entered and attached is a true and correct copy thereof.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated: August 25, 2016.

ADAM PAUL LAXALT
Attorney General

By: */s/ Linda C. Anderson*
Linda C. Anderson
Chief Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing *NOTICE OF ENTRY OF ORDER* by using the electronic filing system on the 25th day of August, 2016. The Following participants in this case are registered electronic filing system users and will be served electronically:

Kimberly Maxson-Rushton
COOPER LEVENSON, P.A.
1835 Village Center Circle
Las Vegas, NV 89134

/s/ Linda Aouste
An Employee of the Office of the Attorney General

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, Nevada 89101

ODM
KIMBERLY MAXSON-RUSHTON
Nevada Bar No. 005065
COOPER LEVENSON, P.A.
6060 Elton Avenue, Suite A
Las Vegas, Nevada 89107
(702) 366-1125
FAX: (702) 366-1857
Attorney for Petitioner
krushton@cooperlevenson.com

DISTRICT COURT

CLARK COUNTY, NEVADA

Samantha Inc., d/b/a Samantha's Remedies, a Domestic Corporation. Petitioner. vs. Department of Health and Human Services, Nevada Division of Public and Behavioral Health, Medical Marijuana Establishment Program, Respondent(s).	CASE NO. A-14-710874-J DEPT NO. VIII **ORDER DENYING DEFENDANT'S MOTION TO DISMISS**

Respondent, STATE OF NEVADA and the DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH'S (hereinafter "Division") having filed a Motion To Dismiss Petitioner's Petition for Judicial Review pursuant to Nevada Rules of Civil Procedure ("NRCP") 12(B), and the matter having come before the Court for oral argument on January 27, 2015, Kimberly Maxson-Rushton of the law firm Cooper Levenson P.A. appearing on behalf of Petitioner SAMANTHA INC., d/b/a SAMANTHA'S REMEDIES, ("Samantha Remedies") and Chief Deputy Attorney General, Linda Anderson appearing on behalf of Respondent, the Court finds as follows:

THAT Petitioner filed a Petition for Judicial Review of an administrative decision denying its application for a medical marijuana establishment registration certificate.

THAT Petitioner seeks review of the application review and ranking process, claiming the

administrative denial, which allows no opportunity for a hearing, was arbitrary and capricious rather than fair and impartial.

THAT Respondent's motion seeking dismissal of the petition is based on the claim that administrative decisions like this one are not subject to judicial review because judicial review is reserved for contested cases, cases in which legal rights, duties, or privileges are determined after an opportunity for a hearing. Furthermore, Respondent asserts that registration certificates for medical marijuana establishments involve revocable privileges, not legal rights, for which no opportunity for hearing has been established, and therefore judicial review is not available.

THEREFORE having heard arguments from both parties, and after reviewing the record, the Court finds that judicial review must be available for this administrative decision.

THEREFORE, the COURT ORDERS, Respondent's Motion to Dismiss is hereby DENIED. The parties may proceed with the Petition for Judicial Review.

IT IS HEREBY ORDERED that Defendant's Motion to Dismiss is DENIED.

DATED this 11 day of February 2015.

DISTRICT COURT JUDGE

Submitted By:

COOPER LEVENSON, P.A.

KIMBERLY MAXSON-RUSHTON
Nevada Bar No. 005065
COOPER LEVENSON, P.A.
6060 Elton Avenue, Suite A
Las Vegas, Nevada 89107
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Attorney for Petitioner
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ATTACHMENT D

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Samantha Inc. d/b/a
Samantha's Remedies

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

Samantha Inc., d/b/a Samantha's Remedies, a Domestic Corporation, Petitioner. vs. Department of Health and Human Services Nevada Division of Public and Behavioral Health Medical Marijuana Establishment Program, Respondent(s).	CASE NO. A-14-710874-J DEPT. NO. VIII **NOTICE OF ENTRY OF ORDER**

TO: DEPARTMENT OF HEALTH AND HUMAN SERVICES NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH MEDICAL MARIJUANA ESTABLISHMENT PROGRAM, Respondent; and

TO: LINDA C. ANDERSON, ESQ., of the STATE OF NEVADA ATTORNEY GENERAL, Attorneys for Plaintiff;

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YOU WILL PLEASE TAKE NOTICE that on the 27th day of July, 2016, an Order was entered in the above-entitled action, a copy of which is attached hereto.

Dated this 3rd day of August, 2016.

COOPER LEVENSON, P.A.

By /s/ Kimberly Maxson-Rushton
KIMBERLY MAXSON-RUSHTON, ESQ.
Nevada Bar No. 005065
1835 Village Center Circle
Las Vegas, Nevada 89134
Attorneys for Petitioner
SAMANTHA INC.
d/b/a SAMANTHA'S REMEDIES

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of COOPER LEVENSON, P.A. and that on this 3rd day of August, 2016, I did cause a true copy of the foregoing **NOTICE OF ENTRY OF ORDER** to be served upon each of the parties listed below via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve System:

Linda C. Anderson
Chief Deputy Attorney General
State of Nevada Attorney General
555 E. Washington Blvd., Suite 3900
Las Vegas, Nevada 89101

By _____
An Employee of
COOPER LEVENSON, P.A.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of COOPER LEVENSON, P.A. and that on this 3rd day of August, 2016, I did cause a true copy of the foregoing **NOTICE OF ENTRY OF ORDER** to be placed in the United States Mail, with first class postage prepaid thereon, and addressed as follows:

Division Health and Human Services
Nevada Division of Public and Behavioral Health
Medical Marijuana Establishment Program
4150 Technology Way
Carson City, NV 89706

By _____
An Employee of
COOPER LEVENSON, P.A.

ORDR

DISTRICT COURT

CLARK COUNTY, NEVADA

Samantha Inc., d/b/a Samantha's Remedies, a Domestic Corporation, Petitioner. vs. Department of Health and Human Services Nevada Division of Public and Behavioral Health Medical Marijuana Establishment Program, Respondent(s).	CASE NO. A-14-710874-J DEPT. NO. VIII **ORDER**

This matter having come before the above-entitled Court for hearing on July 12, 2016, and the Court having read and considered Petitioner Samantha Inc., d/b/a Samantha's Remedies ("Samantha's") Petition for Judicial Review Memorandum of Points and Authorities, Respondent Department of Health and Human Services Nevada Division of Public and Behavioral Health Medical Marijuana Program's ("Division") Reply Memorandum, Samantha's Reply Memorandum, the Record on Review, all other documents before the court – including a verified copy of Samantha's Application, the Division's Request for Applications, and the Division's Scoring/Evaluation Tool – and the oral argument presented by the parties, the Court makes the following findings of fact and conclusions of law.

I.

FINDINGS OF FACT

1. On May 30, 2014, the Division released the "Medical Marijuana Establishment Registration Certificate Request for Applications" (hereinafter "Request for Applications").

2. The Request for Applications set forth detailed guidelines and requirements for a prospective Medical Marijuana Establishment ("MME") applicant to follow in preparing an application to operate a MME.

3. Pursuant to NRS 453A there are four (4) types of MME's: independent testing laboratories, cultivation facilities, production facilities, and dispensaries.

4. Applicants seeking a Certificate of Registration to operate a MME were required to file an application with the Division during a ten-day filing period.

5. The Request for Applications required MME applicants to submit information evidencing the statutory criteria set forth in NRS 453A.322, 453A.328 and NAC 453A.300 – 453A.456.

6. The Request for Applications instructed applicants to provide specific information in one or both sections of the application referenced as Identified Criteria Response ("ICR") and Non-Identified Criteria Response ("NICR").

7. The ICR was to contain all identifying information regarding the MME applicant (*e.g.* names, addresses, dates of birth, etc.) and, in the NICR section applicants were instructed to omit such identifying information.

8. The Request for Applications provided instructions that the application "must be presented in a format that corresponds to and references the sections outlined within this [Request for Applications]" and "are to be prepared in such a way as to provide straightforward, concise delineation of information."

9. Pursuant to NRS 453A.324(4), the Division stated in its Request for Applications that MME applications would only be accepted during a "10 Day Window" beginning August 5, 2014 and closing August 18, 2014.

10. The Request for Applications stated that the applications would be evaluated between August 5, 2014 and November 2, 2014, with provisional Certificates of Registration to operate being issued the following day, November 3, 2014.

11. On March 31, 2014, the Division published a "Request for Evaluators," which invited individuals interested in filling temporary positions as evaluators of MME applications to apply. The Request for Evaluators sought evaluators with backgrounds in the following areas:

Administrative assistant background, accounting, personnel officers/human resources, business ownership, environmental protection, pharmacist technician experience, fire and life safety, IT professionals, supply technician background, inspection, purchasing, public works background, and building construction/inspection experience.

12. The Division selected evaluators to review, evaluate, and score all MME applications received during the 10-day window.

13. Samantha's Remedies submitted its "Medical Marijuana Establishment State of Nevada Application" (hereinafter "Samantha's Application") to the Division within the established ten-day window.

14. Samantha's Application sought authority to operate a MME-Dispensary in the City of Las Vegas.

15. Samantha's Application included the ICR and NICR portions.

16. Samantha's Application also included six (6) sheets of large, blueprint-sized drawings and plans regarding the building it intended to use as an MME-Dispensary.

17. The Division's Scoring/Evaluation Tool ("TOOL") was created by the Division as a methodology for the evaluators to use in the review, evaluation, and scoring of the MME applications.

18. The TOOL contains seven (7) different scoring categories with the following points allotted for each category:

1- Financial Plan	(40 Points) (ICR)
2- Organizational Structure	(50 Points) (ICR)
3- Convenient to Serve the Needs	(20 Points) (ICR)
4- Likely Impact on the Community	(20 Points) (NICR)
5- Taxes Paid and Financial Contributions	(25 Points) (ICR)
6- Adequacy of Size – Building and Construction Plans	(20 Points) (NICR)
7- Care, Quality and Safekeeping	(75 Points) (NICR)

19. The seven (7) categories of the TOOL are meant to correspond to different portions of the MME application, with four (4) of the scoring categories used to evaluate and score aspects of an applicant's ICR, and three (3) of the scoring categories evaluating aspects of an applicant's NICR.

20. The Division used different evaluators to evaluate the seven (7) different scoring categories with respect to each application.

21. Having carefully and cautiously considered the Record on Review, this Court finds that the Division's evaluators did not have access to Samantha's entire Application during the review and evaluation of the subject Application.

22. Samantha's Application was scored and received points as set forth in the Division's Scoring Details summary. *See,* Record on Review pg. 573.

23. Samantha's Application scored 163.26 points, thereby resulting in a ranking of fourteenth (14th) for MME-Dispensaries in the City of Las Vegas. Only the top twelve (12) applications for MME-Dispensaries in the City of Las Vegas were issued provisions Certificate of Registration to operate.

24. On November 18, 2014, the Division notified Samantha's that there would be no further consideration of the Application, thereby resulting in a final decision of the Division pursuant to NRS 233B.130(b).

25. On December 8, 2014, Samantha's filed its Petition for Judicial Review.

26. On December 24, 2014, the Division filed a Motion to Dismiss, arguing that there was no statutory authority for judicial review of the Division's final decision relative to the MME application process. Samantha's filed an Opposition to the Division's Motion and the Division filed a Reply. The Division's Motion was denied.

27. The Division petitioned the Nevada Supreme Court for a Writ of Mandamus based on this Court's denial of the Motion to Dismiss. As set forth in Nevada Supreme Court Case No. 87423, the Nevada Supreme Court denied the Division's Request for a Writ of Mandamus and remanded the case back to this Court to proceed in the judicial review process.

28. The Division provided what it purported to be the Record on Review on March 10, 2013, and later produced the TOOL.

29. Samantha's filed its Memorandum of Points and Authorities on May 6, 2016.

30. On May 26, 2016, the Division filed additional documents specifically identified as the NICR section of Samantha's Application and deemed to be a supplement to the Record on Review.

31. The Division filed its Reply Memorandum of Points and Authorities on June 2, 2016.

32. Samantha's filed its Reply Memorandum on July 7, 2016.

33. Oral arguments were heard on this matter on July 12, 2016.

34. The briefs and oral arguments presented in this Petition have established that the Division's actions in evaluating and scoring of Samantha's Application were clearly erroneous in light of the evidence in the record as a whole. Correspondingly, there is no substantial evidence to support the Application's score.

35. Furthermore this Court finds that:

a. The Division's evaluators did not review and/or consider the blueprint-size drawings and plans included in Samantha's Application pertaining to the Adequacy of Building Size and Construction Plans category of the TOOL;

b. The Organizational Structure category of the TOOL did not reasonably correspond to the requirements of the Request for Applications; thereby, necessitating a review of the full application; and

c. The Likely Impact on the Community category of the TOOL did not reasonably correspond to the requirements of the Request for Applications, also meriting a review of the full application by the evaluators.

II.

CONCLUSIONS OF LAW

1. The Division's scoring and ultimate denial of a provision Certificate of Registration constitute a final decision in an administrative action. NRS 233B.130(1)(b).

2. In matters pertaining to judicial review "[t]he district court has very broad supervisory powers to insure that all relevant evidence is examined and considered.". *Clark*

County Liquor & Gaming Licensing Board v. Clark, 102 Nev. 654, 658 (1986), citing *Nevada Industrial Commission v. Reese*, 93 Nev. 115, 126, 560 P.2d 1352, 1358 (1977).

3. Furthermore, courts "review the factual determinations of administrative agencies for clear error 'in view of the reliable, probative and substantial evidence on the whole record.'" NRS 233B.135(3)(e), (f).

4. Pursuant to NRS 233B.135(3)

> The court may remand ... or set [a final decision] aside ... if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:
> a) In violation of constitutional or statutory provisions;
> b) In excess of the statutory authority of the agency;
> c) Made upon unlawful procedure;
> d) Affected by other error of law;
> e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
> f) Arbitrary or capricious or characterized by abuse of discretion.

5. The purpose for registering medical marijuana establishments "is to protect the public health and safety and the general welfare of the people of this State" to ensure that the most qualified and applicants operate in the field of medical marijuana. NRS 453A.320.

6. Considering the Division's process of reviewing Samantha's Application, the Request for Application, the TOOL, the evaluators comments on the TOOL, and the entirety of Samantha's Application, the Court finds that the Division's final decision was not based on substantial evidence and thus the Division acted arbitrarily and capriciously in evaluating and scoring Samantha's Application.

III.

ORDER

Based on the foregoing, and following a thorough review of the entire Record as presented above IT IS HEREBY ORDERED:

1. The score given to Samantha's Application for a MME-Dispensary Certificate of Registration is hereby set aside in full;

2. Samantha's Application is remanded to the Division for a reevaluation with the

following specific instructions:

a. The Application is to be reviewed in its entirety;

b. Before withholding points in any section of the TOOL, the Division must review Samantha's complete Application and assign points for information contained in all sections of the complete Application;

c. Maintaining the obligation to evaluate Samantha's Application in full, the Division is specifically instructed to reevaluate the Adequacy of Building Size and Construction Plans category and assign points considering Samantha's large drawings and plans;

d. The Division is specifically instructed to reevaluate the Organizational Structure category and assign points for the job descriptions and operational information contained in Samantha's NICR; and

e. The Division is specifically instructed to reevaluate the Likely Impact on the Community category and assign points for the related information contained in Samantha's Application.

3. The Division must complete this review within 30 days of the entry of this Order;

4. Following the Division's review and scoring of Samantha's Application the Division shall rank Samantha's Applications among the MME-Dispensaries for the City of Las Vegas.

5. If Samantha's Application's revised score results in Samantha's being ranked in the top 12 MME-Dispensaries in Las Vegas, Samantha's shall be awarded a provisional Certificate of Registration.

IT IS SO ORDERED this 27 day of July, 2016.

DISTRICT COURT JUDGE

I hereby certify that on or about the date signed, a copy of this order was electronically served and/or placed in the attorney folder maintained by the Clerk of the Court and/or mailed by U.S. mail to the following:

Kimberly Maxson-Rushton, Esq., COOPER LEVENSON
Linda Christine Anderson, Esq., ATTORNEY GENERAL'S OFFICE

CATHERINE DAVILA, Judicial Assistant

ATTACHMENT C

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ORDR

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

Samantha Inc., d/b/a Samantha's Remedies, a Domestic Corporation,

Petitioner.

vs.

Department of Health and Human Services Nevada Division of Public and Behavioral Health Medical Marijuana Establishment Program,

Respondent(s).

CASE NO. A-14-710874-J
DEPT. NO. VIII

ORDER

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DOUGLAS E. SMITH
DISTRICT JUDGE
DEPARTMENT EIGHT
LAS VEGAS NV 89155

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21. Having carefully and cautiously considered the Record on Review, this Court finds that the Division's evaluators did not have access to Samantha's entire Application during the review and evaluation of the subject Application.

22. Samantha's Application was scored and received points as set forth in the Division's Scoring Details summary. *See,* Record on Review pg. 573.

23. Samantha's Application scored 163.26 points, thereby resulting in a ranking of fourteenth (14th) for MME-Dispensaries in the City of Las Vegas. Only the top twelve (12) applications for MME-Dispensaries in the City of Las Vegas were issued provisions Certificate of Registration to operate.

24. On November 18, 2014, the Division notified Samantha's that there would be no further consideration of the Application, thereby resulting in a final decision of the Division pursuant to NRS 233B.130(b).

25. On December 8, 2014, Samantha's filed its Petition for Judicial Review.

26. On December 24, 2014, the Division filed a Motion to Dismiss, arguing that there was no statutory authority for judicial review of the Division's final decision relative to the MME application process. Samantha's filed an Opposition to the Division's Motion and the Division filed a Reply. The Division's Motion was denied.

27. The Division petitioned the Nevada Supreme Court for a Writ of Mandamus based on this Court's denial of the Motion to Dismiss. As set forth in Nevada Supreme Court Case No. 87423, the Nevada Supreme Court denied the Division's Request for a Writ of Mandamus and remanded the case back to this Court to proceed in the judicial review process.

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30. On May 26, 2016, the Division filed additional documents specifically identified as the NICR section of Samantha's Application and deemed to be a supplement to the Record on Review.

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32. Samantha's filed its Reply Memorandum on July 7, 2016.

33. Oral arguments were heard on this matter on July 12, 2016.

34. The briefs and oral arguments presented in this Petition have established that the Division's actions in evaluating and scoring of Samantha's Application were clearly erroneous in light of the evidence in the record as a whole. Correspondingly, there is no substantial evidence to support the Application's score.

35. Furthermore this Court finds that:

a. The Division's evaluators did not review and/or consider the blueprint-size drawings and plans included in Samantha's Application pertaining to the Adequacy of Building Size and Construction Plans category of the TOOL;

b. The Organizational Structure category of the TOOL did not reasonably correspond to the requirements of the Request for Applications; thereby, necessitating a review of the full application; and

c. The Likely Impact on the Community category of the TOOL did not reasonably correspond to the requirements of the Request for Applications, also meriting a review of the full application by the evaluators.

II.

CONCLUSIONS OF LAW

1. The Division's scoring and ultimate denial of a provision Certificate of Registration constitute a final decision in an administrative action. NRS 233B.130(1)(b).

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County Liquor & Gaming Licensing Board v. Clark, 102 Nev. 654, 658 (1986), citing *Nevada Industrial Commission v. Reese*, 93 Nev. 115, 126, 560 P.2d 1352, 1358 (1977).

3. Furthermore, courts "review the factual determinations of administrative agencies for clear error 'in view of the reliable, probative and substantial evidence on the whole record.'" NRS 233B.135(3)(e), (f).

4. Pursuant to NRS 233B.135(3)

> The court may remand ... or set [a final decision] aside ... if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:
> a) In violation of constitutional or statutory provisions;
> b) In excess of the statutory authority of the agency;
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5. The purpose for registering medical marijuana establishments "is to protect the public health and safety and the general welfare of the people of this State" to ensure that the most qualified and applicants operate in the field of medical marijuana. NRS 453A.320.

6. Considering the Division's process of reviewing Samantha's Application, the Request for Application, the TOOL, the evaluators comments on the TOOL, and the entirety of Samantha's Application, the Court finds that the Division's final decision was not based on substantial evidence and thus the Division acted arbitrarily and capriciously in evaluating and scoring Samantha's Application.

III.

ORDER

Based on the foregoing, and following a thorough review of the entire Record as presented above IT IS HEREBY ORDERED:

1. The score given to Samantha's Application for a MME-Dispensary Certificate of Registration is hereby set aside in full;

2. Samantha's Application is remanded to the Division for a reevaluation with the

following specific instructions:

a. The Application is to be reviewed in its entirety;

b. Before withholding points in any section of the FOOI , the Division must review Samantha's complete Application and assign points for information contained in all sections of the complete Application;

c. Maintaining the obligation to evaluate Samantha's Application in full, the Division is specifically instructed to reevaluate the Adequacy of Building Size and Construction Plans category and assign points considering Samantha's large drawings and plans;

d. The Division is specifically instructed to reevaluate the Organizational Structure category and assign points for the job descriptions and operational information contained in Samantha's NICR; and

e. The Division is specifically instructed to reevaluate the Likely Impact on the Community category and assign points for the related information contained in Samantha's Application.

3. The Division must complete this review within 30 days of the entry of this Order;

4. Following the Division's review and scoring of Samantha's Application the Division shall rank Samantha's Applications among the MME-Dispensaries for the City of Las Vegas.

5. If Samantha's Application's revised score results in Samantha's being ranked in the top 12 MME-Dispensaries in Las Vegas. Samantha's shall be awarded a provisional Certificate of Registration.

IT IS SO ORDERED this 27 day of July, 2016.

DISTRICT COURT JUDGE

I hereby certify that on or about the date signed, a copy of this order was electronically served and/or placed in the attorney folder maintained by the Clerk of the Court and/or mailed by U.S. mail to the following:

Kimberly Maxson-Rushton, Esq., COOPER LEVENSON
Linda Christine Anderson, Esq., ATTORNEY GENERAL'S OFFICE

CATHERINE DAVILA, Judicial Assistant

ATTACHMENT B

ODM
KIMBERLY MAXSON-RUSHTON
Nevada Bar No. 005065
COOPER LEVENSON, P.A.
6060 Elton Avenue, Suite A
Las Vegas, Nevada 89107
(702) 366-1125
FAX: (702) 366-1857
Attorney for Petitioner
krushton@cooperlevenson.com

DISTRICT COURT

CLARK COUNTY, NEVADA

Samantha Inc., d/b/a Samantha's Remedies, a Domestic Corporation, Petitioner. vs. Department of Health and Human Services, Nevada Division of Public and Behavioral Health, Medical Marijuana Establishment Program, Respondent(s).	CASE NO. A-14-710874-J DEPT NO. VIII **ORDER DENYING DEFENDANT'S MOTION TO DISMISS**

Respondent, STATE OF NEVADA and the DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH'S (hereinafter "Division") having filed a Motion To Dismiss Petitioner's Petition for Judicial Review pursuant to Nevada Rules of Civil Procedure ("NRCP") 12(B), and the matter having come before the Court for oral argument on January 27, 2015, Kimberly Maxson-Rushton of the law firm Cooper Levenson P.A. appearing on behalf of Petitioner SAMANTHA INC., d/b/a SAMANTHA'S REMEDIES, ("Samantha Remedies") and Chief Deputy Attorney General, Linda Anderson appearing on behalf of Respondent, the Court finds as follows:

THAT Petitioner filed a Petition for Judicial Review of an administrative decision denying its application for a medical marijuana establishment registration certificate.

THAT Petitioner seeks review of the application review and ranking process, claiming the

administrative denial, which allows no opportunity for a hearing, was arbitrary and capricious rather than fair and impartial.

THAT Respondent's motion seeking dismissal of the petition is based on the claim that administrative decisions like this one are not subject to judicial review because judicial review is reserved for contested cases, cases in which legal rights, duties, or privileges are determined after an opportunity for a hearing. Furthermore, Respondent asserts that registration certificates for medical marijuana establishments involve revocable privileges, not legal rights, for which no opportunity for hearing has been established, and therefore judicial review is not available.

THEREFORE having heard arguments from both parties, and after reviewing the record, the Court finds that judicial review must be available for this administrative decision.

THEREFORE, the COURT ORDERS, Respondent's Motion to Dismiss is hereby DENIED. The parties may proceed with the Petition for Judicial Review.

IT IS HEREBY ORDERED that Defendant's Motion to Dismiss is DENIED.

DATED this 11 day of February 2015.

DISTRICT COURT JUDGE

Submitted By:

COOPER LEVENSON, P.A.

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ATTACHMENT A

PET
KIMBERLY MAXSON-RUSHTON
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DISTRICT COURT

CLARK COUNTY, NEVADA

Samantha Inc., d/b/a Samantha's Remedies, a Domestic Corporation, Petitioner. vs. Department of Health and Human Services Nevada Division of Public and Behavioral Health, Medical Marijuana Establishment Program, Respondent(s).	CASE NO. A-14-710874-J DEPT. NO. VIII **PETITION FOR JUDICIAL REVIEW**

COMES NOW, Petitioner, SAMANTHA INC., d/b/a SAMANTHA'S REMEDIES, ("Samantha's Remedies") by and through its attorney, KIMBERLY MAXSON-RUSHTON, of the law firm of COOPER LEVENSON, P.A., and hereby petitions this Court for judicial review of the application decision of the DEPARTMENT OF HEALTH AND HUMAN SERVICES, NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, MEDICAL MARIJUANA MEDICAL MARIJUANA ESTABLISHMENT PROGRAM ("Division") in the administrative matter identified by the Division as Reference No. 98468144852415974273.

This Petition for Judicial Review is filed pursuant to Nevada Revised Statute ("NRS") 233B.130, which provides for judicial review of contested final decisions in Administrative Agency Cases. *See*, NRS 233B.032.

Petitioner submits that the Division's review and ranking of the subject Application resulted in the denial of a provisional approval of said Application. As such, Applicant is precluded from being issued a Medical Marijuana Establishment ("MME") registration certificate, necessary in order to operate a MME – Dispensary in the City of Las Vegas. Accordingly, Petitioner submits that the Divisions actions in this instance are inconsistent with and have exceeded the statutory and regulatory authority set forth in NRS and NAC 453A, and are without question arbitrary and capricious. Furthermore, the Division's refusal to reconsider the previously submitted application[1] is contrary to the terms and provisions set forth in NRS 233B.130(4), as well as to the specific representations made by Division representative, Chad Westom at the July 9, 2014, meeting of the Advisory Commission on the Administration of Justice's Subcommittee on the Medical Use of Marijuana[2]. As a result of the notice from the Division on November 18, 2014, that there would be no further consideration of applications filed during the August 2014 filing period, Petitioner construes said letter as the agency's "final decision" therefore, this Petition is timely filed. *See*, NRS 233B.130(4).

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[1] Please see attached Exhibit 1, letter to "All Affected Local Governmental Jurisdictions" from Division Administrator R. Whitley dated November 18, 2014.

[2] It should be noted that Mr. Westom's statement were made *prior to* the mandatory ten (10) day application filing period, August 5-18, 2014.

The glaring inconsistencies and unlawful acts enumerated herein are demonstrative of the Division's failure to provide Applicant with a fair and impartial review of its Application, consistent with the all applicable statutes and regulations. Accordingly, Petitioner, Samantha's Remedies submits that the Division's actions, relative to the review and ranking of its application, coupled with the failure to reconsider said Application, violate the statutory authority contained in both NRS 453A.322 and NRS 233B.130. Therefore, Petitioner respectfully requests that this Honorable Court remand the matter back to the Department of Health and Human Services Nevada Division of Public and Behavioral Health, Medical Marijuana Establishment Program for further review on the underlying Application of Samantha's Remedies, Reference No. 98468144852415974273, Application Identifier: D003.

DATED this 8th day of December, 2014.

Respectfully submitted,

COOPER LEVENSON, P.A.

KIMBERLY MAXSON-RUSHTON, ESQ.
Bar No. 005065
6060 Elton Avenue, Suite A
Las Vegas, Nevada 89107
Attorneys for Petitioner

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am employee of COOPER LEVENSON, P.A. and that on this 8th day of December, 2014, I did cause a true and correct copy of the foregoing SAMANTHA INC. d/b/a SAMANTHA'S REMEDIES PETITION FOR JUDICIAL REVIEW to be placed in the United States mail, with first class postage prepaid thereon and addressed as follows:

Department of Health and Human Services
Nevada Division of Public and Behavioral Health,
Medical Marijuana Establishment Program
4150 Technology Way
Carson City, Nevada 89706

Nevada Attorney General
555 E. Washington Blvd., Suite 3900
Las Vegas, Nevada 89101

By _____
Patricia Kennedy, an employee of
COOPER LEVENSON, P.A.

EXHIBIT "1"

STATE OF NEVADA

BRIAN SANDOVAL
Governor

ROMAINE GILLILAND
Director

RICHARD WHITLEY, MS
Administrator

RACHEL D. GRIFFIN, DO
Chief Medical Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH

November 18, 2014

To All Affected Local Governmental Jurisdictions:

The purpose of this letter is to provide clarification and additional information to the local governmental jurisdictions concerning whether the Division of Public and Behavioral Health (DPBH) application scoring process would include "moving down" the Medical Marijuana Establishment (MME) applicants ranking list. When DPBH staff represented that the Division would move to the next ranked applicant if a local jurisdiction did not provide zoning or business license approval, the DPBH staff had not considered the need for the full 90-day application review period for a complete review of all 519 establishment applications.

The Division objectively scored and ranked the MME applications for each jurisdiction. The Division's process focused on public health and public safety as it relates to the use of marijuana for medical purposes, per Nevada Revised Statutes (NRS) Chapter 453A. The regulatory criteria the Division evaluated included the following: the experience, education and backgrounds of the owners and operators; impact on the community; specifics regarding the labeling of products; the use of independent testing laboratories for product safety; transportation plans for moving the medical marijuana; appropriate building and product security; and plans for educating MME staff and the patients. The scoring and ranking process required the entire statutorily-defined application review period.

NRS 453A.324 limits the number of provisional dispensary registration certificates that the Division can issue in each county. Further, NRS 453A.322 requires the Division to issue all provisional certificates not later than 90 days after receiving an application. At this time, the Division does not have the authority to move down to the next ranked applicant if an applicant who received a provisional registration is disqualified, or to issue any additional provisional certificates, because the the 90-day application review period (August 5 to November 3, 2014) has elapsed. Therefore, certain prior communications by DPBH staff only pertained to the application review period.

If the local governmental jurisdiction that issues business licenses does not issue a business license to the provisionally approved MME, the establishment cannot operate. According to NAC 453A.324, the Division may revoke the registration certificate if the establishment is not

operational within 18 months from November 3, 2014, and the applicant would be prohibited from reapplying for a certificate for at least 12 months after that revocation. Subject to any changes by the 2015 Nevada Legislature, the Division will open up a new ten-day application period next calendar year if additional dispensaries are needed to fill the allotted dispensary quantity in local jurisdictions per NRS 453A.324.

Sincerely,

Richard Whitley MS, Administrator
Division of Public & Behavioral Health

EXHIBIT "2"

MINUTES OF THE ADVISORY COMMISSION ON THE ADMINISTRATION OF JUSTICE'S SUBCOMMITTEE ON THE MEDICAL USE OF MARIJUANA

JULY 9, 2014

The meeting of the Advisory Commission on the Administration of Justice's Subcommittee on the Medical Use of Marijuana was called to order by Senator Tick Segerblom at 9:05 a.m. on July 9, 2014, at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada, and via videoconference at the Legislative Building, Room 3137, 401 South Carson Street, Carson City, Nevada. The Agenda is included as Exhibit A and the Attendance Roster is included as Exhibit B. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT (LAS VEGAS):

Yvanna Cancela, Political Director, Culinary Workers Union Local 226
Bob Coffin, Councilmember, City of Las Vegas
Russ Cutolo, Sergeant, Las Vegas Metropolitan Police Department
Chris Giunchigliani, Commissioner, Clark County
Gary Modafferi, Esq.
Sandra Douglass Morgan, City Attorney, City of North Las Vegas
Jennifer Solas, Advocate for Persons Who Use Medical Marijuana
John Watkins, Esq.
Chad Westom, Health Bureau Chief, Department of Health and Human Services, Division of Public and Behavioral Health
Kristina Wildeveld, Esq.
Assemblywoman Olivia Diaz, District No. 11 (via telephone)
Assemblywoman Michele Fiore, District No. 4
Senator Tick Segerblom, Chair, District No. 3

COMMITTEE MEMBERS PRESENT (CARSON CITY):

Christine Jones Brady, Deputy Public Defender, Washoe County
Keith Munro, Assistant Attorney General
Hillary Schieve, Councilmember, City of Reno (via telephone)
Eric Spratley, Lieutenant, Washoe County Sheriff's Office
Vanessa Spinazola, Legislative and Advocacy Director, ACLU of Nevada
Senator Mark Hutchison, District No. 6

COMMITTEE MEMBERS ABSENT:

Frank Adorno, Patient Who Holds a Valid Registry Identification Card

STAFF MEMBERS PRESENT:

Nicolas C. Anthony, Senior Principal Deputy Legislative Counsel
Angela Hartzler, Deputy Administrator, Legal Division, Legislative Counsel Bureau
Olivia Lodato, Interim Secretary, Legal Division, Legislative Counsel Bureau

OTHERS PRESENT:

John Sullivan, First Security Bank of Nevada
Cindy Brown
Julie Montero
David Kallas
Sal
Thomas Serato
Timothy
Vicki Hagans
Raymond Fletcher
Wes Henderson
Mike Cathcart
Nicole Garcia
Kevin Schiller
Assemblyman William Horne
Regina Harris
Sara Clourtiur
Nancy Wilden
Cary

Chair Segerblom opened the meeting at 9:05 a.m. He requested a roll call of members.

Mrs. Hartzler called the roll and a quorum was present.

Chair Segerblom stated that there was a full agenda today. He requested the members introduce themselves to the Committee.

Ms. Jones Brady said she worked for Washoe County Public Defender's Office. She represented clients with felony charges and the specialty courts. She worked with people with addictions or mental illness. She also had a background in anti-poverty work and in abuse and neglect cases regarding children. Her interest in the Committee was how the laws might impact people of lower income or with mental illness.

Ms. Cancela said she was the political director of the Culinary Workers Union Local 226. Her interest was in understanding how policy affected workers within the bargaining unit plus other positions on the Strip and downtown.

Mr. Coffin said he was a member of the Las Vegas City Council. He had been an advocate for medical marijuana for quite a while. He said he could bring a local government's perspective to the meetings. He hoped to get an owner-user of a co-op built out of the group's work. He intended to fully use medical marijuana when he can due to a spinal fracture.

Mr. Cutolo was with the Las Vegas Metropolitan Police Department and had been for the past 17 years. He said he had been in narcotics law enforcement for the past 10 years. He said the focus for Metro was to ensure that the laws made sense. He said they wanted to make the public aware of what the law really was so a legal patient followed the law.

Ms. Giunchigliani said she had served in the Legislature for 16 years and sponsored the original medical marijuana bill in 2001. She said there were issues raised, and she looked forward to working with the Committee.

Mr. Modaferri said he was a constitutional and criminal defense attorney. He was chief of the narcotics Division in Honolulu and now had clients who were prosecuted under the old laws. He hoped to get input in how to deal with people in a fair manner.

Chair Segerblom said the Committee would be looking at ways to go back and revisit people who had criminal convictions for marijuana and reduce or remove the convictions.

Ms. Douglass Morgan said she was the City Attorney for North Las Vegas. She was a voice for the local jurisdictions. She advised the Mayor and Council for North Las Vegas including developing the land use and business license regulations for the project. She also supervised the Criminal Division which prosecuted claims which included marijuana offenses. She also represented the Police Department.

Mr. Munro said he was with the Nevada Attorney General's Office. He said his role was helping the state agencies carry out their duties with respect to this law.

Ms. Schieve said she was a Reno City Council member at large. She said the issue was important to her due to a personal experience with her mother. The effects of medical marijuana could continue to give her a better life.

Ms. Solas said she was a Las Vegas resident and for five years has led a social group for medical marijuana. Her primary interest was patient advocacy and patient rights.

Mr. Spratley said he was with the Washoe County Sheriff's Office. He said Sheriff Haley supported good public policy and the will of the voters.

Ms. Spinazola was the ACLU Legislative and Advocacy Director. She was present to watch civil liberties as they came up in the process, particularly in regards to information sharing between agencies.

Mr. Watkins said he was a practicing lawyer, particularly defense work. He said his role was to point out the impropriety of the present law dealing with marijuana. He said there was a conflict with the medical marijuana and the criminal DUI laws. He said anybody who used marijuana lawfully was guilty of a DUI when they got in their car.

Mr. Westom was Bureau Chief for the State Division of Public and Behavioral Health. He said he had the obligation to implement S.B. 374 and the adopted regulations. He said his objective was to continue the program for card holders and get local governments up and running as soon as possible.

Ms. Wildeveld said she was a criminal defense attorney, lobbyist, and criminal litigator. She did death penalty defense and had never represented anyone who committed a murder while high on marijuana. She also did abuse and neglect cases concerning parents who lost children because of marijuana use. She also represented illegal and legal growers of marijuana.

Senator Hutchison was a co-founder of the medical marijuana bill. He said he looked forward to working with Chair Segerblom on this committee.

Assemblywoman Diaz was excited to be a member of the Committee. She was looking forward to gaining more knowledge in this subject area in order to have information for her constituents when they needed it

Chair Segerblom said Assemblywoman Fiore had the courage to vote for the bill during the Session.

Assemblywoman Fiore said she was excited to be on the committee. She said it was important to take back the freedoms and responsibilities as adults and United States citizens. She said she was going to work on laws to release prisoners arrested.

Chair Segerblom said it was a committee with a lot of background and experience with the issues. He asked Mr. Westom to make a presentation.

Mr. Westom opened his presentation with an overview of the program. He said the Nevada Constitution was changed to allow for medical marijuana. The new bill, S.B. 374, introduced the dispensaries and the cultivation facilities, and production for edible marijuana products and laboratories. He said his department would start reviewing applications on August 5, 2014, Exhibit C. The medical marijuana dispensaries would only be open for those who were cardholders. He said the discussions had started in 2001, then revisions were made in 2003, 2009, and 2013.

Chair Segerblom asked Mr. Westom to explain how the application process would work. He said some entities plan to give a letter to the applicant to go with their application to the State. Another entity said they plan to recommend a specific 18 applicants only. He asked if the State looked at the applications by jurisdiction or ranked them.

Mr. Westom said they will receive applications for certificates from August 5 through August 18, 2014. He said they were following Chapter 453A of NRS and the regulations derived from the statutes and adopted. He said it was a merit based review, scoring and ranking by jurisdiction. They had specific criteria they had to review and they had developed a process to do so, Exhibit C. He said there was an overview of the scoring on their website at Health.NV.gov. The application was there for review and it gave all the different categories of subjects they were reviewing and a point value for each subject.

Chair Segerblom said Clark County picked 18 applicants as their favorites. He asked if it made a difference that Clark County picked those people and did it affect the state scoring system.

Mr. Westom said they would review all the applications they received. He said they would review more than the 18 recommended by an entity. The rankings may differ and there was no assurance they would choose the same 18 applicants.

Chair Segerblom asked if there was a way to give credit in the state's merit system that Clark County said they liked certain groups or locations.

Mr. Westom replied that it was part of the process for the applicants to provide evidence of local zoning and business licensing approval.

Ms. Douglass Morgan said her review of the regulations did not show any contemplation of local jurisdiction approval of a business license. She said the medical marijuana certificate issued by the State was provisional until it was approved by the local jurisdiction.

Mr. Westom said it did talk about local government approvals. He said in some jurisdictions there were no business licenses issued.

Ms. Douglass Morgan said whether or not a business had the proper zoning was contemplated and that could be determined with a zoning verification letter.

Mr. Westom said the provisional certificates were issued so the local jurisdictions could approve.

Ms. Giunchigliani said a number of people said they were going to give nonprofits some assistance. She said she could not find anything in statute directing that as part of the merit base. She asked if that was a voluntary effort.

Mr. Westom said there were categories that spoke to community impact and other criteria where their contributions to non-profits and other entities were a factor.

Ms. Giunchigliani said she would like to see the sections where those categories were referenced.

Senator Hutchison asked Mr. Westom how it was going to work. He said he assumed the State was starting with a base analysis of the statute. He referred to Section 11.7 of S.B. 374 where

the law required certain criteria be applied in evaluating the applications before the certifications were issued. He said it included contemplation of taxes paid to integrated plans from seed to sell. He said they went to a for-profit model as opposed to a nonprofit model for a specific reason from the law enforcement standpoint.

Mr. Westom said they were looking at the criteria mentioned.

Senator Hutchison said when looking at the 18 applications approved by Clark County, they would be evaluating independently of the County's analysis in terms of who the best ranked applicants were. He said if applicants satisfied more of Section 11.7 in the statute, but were not included as part of the 18, the State would look at the applicants.

Ms. Jones Brady said government transparency was important to her. She asked what things were in place to ensure that things were transparent and consistent. She said there needed to be discussion around how or why decisions vary significantly. The other thing she was concerned about was the for-profit mode. She said transparency was very important and people were in the business to make money and a profit as opposed to helping a community.

Mr. Westom said Clark County and some other jurisdictions reviewed criteria at the local level. At the state level, they reviewed the entire operation. He said much of the information they received was confidential and they released what information they could, but did not have full transparency because of the law. They will release the information about those who received provisional certificates along with their rankings, Exhibit C. He said they would not release information if the applicant did not sign a release form.

Assemblywoman Fiore commented about the nonprofit issue. She said the pharmaceutical companies and alcohol companies were for profit. The new medical marijuana businesses moving to Nevada will be giving a lot back to charity. She said it was a for-profit company.

Chair Segerblom said they made it for-profit because law enforcement suggested it and they wanted to bring the best and brightest from around the country to Nevada. He said they had received interest and applications from around the country of people with backgrounds from all varieties.

Ms. Giunchigliani said she thought the for-profit base made the most sense. She said nonprofits found a way around the rules and went underground. She wanted it as legal as possible. She said merit base would use Section 11.7, but the regulations added some additional information. They needed experts from out of state to assist. She was concerned about the staff available for the State. She asked what the turn-around time was for decisions and implementation back to local governments for final approval.

Mr. Westom said it was all factored in, including the vertical model proposal. He said each aspect would be reviewed separately. The time frame was 90 days to review all medical

marijuana applications in the state. He said they were staffed to meet the demand. They had a combination of state employees as well as contracted staff.

Ms. Giunchigliani asked if they did a disclosure so there were no conflicts or business interests.

Mr. Coffin said the bill was still in flux in order to meet things still needing solutions. He brought up an issue of an owner-grower co-op. He said he had not seen applications, but hoped for an incentive for owner-growers. He requested Mr. Westom keep the committee informed of all the things that arise concerning the issues. He asked a question about the selection of the 18 people chosen by the county, but the state chose the 19th person. He wondered what that did to the one who was number 18.

Mr. Westom said they will receive all the applications of people who apply across the state. He said they would come up with the highest 18 rankings in Clark County and issue provisional certificates. He said Clark County then had the option of denying the businesses at a local level. If they are denied at the local level, then the State will also deny them and the State would let Clark County know who was the next ranked entity.

Mr. Coffin said they would not know who was ranked because of confidential laws.

Mr. Westom said they would publish those rankings, but not in detail due to confidentiality clauses. They would be in conversation with the local government.

Chair Segerblom asked if Mr. Westom said they were going to publish the rankings of everyone who applied in the district or just the number the jurisdiction was eligible to receive.

Mr. Westom referred to Exhibit C. He said they were issuing a release form to applicants and if they chose to sign it, then their ranking and score would be released.

Ms. Wildeveld said the City was requiring a copy of the State application for the licensing process. The State was supposed to be ranking the applications blindly. She asked if there was information sharing or was the State portion of the City application confidential.

Mr. Westom said he would do his best to answer the question. He said he had no comment on what the local governments decided to do. He said the ranking and review had identified and unidentified criteria in the application.

Mr. Modafferi said the 18 people approved by the County will end up with the licenses. He said there was going to be a push-back. He asked if that was correct.

Mr. Westom said the State process was merit based and it followed the statutes and regulations. The applications outlined their requests and they would review, ranking and scoring the applications regardless of what occurred at a local level.

Mr. Modafferi said after the ranking was accomplished, local government would have carte blanche power to choose the applicants.

Mr. Westom said they will notify the applicants that the State was planning on issuing them provisional certificates and then they will notify the local government of the highest rankings. It will then be up to Clark County to decide what they want to do. If the county denies an applicant, then the State will also deny them and then notify the county of the next ranked applicant.

Ms. Giunchigliani said Clark County kept alive all the other applicants besides the 18 in case the State did not select the same people.

Mr. Westom gave a brief overview of the current process as outlined in Exhibit C. He said the security would be huge and there would be automatic notification to law enforcement if there was a security breach. He said it was important that the packaging had strict guidelines. The packaging was child resistant.

Ms. Jones Brady said she had seen cards and certificates from California. She asked if the medical marijuana cards and certificates have consistency and a professional appearance as well as being difficult to forge.

Mr. Westom said at least three documents were relevant to her concern. The existing marijuana patient cards were processed in a partnership between DMV, DPS and his office. He said there were a lot of security features. The Division issuing the medical marijuana agent cards or employees will have similar security features. The medical marijuana provisional certificates will be printed with security features like other licenses and certificates issued by the Division. He said they print a lot of certificates that are health related.

Mr. Watkins asked about child resistant packaging. He asked for a description of the packaging that would prevent children and other members from gaining access to the drug.

Mr. Westom said the regulations called out specifics on child resistant packaging. They review each applicants packaging and have a routine inspection at least once per year of the establishments. He said they had appropriate enforcement ability at the establishments to curtail packaging not in the best interest of children.

Mr. Watkins suggested that the packaging have a zip lock with an actual lock and the cardholder would have the key. He said they needed to make sure children and unauthorized adults do not get into the package.

Mr. Westom said they had 12 new positions and projected 15 contracted employees would be necessary to assist in reviewing the applications. He said the contractors had different specialties.

Chair Segerblom said Clark County did not limit the number of grows or edibles in the state law. He asked if there was some type of limited cultivation.

Mr. Westom referenced Exhibit C. He said they wanted to be sure the supply was sufficient. He said if the supply authorized was far greater than the demand, then illegal diversion was a risk. The adopted regulations said the Division may limit the cultivation in the State. It would have to happen through a public hearing. He said they know how much square footage was needed in a cultivation facility to grow medical marijuana. He said they also factored in the reciprocity factor from other states. They were projecting a range of 600,000 square feet of cultivation up to almost 1 million.

Chair Segerblom asked if the Division had projected the number of cards needed for next year.

Mr. Westom said currently there were over 6,000 medical marijuana cardholders and a number of caregivers in Nevada. He said the numbers were growing rapidly. They issued statewide numbers only and it was posted on the website.

Mr. Watkins said he understood that police will have, in their scopes, the individuals who have marijuana cards.

Mr. Westom said they already had a process for law enforcement purposes where they can look at the data base to see if someone was a cardholder.

Mr. Watkins said the police could look at the card and run the information.

Mr. Westom said he could not comment on that.

Mr. Cutolo said part of S.B. 374 required law enforcement to have access to cardholders information in order to verify the card. He said the access was limited and the list was updated daily. It did not give names or addresses of the cardholder.

Mr. Watkins said the police would then not have any access or knowledge that a person driving a car was a marijuana user.

Mr. Cutolo said the information was removed from DMV four or five years ago.

Mr. Westom referred to the process of receiving the card as outlined in Exhibit C.

Chair Segerblom said within the year the State could have 50,000 card holders. He asked if there was enough staff to process that number of cards next year.

Mr. Westom said if Chair Segerblom was correct and they had 50,000 cardholders rather than the 6,300 currently projected, they did not have enough staff. He said they had systems in place to request the resources to meet the demand.

Chair Segerblom asked if the money for the cards went to the Division.

Mr. Westom said the funding for the medical marijuana card holder program and the medical marijuana establishment program were held separately. He said the division was flexible and would ask for additional resources if necessary.

Mr. Westom said when they completed the application and turned it in, there was a letter that gave them 30 days as a cardholder until they received their card.

Ms. Solas asked if the statistical page looked different earlier. She said she remembered a separation of age and who had the card and their condition.

Mr. Westom said he did not have that information.

Ms. Solas said about two years ago the age of the person was released. She said it made it convenient to point out that it was not just young kids getting on the program. The majority of card holders were over 30.

Mr. Westom said she was correct, but it was not on their site due to confidentiality requirements.

Chair Segerblom said that might need to change to show who was participating and their age groups.

Ms. Solas said she would like to see the ages of the cardholders and the zip code so they could see where the population was located and who needed the medication.

Chair Segerblom reopened the meeting with a request for public comment.

J. Laub, President of the Las Vegas Medical Marijuana Association said they would continue to focus the industry to serve patients. He said it was to help the patient. He said the organization was working with doctors, researchers, and the University.

John Sullivan, President and CEO of First Security Bank of Nevada, said his bank was willing to provide banking services to medical marijuana establishments in the State. He said they did so out of compassion for individuals who required the medication. He said he had met many of the applicants in the past few months. It was still a grey area in the law, grey on the federal level. Any revenue derived from the sale of marijuana was still illegal. He said in February the Financial Crimes Enforcement Network, (FINCEN) released guidance to the banks. FINCEN said the services could receive banking services if they were in full compliance with the state and local laws and regulations. And secondly that the businesses do not violate the eight principles of the Cole Memorandum. He said they concluded it was possible to stay within the guidelines. He said FINCEN expected banks to implement robust monitoring systems in accordance with state law. The marijuana operations had to be complying with state and local laws. He said they also had to know who the customer was, how they operated and what revenue and currency deposits they were making. He said they had to track the customer. One area of guidance beneficial for

the committee was that FINCEN encouraged banks to establish lines of communication with state and local governments. He said the monitoring systems were a huge burden for the banks. The Cole Memo stated that they needed to remove the danger of an all cash business. He said huge sanctions can be imposed on financial systems that do not follow the regulations.

Chair Segerblom said Mr. Jones would meet with Mr. Sullivan about ways the committee could propose a bill to help the banking industry in Nevada. He added that Item VII of the Agenda, concerning credit unions, was pulled because they wanted more time before they made a presentation.

Cindy Brown said in Nevada the patients were required to be experts on marijuana. She wanted each dispensary to have at least one patient on their board.

Julie Montero said she was a registered nurse in Nevada. She said limiting the number of cultivation facilities seemed to limit patient access. She said the patients were having difficulty with the cards due to the length of the process.

Chair Segerblom requested she email her ideas to the committee.

David Kallas said he was a cardholder. He said he understood the need to protect children from access to the medication but it was important to remember it was medication and pharmacies were not required to put locks on the medicines they dispensed. He said the cost of locks would be passed on to the patient. He asked for a trial run on the application process to make sure an agricultural specialist did not evaluate everything they might not have knowledge about.

Mr. Watkins said child resistance packaging was not the case. He said he just wanted to show that child resistant packaging was not child resistant.

Ms. Solas said she went to Colorado and looked at their packaging and the packaging sold at the major conventions. She said the packaging sold in Colorado was harder to get into than aspirin or oxycodone.

Sal said the people on the board seemed open-minded and logical on this topic. He said he was a caregiver. He was concerned that the opportunities to get into this industry were limited to wealthy people. He said limiting the amount of growers reduced the quality of the medicine. He said from his personal experience small gardens produced the best medicine over bigger gardens.

Assemblywoman Fiore asked Sal to email his ideas to her.

Thomas Serato said he was a medical marijuana cardholder. He discussed concentrates made with a butane product. He said it took a natural product and applied gas to reduce it down. The butane was not totally removed from the product. He said he was able to offer a product that never put butane on the product. He said methane gas was completely natural. He added exploding hash labs were a serious problem.

Timothy said he had numerous concerns. He said S.B. 374 caused patients a lot of problems. He had to go to Colorado to be licensed. He said a patient only had a limited amount of funds. He said the system did not protect the patient and their medicine. He feared not being able to grow his own medicine. He said there was no scientific research concerning driving under the influence of cannabis.

Vicki Hagans said tax and political donations from the past as well as time should be considered. She said a swab test for the DUI and job issues are being developed at this time. She asked if there was a projected date after the applications were approved.

Chair Segerblom said it had to be by 90 days for the State.

Ms. Hagans said California had hundreds of different cards. She asked how to define too much medicine. Each dispensary needed 3 to 5 cultivation systems. The concentrates take a vast amount to make them. She said they needed to consider not putting limitations on cultivation. Patients needed to maintain their own gardens. She said agent cards were very expensive.

Chair Segerblom requested she email all of her suggestions to the committee.

Raymond Fletcher requested that they look at protection for patients as far as work. He lost his employment even though he was a medical marijuana patient. He said Voc-Rehab programs will throw them out if they use marijuana. He said they do not want to limit the ability for patients to grow their own.

Mr. Kallas requested they ask the state representatives from the Division of Public Health to post their presentation on their website.

Mr. Westom said it was on the legislative website and they would put it on the Division's website.

Mr. Westom said he had covered the majority of the presentation. He asked if there more questions.

Ms. Solas said the medical marijuana registry card took about 21 days to receive. She said she had not seen that level of turn around. She said they help people with the process.

Mr. Westom asked if the patient had sent in her card on the 21st of June.

Ms. Solas replied she sent it on the 21st of June and had not received anything in the mail. She said other patients turn-around time seemed more like about 6 weeks.

Ms. Westom said the calculations averaged 21 to 27 days for turnaround depending on when it was sent. He said the demand increased dramatically. They were adding additional resources to

be sure they were in compliance with the law, but did not have the resources to take the required 30 days and bring it down to 5 or 10 days. He said the background check required approximately 12 days.

Ms. Douglass Morgan said the estimated amount for grows was between 600,000 to 1 million square feet for the entire state. She said there was no public hearing scheduled to limit the number of cultivation growers.

Mr. Westom said she was correct. Public hearings required a 30 day notice. He said the estimates were given to meet the projected needs of Nevada patients as well as reciprocity with other states. He said that was not a limited, but rather a work load analysis.

Chair Segerblom asked if they gave a grow license did they have the ability to withdraw it or scale it back if there was too much product.

Mr. Westom said they did not have an exact process at this time. It would have to go to a public hearing.

Ms. Giunchigliani asked when the reapplication period would occur.

Mr. Westom said it was not scheduled at this time.

Ms. Giunchigliani asked if local business license departments needed to inspect the establishments.

Mr. Westom said it depended on decisions made at the local level. The state usually did not have a comment on local processes.

Ms. Giunchigliani said she appreciated Mr. Sullivan and the banks adding that there may be some flexibility there. She was curious about the no ex-felons rule working there. She said Nevada reinstated felon rights and she hoped they were not permanently barring people from working. She asked if someone changed their partners before the State opened their applications, what would happen.

Mr. Westom said they reviewed what was on the application when it was received. He said it would not be a factor if the ownership was different from the application for zoning or business licensing.

Ms. Giunchigliani said on the local level they might have voided themselves if they made changes. She said the original bill contained language about the attending physician. The attending physician was a physician licensed to practice medicine and had primary responsibility for the care and treatment of the patient with a debilitating medical condition. She wanted to make sure it was still a condition in the bill.

Mr. Westom said yes, those were things reviewed by staff for medical marijuana patient holders. Ms. Giunchigliani wanted to reinforce the idea of licensed physicians in the state.

Mr. Westom said there was a provision that they make themselves aware of recommendations from physicians for potential conflicts.

Mr. Coffin asked about sharing information on inspections. The City of Las Vegas wanted to know if someone failed or was in jeopardy of losing their special use permits. He asked how they received the information.

Mr. Westom said he hoped it would be the same as other programs and readily available. He said other programs special reports were posted on the websites. That was the quickest way to get the information out to the local governments.

Ms. Wildeveld commented that people concerned about receiving medical marijuana from a dispensary said some applications contemplated giving free medical marijuana to certain individuals. She asked if there was a standardized system for tracking and verifying state issued cards that the establishments were using. She said people would be coming from all over the country and wondered how they would know if a card is legitimate.

Mr. Westom said the law required the dispensaries verify that the cards are legitimate. He said in 2016 the State will have worked with other states to try and have verification of the cards through electronic systems. He said it was difficult because not all states had electronic systems.

Ms. Wildeveld asked about regulations changing the ownership of establishments once the license was granted.

Chair Segerblom said the law did not provide for the change of ownership. He said one of the purposes of the Committee was to design and process the transfer of ownership.

Mr. Spratley asked about the square footage needed for production facilities. He inquired about one applicant applying for the whole 1 million square feet of production, would it then be limited to one facility in the State or would they still allow other facilities.

Mr. Westom replied the production he mentioned of 600,000 to 1 million square feet of cultivation facility was for the growing. He said a super facility needed to rank in score high enough on their application to have that spot.

Chair Segerblom said he thought they were not going to rank the growers, but were going to approve all the growers until they had the public hearing.

Mr. Westom said they had to be sure that what was proposed was in compliance with the regulations and statutes. He said until they had the hearing, they could not limit production. He said he had not heard of any one proposing 1 million square feet.

Mr. Spratley said it was a concern from the law enforcement point of view.

Wes Henderson, Director, Nevada League of Cities and Municipalities, said Ms. Garcia and Mr. Cathcart were also present. Mr. Henderson gave a brief overview of actions of the various cities and towns throughout the State, Exhibit D. He said there were a variety of responses concerning medical marijuana. He said two or three cities prohibited the establishment of facilities within their jurisdictions; however, one city was reconsidering its decision. Several cities had not taken any action, and some cities had enforced moratoriums from six months to two years. He said some cities had voiced concerns regarding the federal prohibition against marijuana. He said other cities had adopted regulations and were accepting applications.

Chair Segerblom said some rural counties had one or two incorporated cities but large geographical distances. He asked if they needed to increase the number of dispensaries for those counties.

Mr. Henderson said it had been expressed as a concern. He said there were no incorporated cities in Nye County, but there is the town of Pahrump.

Mr. Mike Cathcart, Business Operations Manager, City of Henderson, talked about their process. The council adopted ordinances on July 1, 2014, and opened the application process on July 7, 2014. He said they had received a lot of questions and calls but no applications to date. He said they had seven classes of different medical marijuana establishments. They were not selecting any number of applicants before the state process. He said when the list was returned from the State, the Council would look at doing the permits and issuing the business licenses. He said they were concerned they might not get their entire ranked list back.

Mr. Westom said they would send the top ranked to the City of Henderson. He said if an application was denied at the local level, the State also denied it and would let them know who was the next ranked entity.

Chair Segerblom thought he heard the whole ranking was public information. He asked if the city would not know who was ranked next after the first five entities.

Mr. Westom said it was two different processes. He said one was the discussion of what was released publically and the other was conversations with the local governments. He said it was subject to the applicants signing the release of information.

Mr. Cathcart was concerned about the open meeting law, and they also wished to have vertically integrated establishments. He said if a dispenser was ranked number 6 on the list but ranked as the number 1 cultivator, they wanted the flexibility to license them as a vertically integrated establishment.

Chair Segerblom asked Mr. Westom if the total rankings on the website would not necessarily be given directly to the city.
Mr. Westom said they did not have exact dates and when it would be posted to the website. They were still revising the process.

Ms. Douglass Morgan said they did not have the different classifications. She said they did not want to have to wait too long to receive the information and rankings.

Mr. Westom said their process was to issue the provisional certificates to the top ranked for the jurisdiction. He said they would look at the dispensaries being in the appropriate places for the patients. They were not authorized to approve someone who was not properly ranked. He said it was a merit based system.

Ms. Nicole Garcia, Henderson City Attorney's Office, reviewed the regulations the State presented as a rationale for withholding the entire list. She said they did not find anything in the regulations that prevented the State from giving them the entire list of qualified applicants. The legislature gave the cities the ability to regulate the zoning and the business licensing.

Ms. Giunchigliani said she did not want political bid shopping. She said it was not the whole list because it was merit based at the State level. She asked about a denial coming in at the State level.

Mr. Westom replied that once they got past the applicant issued provisional certificates, local approval of the businesses was required. He said at the point the local government denied the business, the State followed suit and denied the certificate.

Ms. Giunchigliani said they should not jump all over the list.

Ms. Garcia said they wanted the State to do the vetting of the applicants and the city gave a lot of weight to how the State ranked them. She said Henderson did not want clustered dispensaries.

Kevin Schiller, Assistant Manager Washoe County, gave a quick update concerning Washoe County. They passed regulatory and code changes in April. They provided provisional zoning letters and worked with the State around remaining issues. They were looking at locations including the other holders.

Chair Segerblom opened discussion on Agenda Item VIII, laws governing driving under the influence of marijuana.

Mr. Anthony said he had assembled a two-part handout; one on the National Conference of State Legislatures, Exhibit E, and the other a colored chart on DUI laws, Exhibit F. He said driving under the influence of a controlled substance was different than a traditional DUI. He said there was a .08 standard for driving under the influence. He said it was a per se standard meaning if the blood alcohol level was over .08, a person was considered impaired. Some states had effect

based laws where the officers had to prove you were impaired. There were also zero tolerance states where if you had any amount of a controlled substance in your system, you were presumed to be guilty. He said Nevada was a per se state that set out various requirements for controlled substances. He said in Nevada, urine level was 10 nanograms per milliliter for marijuana and 15 nanograms for marijuana metabolite. In terms of blood for marijuana, it was 2 nanograms and 5 metabolites. He said there had been earlier attempts to carve out exceptions for medical marijuana use. Mr. Anthony referenced Exhibit F, the highlighted map. He said 6 states had per se limits similar to Nevada; 11 states had zero tolerance; the remaining 33 states had effect based laws and it was up to the prosecution to prove.

Chair Segerblom asked about the California law. He said the officer determined whether or not there was impairment and then there was some type of test.

Mr. Anthony said yes, that was his understanding. In California you were given a field sobriety test and if you failed, then you received blood and urine tests and it would be admissible in court.

Mr. Coffin asked how much marijuana had to be consumed to reach the 5 nanogram amount. He asked if it was literally a trace of exposure.

Mr. Anthony said that was one of the issues debated. He said for example, how long does it stay in the body and how is it metabolized. He said it was an emerging area of law.

Mr. Coffin said he was familiar with how much alcohol was involved, but what about a contact high for a person who had been near someone who smoked marijuana.

Mr. Watkins said there was a distinction between alcohol and marijuana. Alcohol was a "polar substance" which meant it loved water, and marijuana is non-polar and loved fat. When smoking the THC level rises rapidly and within 20 to 30 minutes it goes down quickly. He said 2 weeks later the marijuana THC in the fat can travel into the blood. He said the studies dealing with marijuana and driving did not show impairment in the numerical levels. We were putting people in jail who were not impaired. He said the nanogram numbers were plucked out of the air. He said the impairment standard was a better way.

Ms. Jones Brady said it was prison, not just jail.

Assemblyman Horne said he represented clients seeking medical marijuana licenses. Last session he sponsored a bill calling for a carve-out for patients with medical marijuana cards who were detained by police. He said the bill was a fairness issue. Medical marijuana card users were detained by police. Medicinal cannabis was the only medicine with limits on it. He said law enforcement had all the tools for proving impairment through field sobriety tests. People said his bill would allow more drunk drivers on the streets. He said nothing in the bill prevented medical marijuana cardholders from being prosecuted for driving under the influence. He said the prosecution still had to prove their case. He recommended another BDR similar to the one last session.

Ms. Giunchigliani said she tried to deal with the drunken driving issue in A.B. 351 from the 2003 session. She said marijuana and cocaine were added to the Prohibited Substances Act in 1999. She said the research did not tell what a metabolite was for cocaine and marijuana. They could change the substance act. She said it needed to be actual blood testing, not urine testing. The two nanograms needed to be looked at, not the metabolite. The U.S. Department of Health and Human Services said they ranked 15 nanograms for the purpose of hiring, firing and screening people for federal employment. She said it was important to measure the right thing. The issue of impairment also had to be investigated.

Mr. Spratley said law enforcement was a willing partner in A.B. 351. He remembered holders of commercial driver's licenses were not affected by the bill. He said law enforcement wanted discussions regarding the law and to make sure they crafted laws that would affect drivers on the roadways. He said the Federal Motor Carrier Safety Administration had a ban on medical marijuana use for commercial license holders.

Chair Segerblom opened discussion on the Agenda Item IX, obtaining a medical marijuana identification card in Nevada and Arizona. He said they needed a way to simplify receiving a card.

Mr. Anthony referred to Exhibit G and Exhibit H. He said Exhibit G outlined the Nevada medical marijuana program and the other exhibit had information from Arizona, including a patient check list. He said in Nevada currently someone fills out a request for an application by mail, it cannot be done in person, and pays the required $25 fee. The Division then sends a full application; the person fills it out and returns it with a $75 fee. The Division checks it for completeness, and then within 30 days when there is a decision, the person can go get the card. He said in Nevada by statute and by regulation once the application is deemed complete the application can be treated like you were a cardholder.

Mr. Anthony said it appeared Arizona's process was much quicker. The application was done on-line, not in person. The on-line process returned the decision to the applicant within 10 business days. He did not find an exception grandfathering a person in once they applied for the card. He said they might have to wait the 10 full days before receiving the card. He said the other differences were very minor. Arizona had a slightly higher fee at $150 and Nevada's was reduced this last year.

Chair Segerblom asked why they could not have an internet application as opposed to the current system.

Mr. Westom said they were looking at making the system more web based. The Division had a centralized licensing database system that was authorized and funded. He said they were looking at electronic systems but they took time to get.

Ms. Giunchigliani said they could remove the request for part of the application. The DMV card was for an official ID that would prove out. She said dispensaries were in place with reciprocity in place with minimal verification. She said they needed to speed up the process and offer an official government ID to protect the patient.

Ms. Solas said as soon as the patient received a doctor's approval, they could use medical marijuana before they received the card. She said if they removed the requirement for a mailed application and allowed on-line applications for the $25 fee, it removed 5 to 7 days in mail time. The application would still require the doctor's signature to start the process.

Mr. Spratley said law enforcement was very much opposed to moving away from the DMV. He said it was a good card, they recognized it, and it was hard to forge. He said DMV did a fantastic job of producing medical marijuana cards in Nevada.

Ms. Solas said she had been stopped by law enforcement and they were unable to access her information until she handed them the card. She said the card made her feel safe.

Mr. Westom asked Mr. Anthony if Arizona gave any information about the background checks of the patients.

Mr. Anthony said he did not recall Arizona having as detailed a background check. He said they did fingerprints, but they had moved away from that.

Chair Segerblom added that felons were excluded from medical marijuana. He asked Ms. Regina Harris to come forward. She claims to have invented a new way to issue medical marijuana cards.

Regina Harris said she was with Get Legal 420. She said they provided residents with chronic and debilitating conditions support with the medical marijuana cards.

Sara Cloutier said the service was designed to accommodate patients in need of the card. She said they were a mobile service. They were looking forward to working with nonprofit organizations to help them mitigate fees for patients in need. She said they were developing a full service medical marijuana kiosk allowing patients to automatically upload their information to the State, be evaluated by an attending physician via telemedicine, and acquire their temporary ID all at once. She said the machine had the capability of providing diet programs and stress tests, as well as on-line health monitoring.

Ms. Harris said they wanted to schedule, at a later date, a time to demonstrate the prototype.

Ms. Solas was concerned about degrading the medical profession by not having a doctor physically examine the person.

Ms. Harris said there was a blood pressure cuff, a scale, and monitoring for temperature. She said it was everything you were able to do in a doctor's office basically through telemedicine.

Chair Segerblom asked if the doctor was not present but was watching the patient.

Ms. Harris said yes, it was similar to Skype, the doctor was on the other side of the monitor. It had face recognition and could do an evaluation right then and upload the information to the State.

Ms. Giunchigliani said she thought they were promoting a business rather than wellness. She asked what they charged a patient.

Ms. Harris asked if she meant for their service to help them register for the card. She said they charged $299 which covered the state fee, the doctor's evaluation, the notary and all the paperwork. She said they were a mobile service and went directly to the patient. She said they took out the tedious process by doing it for them.

Ms. Giunchigliani said under state law the doctor had to have the primary responsibility for the care and treatment of the patient, not be a drive-by. She was concerned, and she did not want to put people at risk.

Chair Segerblom said this was marijuana, not cocaine or heroin. They could change the law.

Ms. Giunchigliani said it was very clear that the voters had voted to allow you to be recognized by the card.

Ms. Harris said if the patient already had an attending physician they offered to take the doctor's fees out of the proposal.

Chair Segerblom said he had a guy who was fired due to a work injury and he tested positive. He said he looked in the yellow pages, called them, met the doctor and they started delivering to the house.

Ms. Giunchigliani said you did not need to pay anybody $100 bucks for the help.

Chair Segerblom said you do not need to pay, it was just the possibility out there. He said he was interested in the kiosk.

Senator Hutchison said the idea of electronic and web services needed to be investigated. He asked if they could schedule a time for the parties to present some of these topics; databased, web based, electronic based solutions to the challenges with the law.
Chair Segerblom referred to Exhibit I, five things he was interested in hearing for potential topics on future agendas. He said they would have at least two more and maybe three more meetings. He mentioned transfer of ownership of establishment licenses, additional dispensaries, the

estimated number of cardholders, the process for new ID cards and whether doctors who prescribe should be listed on a state website.

Ms. Giunchigliani said they cannot use the word prescribe, they need to look at application or something. She said they needed to look at the statute restricting public health labs from participating. They needed to look at Senator Rawson's language added to a bill in 2001 which allowed for research by the University System, but they had to apply to the Federal Government. She recommended removing that language. She wanted to discuss allowing green houses to grow. She was also concerned about the drunk driving laws and any criminal statutes woven into the bill. She said growing one's own medical marijuana needed further discussion. Horticulture programs at the public institutions should be established. She said they needed to look at "candy production" so the kids had access to it. She was concerned about price gouging for cost of applications. She was concerned about restrictions going across county lines.

Senator Hutchison said the committee needed to address and talk about the challenges the cash business had and possible electronic solutions. He was also concerned about reciprocity and a databased system they could review.

Mr. Watkins said they needed to discuss the usage of marijuana and driving. People need their medicine and also need to be able to go to work.

Mr. Kallas said he agreed with Ms. Giunchigliani. He said this should be about the patients and not profit sharing. He said as soon as possible eliminate the request from the cardholder to the State to receive an application. He said it was a waste of time to have to justify why you wanted the application. He said in regards to reciprocity it was important to require that each dispensary receive all other state's copies of what they issued to the cardholders.

Chair Segerblom said all they were doing was asking them to sign an affidavit; they were not going to grill people.

Assemblyman Horne said it would be beneficial to dovetail the state process with the local process. He suggested the State being responsible for the caliber of the applicants and the local government responsible for the zoning. He said that might eliminate a lot of the confusion. He said gaming license holders were not permitted to participate, however, the gaming licensees were the most vetted people in Nevada. He said originally they wanted the most above reproach caliber of people participating. He wanted to be sure high-caliber people were involved. He said the issue on transporting cannabis across county lines needed discussion. He said if the state said someone was an appropriate grower, then perhaps it was against public policy for other counties that permitted it to block it and only allow those growing in their jurisdiction.

Thomas Serato, long time user and advocate, said protecting the children was the first and last cry of prohibition. He said nobody ever died from using marijuana. He said he had smoked for 40 years and had driven an auto since he was 8 years old and never had an accident or been cited. He said he would take any test designed.

Nancy Wilden talked about clones. She said the cultivation sites are going to need 1,000 clones. Her brother was involved in cloning for almost 10 years. She had a group of gardeners who wanted to provide clones to the cultivation sites.

Chair Segerblom said they could sell 12 clones and give away 1,000.

Timothy said it was about wellness. He said he was forced out of the medical cannabis state registry in Nevada.

Chair Segerblom said he understood that what he wanted them to do was put free or really cheap marijuana into the law. He said they cannot do that until February.

Timothy said it was not about cheap cannabis. He said within the state's rehab medical system, he would like to use the opportunity to find jobs in the program.

Sal said the problem with verifying out-of-state people was that the dispensaries would be liable even if the customer signed an affidavit. He was in favor of telemedicine. He was concerned about a huge backlog in sending out cards.

Chair Segerblom said if they signed an affidavit, no one was liable.

Assemblywoman Fiore said if a dispensary in Nevada was not licensed or approved and not abiding by the laws, the officers will investigate and shut them down.

Julie Montero said she had patients who registered 300 nanograms. She recommended a clause where medical marijuana users were exempt from the 2 nanograms. She asked if there was a directory listing the doctors and dispensaries on a state website.

Mr. Westom said physicians were confidential, but dispensaries will become public.

Mr. Watkins said the law was 2 nanograms per milliliter.

Cary, secretary of the Board of Wellness Education Cannabis Advocates in Nevada, said he wanted to do away with plausible deniability for the police.

Chair Segerblom asked if there was any further public comment. He adjourned the meeting at 1:05 p.m.

Respectfully Submitted:

_____
Olivia Lodato, Interim Secretary

Approved By:

_____
Senator Tick Segerblom, Chair

Dated: _____

EXHIBITS

Committee Name: Advisory Commission on the Administration of Justice's Subcommittee on the Medical Use of Marijuana

Date: July 9, 2014 Time of Meeting: 9:00 a.m.

	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Chad Westom	Medical Marijuana Program
	D	Wes Henderson	NLC&M Marijuana Update
	E	Nick Anthony	Drugged Driving Per Se Laws
	F	Nick Anthony	Zero Tolerance Per Se Laws
	G	Nick Anthony	State Medical Marijuana Program
	H	Nick Anthony	Medical Marijuana Patient Checklist
	I	Chair Segerblom	Potential Topics for Future Agendas

IN THE SUPREME COURT OF THE STATE OF NEVADA

STATE OF NEVADA DEPARTMENT OF HEALTH AND HUMAN SERVICES,DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, Appellant, vs. SAMANTHA INC., d/b/a SAMANTHA'S REMEDIES, Respondent.	No. 71123 DOCKETING STATEMENT CIVIL APPEALS

1. Judicial District Eighth Department VIII

County Clark Judge Honorable Doug S. Smith

District Ct. Case No. A-14-710874-J

2. Attorney filing this docketing statement:

Attorney Linda C. Anderson Telephone (702) 486-3077

Firm Nevada Attorney General's Office

Address 555 E. Washington, #3900, Las Vegas, Nevada 89101

Client(s) Department of Health and Human Services, Division of Public and Behavioral Health

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondent(s):

Attorney Kimberly Maxson-Rushton Telephone (702) 366-1857

Firm Cooper Levenson, PA

Address 1835 Village Center Circle, Las Vegas, Nevada 89134

Client(s) Samantha, Inc. d/b/a Samantha's Remedies

4. Nature of disposition below (check all that apply):

- ☐ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☐ Summary judgment
- ☐ Default judgment
- ☐ Grant/Denial of NRCP 60(b) relief
- ☐ Grant/Denial of injunction
- ☐ Grant/Denial of declaratory relief
- X Review of agency determination
- ☐ Dismissal:
  - ☐ Lack of jurisdiction
  - ☐ Failure to state a claim
  - ☐ Failure to prosecute
  - ☐ Other (specify): _____
- ☐ Divorce Decree
  - ☐ Original ☐ Modification
- ☐ Other disposition (specify): _____

5. Does this appeal raise issues concerning any of the following? No.

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

This case was the subject of a writ proceeding in the matter of *The State of Nevada Department of Health and Human Services, Division of Public and Behavioral Health vs. The Eighth Judicial District Court of the State of Nevada, In and For the County of Clark and the Honorable Douglas Smith, District Judge with Real Party in Interest Samantha Inc. d/b/a Samantha's Remedies, a domestic corporation,* Case No. 67423

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (*e.g.*, bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None.

8. Nature of the action. Briefly describe the nature of the action and the result below:

This was a petition for judicial review of the denial of an application for a medical marijuana dispensary in a competitive process for twelve dispensaries located in the City of Las Vegas. The Division appeals both the Order Denying the Motion to Dismiss filed February 13, 2015 and the final Order filed July 27, 2016 with Notice of Entry filed August 3, 2016 (with an unfiled copy of the order). The final order directed the Division to set aside the score of Samantha's application for a medical marijuana dispensary and re-evaluate the application using specific criteria that is different than the process used for other applicants. Further the District Court ordered the Division to issue a registration to Samantha's Remedies if the revised score results in Samantha's Remedies being ranked in the top twelve dispensaries in the City of Las Vegas.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Does the District Court have subject matter jurisdiction to hear a petition for judicial review concerning the denial of an application for a medical marijuana establishment?

Did the District Court err as a matter of law or abuse its discretion in ordering the Division to re-evaluate the application of Samantha's Remedies using different criteria than was used for other applicants in a competitive process?

Did the District Court act in excess of its authority in ordering the Division to extend the application period for Samantha Remedies and to issue a registration if Samantha Remedies was ranked in the top twelve in the City of Las Vegas?

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised.

None.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

X N/A

☐ Yes

☐ No

If not, explain:

12. **Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

X A substantial issue of first impression

X An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

Issues of funding the centers for the deaf and hard of hearing have a significant impact on the community and this case revolve around the intent of the legislature to fund those centers.

13. **Trial.** If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? _____

14. **Judicial Disqualification.** Do you intend to file a motion to disqualify or have a Justice recuse him/herself from participation in this appeal? If so, which Justice?

No.

TIMELINESS OF NOTICE OF APPEAL

15. **Date of entry of written judgment or order appealed from** July 27, 2016 and February 13, 2015
If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. **Date written notice of entry of judgment or order was served** August 3, 2016

Was service by:

☐ Delivery

X Mail/electronic/fax

17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. ***See*** **AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010).**

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

18. Date notice of appeal filed August 18, 2016

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

19. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g.*, NRAP 4(a) or other

NRAP 4(a) (30 days)

SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or other appealed from:

(a)

☐ NRAP 3A(b)(1) ☐ NRS 38.205

☐ NRAP 3A(b)(2) X NRS 233B.150

☐ NRAP 3A(b)(3) ☐ NRS 703.376

☐ Other (specify) _____

(b) Explain how each authority provides a basis for appeal from the judgment or order:

NRS 233B.150 allows for appeal from a petition for judicial review after the District Court reviews a decision of an administrative agency

21. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:
Department of Health and Human Services, Division of Public and Behavioral Health
Samantha Inc., d/b/a Samantha Remedies

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Samantha Remedies' petition for judicial review was granted on July 27, 2016.

23. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

X Yes

☐ No

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

25. If you answered "No" to any part of question 24, explain the basis for seeking appellate review (*e.g.*, order is independently appealable under NRAP 3A(b))

26. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal.
- Any other order challenged on appeal
- Notices of entry for each attached order

The following documents are attached:

Attachment A	Petition For Judicial Review filed 12/8/14
Attachment B	Order Denying Defendant's Motion To Dismiss filed 2/13/15
Attachment C	Order filed 7/27/16
Attachment D	Notice of Entry of Order filed 8/3/16
Attachment E	Notice of Entry of Order filed 8/25/16

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Department of Health & Human Services
Division of Public and Behavioral Health
Name of appellant

Linda C. Anderson
Name of counsel of record

8/26/2016
Date

Linda C Anderson
Signature of counsel of record

State of Nevada, County of Clark
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 26th day of August, 2016, I served a copy of thiscompleted docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☑ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Kimberly Maxson-Rushton
COOPER LEVENSON, P.A.
1835 Village Center Circle
Las Vegas, NV 89134

Dated this 26th day of August, 2016;

Linda Rouste
Signature