



Office of Cannabis Management

KATHY HOCHUL

Governor

TREMAINE WRIGHT

Cannabis Control Board Chair

JESSICA GARCIA

Board Member

REUBEN R. MCDANIEL, III

Board Member

ADAM W. PERRY

Board Member

JEN METZGER

Board Member

CHRIS ALEXANDER

Executive Director

Meeting Minutes

Title:	New York State Cannabis Control Board Meeting
Time & Date:	November 3, 2021
Location:	Virtual via Webcast

Attendance

Board Chair:	Tremaine Wright
Board Members Present:	Reuben R. McDaniel III, Jen Metzger, Adam W. Perry
Board Members Present (virtually):	Jessica Garcia
Board Members Absent:	None
Others Present:	Chris Alexander, Axel Bernabe

Agenda

- I. Call to Order
- II. Welcome & Chair Remarks
- III. Approval of Meeting Minutes from October 21, 2021 Board Meeting
- IV. Discussion of the Cannabinoid Hemp Regulations
- V. OCM Employment Items
- VI. Executive Director Report
- VII. Next Cannabis Control Board Meeting
- VIII. Adjourn



Action Items

Table with 3 columns: Resolution No., Description, and Vote. Row 1: Resolution No. 2021-07, Resolution to Direct the Office of Cannabis Management to File the Notice of Adoption for the Cannabinoid Hemp Regulations, Passed, Unanimous Vote. Row 2: Resolution No. 2021-08, Resolution Affirming the Executive Director's Staffing Recommendations, Passed, Unanimous Vote.

Notes & Comments

- Board Member Jen Metzger presented a summary of the cannabinoid hemp regulations which rely on existing best practices from the food, dietary supplement, and cannabis industries including:
- Requiring processors, distributors, and retailers of cannabinoid hemp products to obtain a license;
- Requiring processors to have a third-party current Good Manufacturing Practices (cGMP) audit of their manufacturing facility;
- Requiring a nutritional or supplement fact panel on product packaging including the amount of CBD, THC, or marketed cannabinoid in milligrams per serving and package;
- Requiring a QR code which links to laboratory testing results;
- Requiring product warnings and a mechanism to report adverse events;
- Requiring all cannabinoid hemp products to be tested for microbials, pesticides, heavy metals, residual solvents, and mycotoxins;
- Permits the sale of cannabinoids in food and beverage products (25mg cap);
- Permits the sale of hemp flower, but only if it is not clearly labeled or advertised for the purpose of smoking.
- The comment period for the proposed regulations ended on July 19, 2021 under the Department of Health. The Board vote of adopting the cannabinoid hemp regulations constitutes the transition of the program from the Department of Health to officially reside within the Office of Cannabis Management.
- Executive Director Chris Alexander provided an overview of over guidance recently released the Department of Labor – entitled "Adult-use cannabis and the workplace" which explains the nuances of New York Labor Law 201-D and address some of the most common situations or questions in the workplace. Key points from the guidance include:
- The MRTA amended Section 201-D of the New York Labor Law to clarify that cannabis used in accordance with New York State law is a legal consumable product. As such, employers are prohibited from discriminating against employees based on the employee's use of cannabis outside of the workplace, outside of work



Office of Cannabis Management

hours, and without use of the employer's equipment or property. Employers maintain the right to take employment action or prohibit specific conduct.

- One example, although please refer to the guidance for more detail, is that the employer maintains the right to take action if an employee exhibits signs of cannabis impairment that interfere with the employer's obligation to provide a safe and healthy workplace as required by state and federal workplace safety laws.
- The smell of cannabis, on its own, is not evidence of impairment.
- The guidance further explains the rules regarding drug testing of employees. For example, an employer cannot test for cannabis unless the employer is permitted to do so pursuant to the provisions of Labor Law Section 201-D(4-a) or other applicable laws. An employer can drug test an employee if federal or state law requires drug testing or makes it a mandatory requirement of the position. This relates to certain safety sensitive positions such as truck drivers.
- Employers maintain the right to prohibit cannabis use on the premise and during "work hours" – same as alcohol.
- Employers may prohibit employees from bringing cannabis onto the employer's property, including leased and rented space, company vehicles, and areas used by employees within such property (e.g., lockers, desks, etc.).
- The guidance is available here:

<https://dol.ny.gov/system/files/documents/2021/10/p420-cannabisfaq-10-08-21.pdf>.