



NEW JERSEY STATE BAR ASSOCIATION

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November 23, 2021

Dianna Houenou, Chair
Cannabis Regulatory Commission
Department of Health
Post Office Box 360
Trenton, New Jersey 08625-0360

Re: NJ State Bar Association's Report and Recommendations to the NJ Cannabis Regulatory Commission on Its Initial Rules and Regulations

Dear Chairperson Houenou:

On behalf of the NJ State Bar Association, I am enclosing its Report and Recommendations to the New Jersey Cannabis Regulatory Commission on Its Initial Rules and Regulations. The association remains committed to working with the CRC to provide insight as to the practical impact of these rules and regulations.

We appreciate your consideration of these comments and remain available to respond to any questions or follow up the CRC may have to this Report or any other issues that may arise.

Very truly yours,

A handwritten signature in black ink that reads "Domenick Carmagnola". The signature is written in a cursive style.

Domenick Carmagnola
President

Encl.

cc: Jeralyn L. Lawrence, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director



NJSBA ANALYSIS AND RECOMMENDATIONS REPORT TO THE NEW JERSEY CANNABIS REGULATORY COMMISSION ON ITS INITIAL RULES AND REGULATIONS

A Report of the New Jersey State Bar Association's Cannabis Law Committee

NOVEMBER 22, 2021

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I. Introduction

The Cannabis Regulatory Commission (CRC) has maintained the mission to create an equitable and safe market for Adult-Use Cannabis in New Jersey. The New Jersey State Bar Association (NJSBA) shares these goals and presents this report of analysis and recommendations to assist the CRC accomplish those goals. The NJSBA represents the concerns of attorneys in this state. The laws, rules and regulations concerning the legalization and regulation of adult-use cannabis present a guide to practitioners across varied and various practice areas. There are, however, some challenges identified with the new rules and regulations and the NJSBA appreciates any assistance and guidance that can be provided to practitioners seeking to advise their clients.

To attempt to address the breadth of these issues regarding cannabis, the NJSBA established a Cannabis Law Committee (the Committee) in 2018. That Committee solicited and submitted contributions of its membership as the substance of this report. This report is in no way presented as a fully comprehensive analysis of all potential concerns of New Jersey's attorneys. This report merely raises those concerns most prescient to the solicited practitioners and analyzes the potential impact of them in practice.

The below report is organized to allow it to be most practicably employed. Section II outlines the analysis and recommendations of existing rules and regulations; Section III raises for consideration additional rules and regulations for the CRC's consideration to assist in further clarifying the law; and Section IV summarizes these recommendations.

The NJSBA remains a ready and willing partner in advancing laws, rules and regulations concerning the adult-use cannabis industry and looks forward to further discussing them with you to clarify any recommendation included here or respond to any questions posed.

For ease of reference, the following abbreviations are used throughout this report:

- NJSBA: New Jersey State Bar Association
- CRC: New Jersey Cannabis Regulatory Commission
- CREAMMA: New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act - P.L. 2021, c. 16 (inclusive of statutory provisions within P.L., 2021, c. 19, 25 and 38)
- Jake's Law: Jake Honig Compassionate Use Medical Cannabis Act - P.L. 2019, c. 153.
- ATC: Alternative Treatment Center
- OPRA: Open Public Records Act
- RFA: Request for Applications
- NJSBA Cannabis Law Committee: Committee

II. ANALYSIS OF CURRENT RULES AND REGULATIONS

A. Licensing Considerations

1. Class 1, 2, and 5 License Considerations

a. **Effect of the 2019 Cultivation and Vertical Awards / 2018 Remand Applicants Under Jake’s Law**

On Oct. 15, 2021, the CRC announced 10 Cultivation and four Vertical permits awarded based on the 2019 Request for Applications Under Jake’s Law. These permit holders were notified that they are not eligible to apply as expanded ATCs pursuant to N.J.A.C. 17:30-7.1 for a limited predetermined period of time. Under N.J.A.C. 17:30-6.1(b)1, during the first 24 months after Feb. 22, 2021, cannabis cultivator licenses are limited to 37, not including microbusiness cultivator licenses. It is uncertain whether the 2019 award winners and/or existing, but unexpanded ATCs will be counted toward the limit prior to final approval of these ATCs to engage in the adult-use market. In the Nov. 9, 2021 announcement of requests for applications, the CRC also indicated that it would be dealing with the six applicants from the 2018 Request for Applications by the end of 2021. This would mean that any preclusion from the adult market for one year, which had been given to 2019 cultivators and verticals, if applicable, would allow these ATCs to be eligible for expansion for adult use prior to the Feb. 22, 2023 expansion from the cultivation cap. As such, those potential expanding ATCs, should be considered.

RECOMMENDATION 1: The CRC should consider clarifying whether the 2019 award winners, 2018 remand applicants, and/or existing non-expanded ATCs will be counted toward the limit of 37 cultivators under N.J.A.C. 17:30-6.1(b)1 before Feb. 22, 2023.

b. **Clarification of Simultaneous Rolling Acceptance of Applications and Application Windows and Lottery Possibilities**

The CRC has consistently stated that applications will be accepted on a rolling basis. N.J.A.C. 17:30-6.1(c) provides the CRC with the ability to specify when it will accept applications. N.J.A.C. 17:30-6.2(a)1 sets the deadline to accept applications for the license class or groups to be included in any potential lottery to at least 90 days prior to the lottery. By the date this report is first read by the CRC, there will be fewer than 90 days before CREAMMA requires adult-use sales to begin on Feb. 22, 2022. Specifically, if multiple applications are received and have an equal number of points and priority for the limited available number of cultivation licenses offered in the Dec. 15, 2021 Request for Applications, the Rules seem to provide that the conditional and non-conditional annual applicants with equal circumstance will be placed into a lottery, with notice 90 days prior. We recommend that the practicalities of this process be outlined in the rules or promulgated Request for Applications.

In our opinion, this clarification is needed quickly and decisively as it relates to cultivation licenses. Due to the expectation that the CRC will receive a high volume of cultivation applications at 9 a.m. on Dec. 15, 2021 (based on the Notice published Nov. 9, 2021) it was unclear when this application window would close, how the awards would be made and how, if applicable, the lottery

would be instituted. These issues require clarification with regard to the cultivation licenses, as noted throughout, because of the statutory cap instituted on cultivators until Feb. 22, 2023.

RECOMMENDATION 2: The CRC should consider clarifying how the variables of rolling application acceptance, application windows and lottery possibilities will impact each other. The CRC should consider specifically clarifying how the application process will proceed with regard to the capped cultivation licenses, for which applications have now been requested.

c. Clarification of Premises Regarding Prohibited Activities

N.J.A.C. 17:30-9.5(b) prohibits the sale of food, beverages, alcohol or tobacco on the premises of a cannabis business. The Rules define “premises” to include “all public and private enclosed areas at the location that are used in the business operated at the location, including but not limited to offices, kitchens, restrooms and storerooms.” We illustrate three examples of likely unintended consequences of this prohibition, 1) a cultivation facility may be precluded from providing food/beverage vending machines for their employees, 2) any cannabis business may be precluded from being part of a strip mall where another occupant does or may sell food, beverages, alcohol or tobacco, and 3) any retail licensee with a consumption area, or consumption areas permitted within an expanded ATC, may not sell non-cannabis containing food or beverages (including water) to consumers.

RECOMMENDATION 3: The CRC should reconsider both the blanket prohibition against food or beverage sales under N.J.A.C. 17:30-9.5(b) and/or the definition of “premises.”

2. Management Services Agreements and Financial Source Agreements

a. Clarification of Management Service Contractors, Financial Sources and/or vendor-contractors’ ability to share in profits.

Rules regarding Management Service Agreements and Financial Source Agreements, as well as certain other vendor-contractors (who, by definition, are not permitted to hold an ownership interest) specifically contemplate and permit circumstances where those entities may receive portions of net profits. However, N.J.A.C. 17:30-6.8(i) requires that owners share in the profits and losses proportionate to the owner’s percentage of ownership interest.

RECOMMENDATION 4: The CRC should consider clarifying how those with contractual, contingent or no ownership interest should calculate proportionate net profits, as permitted under Management Service and Financial Source agreements.

b. Effect of a withdrawn application on numerical limits

N.J.A.C. 17:30-6.8(p) and (r) permit that management service providers may contract with up to five license applicants and financial sources may provide funding for up to seven license applicants. It is unclear, however, whether a withdrawn application would impact that numerical limit.

RECOMMENDATION 5: The CRC should consider clarifying whether withdrawn applications will impact numerical limits on management service providers and financial sources.

c. Timing of acceptance of these agreements

N.J.A.C. 17:30-6.9(i)1 and 17:30-6.10(g)1 require license holders and applicants to submit Management Service Agreements and Financial Source Agreements for approval by the CRC prior to execution. As these agreements may empower interested applicants in actually beginning the application process, their timely consideration and approval will be an important antecedent to the issuance of even a request for applications. Due to the impending Dec. 15, 2021 Request for Applications, the CRC has not promulgated an approval process of these agreements. As such, we recommend that the CRC consider them presumably valid upon acceptance by the CRC, and if the CRC rebuts that presumption, after analysis or review of the agreement, the applicant should be given the opportunity to cure such an agreement.

RECOMMENDATION 6: The CRC should consider accepting for approval Management Service Agreements and Financial Source Agreements as soon as practicable, with approval considered a rebuttable presumption upon acceptance by the CRC.

d. Method of termination of these agreements

N.J.A.C. 17:30-9.2(a)2 requires that a license-holder apply to the CRC related to material changes. This Rule identifies that a change of a management services contractor is a material change. We recommend clarifying whether the termination of a management services contract or the engagement of a different management services contract would require a separate application to the CRC, and whether either or both would require a fee for a material change.

RECOMMENDATION 7: The CRC should consider clarifying whether the termination of a management services contract is a material change requiring an application to the CRC and a material change fee.

3. Conditional and Microbusiness Considerations

a. Location change from an Impact Zone prior to conversion of a conditional license.

N.J.A.C. 17:30-7.6(i) provides a conditional applicant with the opportunity to change the proposed location of the business. It is understood that the reason for conditional licenses was for applicants to proceed without site control. However, if that applicant applies with a location in an impact zone, to obtain priority as an impact zone applicant under N.J.A.C. 17:30-6.5, but changes a proposed location to a non-impact zone, N.J.A.C. 7.8(a)13 would make the conversion application substantively deficient. As such, it is unclear whether the conversion application would be approved or denied.

RECOMMENDATION 8: The CRC should consider clarifying whether, if a change of location from an impact zone is approved under N.J.A.C. 17:30-7.6(i) prior to a conversion of a conditional

license application being filed, such an application would be approved, notwithstanding the loss of qualification as an impact zone applicant.

b. Management Service Contractors and Microbusinesses

N.J.A.C. 17:30-6.7(c)3 provides certain requirements regarding microbusinesses. Nothing in N.J.A.C. 17:30-6.9 precludes a Management Services Agreement involving a microbusiness. We recommend clarification as to whether these contractors would be employees for purposes of restrictions on microbusinesses; whether management service contractors are required to be New Jersey residents if they are working for microbusinesses; and whether their residency in or bordering the municipality will affect the 51% calculation under N.J.A.C. 17:30-6.7(c)3(ii). It is also unclear whether those contractors would be considered an employee related to the limitation of 10 employees under N.J.A.C. 17:30-6.7(c)3(iii).

RECOMMENDATION 9: The CRC should consider clarifying whether management service contractors engaged by microbusinesses are required to be New Jersey residents, are included in the calculation of 51% of total persons in a microbusiness who must reside in the municipality or in a directly bordering municipality and are considered in the limitation of 10 employees.

B. Municipal and Land Use Analysis

1. Land Use Provisions

a. Clarification of N.J.A.C. 17:30-5.1(c)(1)

The language in subparagraph (c) of N.J.A.C. 17:30-5.1 does not reconcile with the ensuing three subparagraphs. It appears that perhaps the subparagraph should end at the word “permitted” (*i.e.* “...shall be permitted [*to engage in*]:”) or other language should be added to clarify the intent of the rule.

RECOMMENDATION 10: The CRC should consider clarifying the language in N.J.A.C. 17:30-5.1(c)(1).

b. Proof of local support where there is “no governing body”

N.J.A.C. 17:30-5.1(g)(2) sets forth the means by which a municipality demonstrates proof of local support for an applicant’s proposed location. The rule further says: “Where the municipality has *no governing body*....” However, there are no such municipalities, unless subparagraph 2 of the rule is meant to apply to some other type of authority (*e.g.*, the Meadowlands Sports and Exposition Authority, the Pinelands Commission, etc.).

RECOMMENDATION 11: The CRC should consider clarifying or omitting N.J.A.C. 17:30-5.1(g)(2).

c. Timeframe and Need for Municipal Response to the CRC

It is unlikely that municipalities will be able to complete their review of a license application within the allotted 28-day deadline imposed by N.J.A.C. 17:30-5.1(d). Many municipalities are requiring their own application process and some form of site-plan approval. Planning and Zoning Boards are volunteer boards that only meet periodically (and only after statutorily-imposed time periods following public notice – typically at least 10 days). This may be further complicated with the recent Dec. 15, 2021 Request for Applications, as it may not permit time for those severely underserved communities to amend their ordinances/zoning restrictions to create an ordinance which would allow applicants considering their municipality to even be considered for a license.

N.J.A.C. 17:30-7.10(b)(8) requires annual license applicants to obtain local zoning approval before filing an application with the CRC, which would not be provided by a municipality if the applicant was not compliant with the local ordinances and regulations. In this context, the requirements of N.J.A.C. 17:30-5.1(d) (that the municipality inform the CRC that the applicant complies with its ordinance and regulations) appear to be unnecessary.

N.J.A.C. 17:30-7.10(b)(9) requires annual license applicants to provide proof of local support in the form of a resolution adopted by its governing body. If an applicant must demonstrate local support as a condition to file an application, the municipality’s ensuing obligations under N.J.A.C. 17:30-5.1(d) again seem to be unnecessary.

RECOMMENDATION 12: The CRC should consider the deadlines imposed by N.J.A.C. 17:30-5.1 and apparently superfluous requirements and resolve outstanding issues in future Requests for Applications and in later rule amendments/clarifications.

d. Municipalities with Default Land Use Provisions

Regarding municipalities that did not adopt cannabis ordinances within the deadline imposed by CREAMMA, the rules are unclear as to what type of ordinances these municipalities remain permitted to adopt, particularly as to topics such as numerical caps, time-place-and-manner restrictions, civil penalties, and local-licensing schemes.

CREAMMA does not explicitly prohibit the adoption of such ordinances by municipalities and the CRC’s rules permit local cannabis ordinances, provided they are not in conflict with CREAMMA. N.J.A.C. 17:30-5.1(a). However, the rules do not elucidate what is allowed. For example, although now prohibited from banning cannabis businesses from operating within the default land use zones established by CREAMMA, may these municipalities still adopt ordinances 1) setting the times of operation for cannabis businesses, 2) creating “buffer zones” between cannabis businesses and sensitive sites such as schools, 3) creating bulk standards for cannabis businesses, or 4) limiting the number of cannabis businesses within the municipality?

RECOMMENDATION 13: The CRC should consider clarifying what is permissible in regard to the nature and extent of municipal regulation of the cannabis industry.

2. Interaction of CRC Rules with New Jersey’s Medical Cannabis Program

Some municipalities already have ordinances pertaining to the medical use of cannabis. Even though the CRC rules explicitly apply only to *adult use* cannabis, the CRC should consider clarifying to municipalities that its medical-use ordinances are not subject to the municipal regulation provisions set forth in N.J.A.C. 17:30-5.1, thus requiring that they be re-adopted or otherwise modified.

RECOMMENDATION 14: The CRC should consider clarifying the interaction of its rules with New Jersey’s Medical Cannabis Program, as each pertains to municipal regulation.

3. State Authorities, Commissions, and Instrumentalities

CREAMMA provides that a municipality may enact a prohibiting ordinance “even if that municipality or parts thereof fall within any district, area, or other geographical jurisdiction for which land use planning, site planning, zoning requirements or other development authority is exercised by an independent State authority, commission, instrumentality, or agency pursuant to the enabling legislation that governs its duties, functions, and powers even if this development authority is expressly stated or interpreted to be exclusive thereunder; the local prohibiting ordinance applies, notwithstanding the provisions of any independent State authority law to the contrary.” N.J.S.A. 24:6I-45(b).

CREAMMA seems to suggest that such independent authorities, commissions, and instrumentalities have the authority to enact time, place, and manner restrictions, as well as caps on the number of cannabis businesses, but that municipalities have the sole authority to impose municipal transfer/user taxes.

RECOMMENDATIONS 15: The CRC should consider clarifying whether, in the absence of a prohibiting ordinance, independent State authorities, commissions, or instrumentalities are able to adopt ordinances governing the time, place, and manner of the operation of Cannabis Businesses, as well as the municipal transfer taxes and the caps on the number of such establishments.

4. Local Licensing/Endorsements

a. Scope of Municipal Licensing Authority

CREAMMA states that, “A municipality may impose a separate local licensing or endorsement requirement as a part of its restrictions on the number of cannabis establishments, distributors, or delivery services, or their location, manner, or times of operation. A municipality may decline to impose any local licensing or endorsement requirements, but a local jurisdiction shall notify the commission that it either approves or denies each application forwarded to it.” N.J.S.A. 24:6I-45(c)(2). This is the only provision in CREAMMA addressing local licensing and the CRC rules do not provide specific guidance regarding various aspects of local licensing authority. Without further clarification, the rules invite a *carte blanche* approach to local licensing.

For example, the CRC should consider clarifying 1) whether local-licensing fees are permitted, 2) whether municipalities may create their own license-application scoring criteria, and 3) which municipal body has the authority to advise the CRC of an applicant’s approval or denial. Furthermore, it is unclear whether local licensing should be limited to traditional zoning parameters (such as bulk standards) or whether local licensing may dictate actual business operations (such as security and advertising).

RECOMMENDATION 16: The CRC should consider clarifying the scope of municipalities’ local-licensing authority.

5. Treatment of Host Community Agreements

Host Community Agreements between municipalities and Cannabis Businesses may be a useful tool to share the additional costs upon a municipality that Cannabis Businesses might create. Given that N.J.A.C. 17:30-5.1(i) only applies to transactions between “government officials” and Cannabis Businesses, and that N.J.A.C. 17:30-5.1(m) only applies to fees imposed by municipal zoning/construction departments, it does not appear that N.J.A.C. 17:30-5.1(i) or (m) prohibit host community agreements. In the context of the state’s medical cannabis program, the Appellate Division took no issue with host community agreements between municipalities and alternative treatment center applicants. The Appellate Division explicitly noted that Massachusetts requires applicants for medical marijuana permits to enter into host community agreements, which may include a community impact fee for the host community. *In re Medicinal Marijuana Alt. Treatment Ctrs. for Pangea Health. & Wellness, LLC*, 465 N.J. Super. 343, 396 (App. Div. 2021).

RECOMMENDATION 17: The CRC should consider clarifying its position on host community agreements entered into between municipalities and cannabis businesses, in both the adult use and medical cannabis markets.

6. Municipal Taxation

a. Clarifying the Taxation of Medical Cannabis and Adult Use Cannabis

In public meetings, the CRC seemingly does not differentiate between the treatment of municipal taxation of medical and adult-use cannabis. However, this does not appear to be the case as the underlying statutes contain very different language. Unlike in CREAMMA, there is no explicit authority in Jake’s Law to levy municipal transfer taxes at any point in the supply chain, other than at the point of dispensing. N.J.S.A. 24:6I-10(i). By comparison, the CRC rules allow a municipality to impose a tax upon “sales between cannabis establishments, sales of cannabis items to consumers, or any combination thereof.” N.J.A.C. 17:30-5.1(j).

RECOMMENDATION 18: The CRC should consider clarifying the interaction of municipal taxation of medical cannabis and adult-use cannabis.

b. CREAMMA’s User Tax

CREAMMA allows municipalities to impose a user tax on concurrent license holders operating more than one cannabis establishment. N.J.S.A. 40:48I-1(a)(2). However, the CRC rules do not address how to calculate it. For example, it is unclear how a municipal “user tax” would work for an entity holding a cultivator and a manufacturer license in a town that has adopted a 2% transfer/user tax on both cultivation and manufacturing. For a single entity with both a cultivation and manufacturing license, there would be no “receipts” or “sale” from the point of cultivation to the point of manufacturing. In such a situation it is unclear whether the “value” of transfers could be based on weight or THC levels for product that is transferred internally within a single entity from the point of cultivation to the point of manufacturing.

RECOMMENDATION 19: The CRC should consider clarifying how to calculate the municipal “user tax” for single entities that concurrently hold more than one cannabis license.

C. Social Equity

1. Application Priority

Social Equity, Diversely Owned and Impact Zone Applicants (as defined and maintained under N.J.A.C. 17:30-6.4-6.6) are given priority consideration once a request for applications is promulgated. However, the rules do not address 1) whether there is a benefit to qualifying as a particular type of applicant as opposed to another within a specific applicant classification (example, WBE v. MBE status), and 2) whether there is an ability or benefit to qualifying severally as an applicant qualified in different ways. These clarifications could be made when future Request for Applications are issued.

RECOMMENDATION 20: The CRC should consider clarifying application priority under N.J.A.C. 17:30-6.1(d), including:

- Prioritization within Social Equity Applicants, Diversely Owned Applicants and Impact Zone Applicants classifications.
- Determination whether an applicant may qualify and/or benefit as an applicant of multiple prioritized types.

2. Diversely Owned Businesses

N.J.A.C. 17:30-6.4 defines Diversely Owned Businesses and identifies the necessary qualifications for each type. The CRC should consider clarifying the treatment of minority-owned businesses and women-owned businesses, as compared with disabled veteran owned businesses. While both minority- and women-owned businesses are required to have management and daily business operations controlled by those minorities or women who own the business, disabled veterans businesses do not.

RECOMMENDATION 21: The CRC should consider clarifying whether the requirement of management and/or operational control of disabled veteran owned businesses is different than businesses owned by minorities or women.

3. Impact Zones and Impact Zone Applicants

First, the definition of an “impact zone” in N.J.A.C. 17:30-1.2 specifically refers back to the definition in N.J.S.A. 24:6I-33. For brevity, reference is made to the NJSBA’s comments on the statute to the CRC on July 12, 2021. The definition of “impact zone” was identified as functionally impossible to define. This issue was reiterated directly to the CRC in our meeting.¹ The CRC has stated it would be issuing lists of the qualifying municipalities as Impact Zones prior to publication of requests for applications. It is imperative to remedying the damage caused by the war on drugs, by providing statutory and regulatory benefits to “Impact Zone” communities. As such, the CRC should consider identifying what communities are impact zones and provide a transparent method to define these terms. This will help remedy the harms to communities which suffer or have suffered poverty, crime and the community fallout of cannabis prohibition.

The analysis and intention provided by the CRC with regard to the Impact Zone calculation methodology, including the announcement of a two-factor test at the Nov. 9, 2021 meeting, is helpful. However, the process should include municipalities having the ability to utilize their numbers, within the formulae created by statute and the CRC, to petition for inclusion as an “Impact Zone,” or to indicate that their change in status should effectively consider them within the scope of the statute.

Second, the regulations at N.J.A.C. 17:30-6.5(a)(3) contemplates the necessity that one method for an impact zone applicant to qualify as such, the applicant must present a plan that ensures that at least 25% of employees reside in any impact zone and among those employees, at least 25% reside “in the impact zone nearest” to the business’ location or intended location. The CRC should consider clarifying the method for determining that measurement, when the business is not located within an impact zone.

RECOMMENDATION 22 - Notwithstanding the anticipated clarification by the CRC regarding impact zones, the CRC should consider clarifying certain issues under N.J.A.C. 17:30-6.5, including:

- Identification on a continuing basis a list of “Impact Zones” and the method and considerations used to identify them.
- Permitting municipalities that were not identified as an “Impact Zone” to apply to be identified as an “impact zone,” similar to provisions set forth for identifying Urban Enterprise Zones under N.J.S.A. 52:27H-60.

¹ Under N.J.S.A. 24:6I-33, impact zones are defined as communities meeting specific statistical criteria. Particularly, there are no definitions in the Uniform Crimes Report to the FBI regarding either i) an individual municipality’s crime index or ii) the number of cannabis possession arrests in a municipality in 2019. Those numbers are compiled by law enforcement agency and not separated by municipality. That means that there is no possible way to differentiate if any municipality “for calendar year 2019 ranks in the top 40 percent of municipalities in the State for marijuana- or hashish-related arrests.” This was independently verified by the FBI and the New Jersey State Police’s Uniform Crime Reporting Unit.

- How to calculate the nearest impact zone, as contemplated under N.J.A.C. 17:30-6.5(a)(3).

4. Social Equity Applicants

N.J.A.C. 17:30-6.6 defines Social Equity Applicants and grants benefits and prioritizations regarding applicants who qualify. To qualify, the applicant must show that more than 50% of their ownership interests is held by individuals who have lived in economically disadvantaged zip codes (to be defined) for five of the last ten years and, at the time of the initial application, were in a household at 80% of less than the average median household income. Alternatively, the applicant may show that they have been found delinquent or convicted of at least two marijuana/hashish related disorderly persons offenses or at least one marijuana/hashish related indictable offense.

While the NJSBA applauds the laudable goals of this, members who have represented victims of the war on drugs contend that the bar set forth in N.J.A.C. 17:30-6.6(a)(2) may be too high. Because of diversionary programs like Conditional Discharge, Pre-Trial Intervention and Drug Court, the use of “convictions” versus “arrests” potentially omits a universe of individuals who were equally already harmed by the war on drugs. The Social Equity Business Applicant qualifications here omit from qualification the legacy upon the children and families that cannabis-related crimes caused. Practically speaking, children and families suffered invasion by law enforcement, separation, cyclic poverty and disproportionate effects upon their health and welfare. Expansion to include those children and families as qualifying here would be consistent with the permissibility of transfers within families upon death in N.J.A.C. 17:30-9.3(a). It would also be consistent with the property tax exemption granted to surviving spouses of 100% disabled veterans under N.J.S.A. 54:5-30, et seq and N.J.A.C. 18:28-1.1, et seq.

RECOMMENDATION 23 - The CRC should consider making clarifications concerning Social Equity Applicants under N.J.A.C. 17:30-6.6, including:

- Permitting for qualification, due to prior diversionary programs, as a social equity applicant based upon *arrests* related to cannabis or hashish as opposed to convictions.
- Permitting for discretionary qualification, based on arrests and/or convictions against parents and close family members, as a social equity applicant, consistent within these regulations and similarly situated regulations.

5. Assurances and Maintenance of Priority Status

N.J.A.C. 17:30-9.3(c) and (d) provide that Diversely Owned and Social Equity Businesses are required, for at least two years, to maintain status as a material condition of maintenance of their license.

There appears to be inconsistent language regarding definitions concerning the operational management required of a business management of daily operations:

- N.J.A.C. 17:30-6.5(a)(1)(ii) states that the “management and daily business operations are *controlled* by one or more of the minorities who own it.”

- N.J.A.C. 17:30-6.9(d) states that an agreement for management services contractors must acknowledge they “are *supervised* in such operations by the license applicant or license-holder and its owners and principals.”

As a related issue, it is unknown whether an applicant can be disqualified as a Diversely Owned business if they enter into a Management Services Agreement with a company that is not minority/woman owned. Contrapositively, it is similarly unknown whether an applicant could qualify as a Diversely Owned Business where their ownership could qualify because they have entered into a Financial Source Agreement with a qualified Social Equity Business, and granted a future or contingent right to obtain an ownership interest has been qualified, as provided in N.J.A.C. 17:30-6.5(e).

RECOMMENDATION 24: The CRC should consider clarifying N.J.A.C. 17:30-9.3, including:

- Whether an applicant or license-holder can lose status qualifying them as a Diversely Owned or Social Equity Business, if they enter into a Management Services Agreement with a company that is not controlled by minorities or women.
- Whether the supervision by a woman or minority of a contractor under a Management Services Agreement is sufficient control to maintain status as a Diversely Owned Business.
- Whether an applicant can qualify as a Diversely Owned business through entry into a Financial Source Agreement granting future/contingent ownership interest.

6. Clarification of Social Equity Excise Fee Allocation/Appropriation

Pursuant to N.J.A.C. 17:30-3.4, and N.J.S.A. 54:47F-1, the CRC is permitted, and has established a Social Equity Excise Fee, with different fees for different types of usable cannabis. It was unclear, based on analysis, whether this was to be an appropriation, with a recommendation by the CRC to be accepted by the legislature or whether this was to be a collected fee to be distributed by the CRC. The goals and focus of these funds are to accomplish goals regarding Social Equity and Social Justice. We recommend considering expungement clinics, to help individuals impacted by the war on drugs and clean their records. This would be consistent with the intended creation of this funding source and could be allocated to places such as the Administrative Office of the Courts and legal service providers in order to carry out this goal.

RECOMMENDATION 25: The CRC should consider clarifying N.J.A.C. 17:30-3.4, including:

- Whether collected Social Equity Excise Fees are to be allocated as an appropriation.
- Whether to create partnerships and plans for making substantial impacts through the Social Equity Excise Fees, including encouragement of expungement of cannabis-related criminal records.

D. Legal Practice and Generally Practical Considerations

1. Cannabis Business ID Cards

Under N.J.A.C. 17:30-8.1, the full extent of the requirements for holding a Cannabis Business ID Card are discussed. There appears to be a discrepancy in the definition under N.J.A.C. 17:30-1.2. While the definition of Cannabis Business ID Card indicates that it applies to a group of people that includes “vendor-contractors,” section 8.1 does not require vendor-contractors to apply for a Cannabis Business ID Card. This discrepancy applies directly to attorneys, for example, under N.J.A.C. 17:30-6.8(t)(7), as attorneys are listed as “vendor-contractors.”

Further, as sections identify what information (*i.e.* applications and probity analysis) is not subject to disclosure under the Open Public Records Act, the issuance and status of a Cannabis Business ID Card is not specifically exempted from disclosure. As such, they could be obtained and used in discriminatory ways, including by law enforcement as pretext to justify traffic stops or by insurance underwriters to increase rates for anything from business liability, to attorney professional liability or automobile insurance.

Section 2 of N.J.S.A. 17:20-8.1 requires completion of a training course. Proof that the individual "has completed a training course, whether from a license applicant, a license-holder or a third party, that has been approved by the Commission and provides education on, at a minimum, the following topics (described in the rules)." It would be important to know the requirements for certification of that training, and whether same could be simultaneously eligible for (and potentially provided through) continuing professional education providers.

RECOMMENDATION 26: The CRC should consider clarifying whether and when vendor-contractors, especially attorneys, will be required to apply for a Cannabis Business ID Card. The CRC should also consider prohibiting applications for and issuance of Cannabis Business ID's from disclosure upon a request under the Open Public Records Act. Also, the CRC should consider clarifying the curriculum and continuing education requirements and whether it will accept/permit related courses offered by continuing professional education providers.

2. Attorneys as Vendor-Contractors and Probity Review

Under the rules as promulgated, attorneys involved in the application process, whether with an ownership interest or merely as a vendor-contractor, may be subject to probity review. Attorneys have specific and particularized concerns about subjecting themselves and their firms to the review identified in N.J.A.C. 17:30-7.13(d) and (e). The concerns of those attorneys include that there is no permissibility for a claim of privilege, whether it be with relation to the applicant, or especially with regard to the permissibility of probity analysis extending into ancillary and privileged relationships, including such things as litigation unrelated to this applicant or cannabis matters (under N.J.A.C. 17:30-7.13(d)(8)), investigations into all bank accounts to include deposits and disbursements from an attorney's trust account, potentially including related retainer agreements between a firm and other unrelated clients. Attorneys, and their firms, who may be subject to such a probity review may be placed in the circumstance of placing their ethical duties of confidentiality at odds with their ethical duties of zealous representation.

There is an appreciation of the need to allow for full examination of a potential applicant and those potentially directly and indirectly related to them. However, an attorney's legitimate claim of privilege due to their ethical obligations under the Rules of Professional Conduct should not be held against an applicant.

RECOMMENDATION 27: The CRC should consider clarifying that attorneys and firms identified by the CRC as vendor-contractors under N.J.A.C. 17:30-6.8(t)(7) who may be subject to probity review under N.J.A.C. 17:30-7.13 be permitted to exercise privilege if the information requested is not directly related to the investigation of the represented applicant.

3. The accessibility under OPRA of applications to the CRC

While the regulations preclude the disclosure of applications to the CRC for licensure under OPRA, there is a period of time, and circumstance where the CRC's preclusion does not govern. Specifically, under N.J.A.C. 17:30-7.9(b), each application must be sent to the municipality for review. During that period of time, while it is in the possession of the municipality, the application, as possessed by the municipality, could be subject to public disclosure. As such, the CRC should consider prohibiting disclosure of that application by the municipality during the period of review set forth in the rules.

RECOMMENDATION 28: The CRC should consider that applications in possession of municipalities for review are not public documents subject to production under the Open Public Records Act.

4. The Nov. 9, 2021 RFA Process

There are questions about the scoring criteria for consideration in the RFA applications for review. First, on pages 18-21 of the RFA Notice, the "score required for approval" on a conditional license is 200 points. However, the rules, regulations and notice state that "bonus points" are only to be considered for purposes of priority. Seventy of the 200 total potential points are only available for certain license classes (*i.e.* some only applying to cultivation, some applying only to retail, etc.). This does not seem to leave enough possible points for any applicant to obtain the required score for approval. This applies to the calculation for annual licenses on pages 23-25, as well.

Further, there are bonus points on page 25 granted for a "signed collective bargaining agreement." As these businesses applying necessarily cannot operate without a license and thereby cannot have employees, it would be practically impossible for there to be a signed collective bargaining agreement. The statute and rules have contemplated verification of intent to do so, and the entry into a "Labor Peace Agreement," but these bonus points are practically impossible in an annual license application.

RECOMMENDATION 29: The CRC should consider clarifying achievable scoring criteria, minimums, methodology, and elements separately by license class.

III. Rules and Regulations for Consideration

A. Additional Licensing Considerations

1. Whether Class 4 and 6 Licenses are Redundant Based on the rules and regulations

The CRC has stated that all license types are permitted to distribute their own products. This means that the activities envisioned by CREAMMA for Class 4 Distributors and Class 6 Delivery licensees may be conducted in the market by Class 1, 2 and 5 licensees. There is a risk that this will effectively serve as a significant barrier to entry to social equity applicants who had been contemplating a role in distribution and delivery aspects of the cannabis industry in New Jersey, similar to entries in other states.

RECOMMENDATION 30: The CRC should reconsider allowing all classes of license to distribute their own products, so as to maintain relevance and value of Class 4 Distributor and Class 6 Delivery licenses. In doing so, the CRC should consider promulgation of rules regarding Class 3 Warehousing, Class 4 Distributors and Class 6 Delivery Licenses prior to the scheduled March 15, 2022 scheduled acceptance of requests for applications.

2. Whether ATCs will be precluded from applying to become expanded ATCs at any point

While providing for a procedure for ATCs to become expanded ATCs, the rules seemingly overlook the impact of ATCs that are precluded from expanding because of their municipality, cannot meet the needs of their medical patients with sufficient supply to offer adult use sales, or choose not to apply to expand due to the significant related fees. The ability of those ATCs to file such an expansion, considering the 37-cultivator limit, creates a difficulty in soliciting requests for applications for cultivators. The CRC seems to be forced to either assume those ATCs may always expand, or present them with a deadline to do so.

RECOMMENDATION 31: The CRC should consider clarifying whether ATCs that are capable of expansion will be included in any limitations on cultivation by the numbers.

3. Whether an expanded ATC applicant/owner be eligible to apply for licenses if they are limited to medical activity by municipality

ATCs can have cultivation in multiple municipalities and dispensaries in satellite locations in other municipalities. It is unclear if the ATCs business can apply for licenses they are unable to hold due to municipal restrictions. For example, if one of their satellite dispensary locations is in a municipality that has banned adult-use sales, it is unclear whether that ATC may apply for a Class 5 Retailer license in a hospitable municipality. It is similarly unclear whether they may sell their own products at that location or to other retailers, assuming they have an approved expanded ATC. Contrapositively, if all their cultivation sites are not expandable due to municipal restrictions, but their satellite location municipalities would be hospitable to adult-use sales, it is indeterminable whether existing medical dispensaries could become expanded ATCs and purchase and sell adult-use cannabis, and apply for a Class 1 cultivation license.

RECOMMENDATION 32: The CRC should consider clarifying whether accepted expanded ATCs, which have been precluded from fully utilizing the expansion of their ATC permit to a license, will be permitted to apply in those license classes.

B. Hemp Regulatory Interactions

1. Marketplace Regulation Pertaining to Hemp and Permissive Licensing Under The New Jersey Hemp Program (N.J.S.A. 24:6I-35 and 24:6I-46)

The New Jersey Department of Agriculture (“Department”), through its Division of Plant Industry, administers the New Jersey Hemp Farming Act (the “Hemp Act”). See N.J.S.A. 4:28-6, et seq. See also N.J.S.A. 4:28-7 (“The Legislature finds and declares that hemp is a viable agricultural crop and a potentially valuable agricultural commodity in the State, and that hemp should be cultivated, handled, processed, transported, and sold in the State to the maximum extent permitted by federal law.”). The Department has adopted rules establishing the New Jersey Hemp Program (the “Hemp Program”) which, more particularly, provide approved persons and entities with licenses for the cultivation, processing, and handling of hemp materials. See N.J.A.C. 2:25-1, et seq. Under CREAMMA, “cannabis does not include ... hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the ‘New Jersey Hemp Farming Act.’” N.J.S.A. 24:6I-33.

The CRC should consider clarifying in its regulations that licensed Cannabis Businesses may apply for and, to the extent permitted by the Hemp Program, operate under licenses to cultivate, process, and handle hemp and hemp products as an integral part of their business operations. This should include the cultivation, processing, and handling of hemp cannabinoid products such as cannabidiol. Permitting licensed cannabis establishments, distributors, and delivery services to obtain, when and where necessary, licenses under the Hemp Program is consistent with the intent of CREAMMA, which states, in pertinent part, that the statute intends to “...enhance State-supported programming that provides appropriate, evidence-based treatment for those who suffer from the illness of drug addiction...” and to design “[a] controlled system of cannabis manufacturing, distribution, and sales ... that enhances public health and minimizes harm to New Jersey communities and families.” See N.J.S.A. 24:6I-32(j) and (l).

RECOMMENDATION 33: The CRC should consider clarifying that persons and entities licensed by the CRC to operate as a cannabis establishment, distributor, or delivery service (“Cannabis Businesses”) shall be permitted, if desired, to apply to the New Jersey Hemp Program to operate under a license or licenses to handle, process, transport, and sell hemp and hemp products.

2. Delivery and Sale of Hemp and Hemp Products

In line with other states, the CRC should consider permitting New Jersey Cannabis Businesses (specifically retailers and delivery companies) to sell and deliver lawfully grown, produced and/or imported hemp-derived products to consumers.

RECOMMENDATION 34: Cannabis retailers and delivery services should be permitted to sell hemp and hemp products lawfully produced in and imported into the State of New Jersey, directly to consumers.

3. Production and Sale of Hemp-Derived Tetrahydrocannabinols

RECOMMENDATION 35: The CRC should, in conjunction with the Hemp Program, consider permitting, licensing and regulating products manufactured and/or sold that, in any way include hemp-derived tetra-hydrocannabinol products (*i.e.* Delta-8-THC, Delta-10-THC, etc.), and hold such products to the same consumer protection standards as products containing Delta-9-THC, without regard for the method of derivation.

C. Public Safety and Miscellaneous Concerns

1. Cannabis Impairment Detection

The ongoing proceedings in State v. Olenowski with regard to the scientific reliability of the Drug Recognition Evaluator protocols raise questions about how cannabis use by drivers will be detected. As referenced in our previous report, the NJSBA, believes the CRC should create and populate a task force regarding detection of acute impairment by cannabis.

As an added complication, the lack of determination of impairment in the criminal context further undermines any acceptable evaluation methodology in the employment context. Specifically, under N.J.A.C. 17:30-2.1(e), the CRC has eliminated the physical evaluation contemplated to be completed by a “Workplace Impairment Recognition Expert”. This raises questions about what evidence will justify adverse employment action. We believe guidance is critical in this area, as well, so potential consumers are not at risk of employment consequences.

We believe that guidance is critical to ensuring New Jersey roadways remain safe.

RECOMMENDATION 36: The CRC should convene the statutorily contemplated taskforce on identification of acute impairment by cannabis as soon as practicable. The CRC should also clarify and/or expeditiously consult with the Policy Training Commission to create, at least, interim guidelines, for the qualifications and protocols of Workplace Impairment Recognition Evaluation.

IV. Summary of Recommendations

In sum, the Committee makes the following recommendations regarding the rules and regulations promulgated by the CRC:

Regarding Licensing:

- **RECOMMENDATION 1:** Consider clarifying whether the 2019 award winners, 2018 remand applicants, and/or existing non-expanded ATCs will be counted toward the limit of 37 cultivators under N.J.A.C. 17:30-6.1(b)1, before Feb. 22, 2023.
- **RECOMMENDATION 2:** Clarify how the variables of rolling application acceptance, application windows and lottery possibilities will impact each other. The CRC should specifically clarify how the application process will proceed with regard to the capped cultivation licenses, for which applications have now been requested.
- **RECOMMENDATION 3:** The CRC should clarify and reconsider both the blanket prohibition against food or beverage sales under N.J.A.C. 17:30-9.5(b) and/or the definition of “premises.”

Regarding Management Services Agreements and Financial Source Agreements:

- **RECOMMENDATION 4:** Clarify how those with contractual, contingent or no ownership interest allocate proportionate shares in net profits.
- **RECOMMENDATION 5:** The CRC should consider clarifying whether withdrawn applications will impact numerical limits on management service providers and financial sources.
- **RECOMMENDATION 6:** The CRC should consider beginning to accept for approval management service agreements and financial source agreements as soon as practicable, with approval considered a rebuttable presumption upon acceptance by the CRC.
- **RECOMMENDATION 7:** Clarify whether the termination of a management services contract is a material change requiring an application to the CRC and a material change fee.

Regarding Conditional and Microlicense Considerations:

- **RECOMMENDATION 8:** The CRC should consider clarifying whether, if a change of location from an impact zone is approved under N.J.A.C. 17:30-7.6(i) prior to a conversion

of a conditional license application being filed, such an application would be approved, notwithstanding the loss of qualification as an impact zone applicant.

- **RECOMMENDATION 9:** The CRC should consider clarifying whether management service contractors engaged by microbusinesses are required to be New Jersey residents, are included in the calculation of 51% of total persons in a microbusiness who must reside in the municipality or in a directly bordering municipality and are considered in the limitation of 10 employees.

Regarding Municipal Considerations / Land Use:

Land Use Provisions

- **RECOMMENDATION 10:** The CRC should consider clarifying the language in N.J.A.C. 17:30-5.1(c)(1).
- **RECOMMENDATION 11:** The CRC clarify or omit N.J.A.C. 17:30-5.1(g)(2).
- **RECOMMENDATION 12:** The CRC should clarify the deadlines imposed by N.J.A.C. 17:30-5.1 and the requirements therein and resolve outstanding issues in future Requests for Applications and in later Rule amendments/clarifications.
- **RECOMMENDATION 13:** The CRC should consider clarifying what is permissible in regard to the nature and extent of municipal regulation of the cannabis industry.
- **RECOMMENDATION 14:** The CRC should clarify the interaction of its rules with New Jersey’s Medical Cannabis Program, as each pertains to municipal regulation.
- **RECOMMENDATION 15:** The CRC should consider clarifying whether, in the absence of a prohibiting ordinance, independent state authorities, commissions, or instrumentalities are able to adopt ordinances governing the time, place, and manner of the operation of Cannabis Businesses, as well as the municipal transfer taxes and the caps on the number of such establishments.

Local Licensing/Endorsements

- **RECOMMENDATION 16:** The CRC should clarify the scope of municipalities’ local licensing authority.
- **RECOMMENDATION 17:** The CRC should consider clarifying its position on host community agreements entered into between municipalities and cannabis businesses, in both the adult use and medical cannabis markets.

Municipal Taxation

- **RECOMMENDATION 18:** The CRC should consider clarifying the interaction of municipal taxation of medical cannabis and adult-use cannabis.
- **RECOMMENDATION 19:** The CRC should clarify how to calculate the municipal “user tax” for single entities that concurrently hold more than one cannabis license.

Recommendations regarding Social Equity:

- **RECOMMENDATION 20:** The CRC should consider clarifying application priority under N.J.A.C. 17:30-6.1(d), including:
 - Prioritization within Social Equity Applicants, Diversely Owned Applicants and Impact Zone Applicants classifications.
 - Determination of whether an applicant may qualify and/or benefit as an applicant of multiple prioritized types.
- **RECOMMENDATION 21:** The CRC should clarify the differences in the requirements of management and/or operational control between disabled veteran-owned businesses and businesses owned by minorities or women.
- **RECOMMENDATION 22:** Notwithstanding the expected clarification by the CRC regarding impact zones, the CRC should consider clarifying certain issues under N.J.A.C. 17:30-6.5, including:
 - Identification on a continuing basis, of a list of “Impact Zones” and the two-factor method used to identify them.
 - Permitting municipalities that were not identified as an “Impact Zone” to apply to be identified as an “impact zone,” similar to provisions set forth for identifying Urban Enterprise Zones under N.J.S.A. 52:27H-60.
 - How to calculate the closest impact zone, as contemplated under N.J.A.C. 17:30-6.5(a)(3).
- **RECOMMENDATION 23:** The CRC should consider making clarifications concerning Social Equity Applicants under N.J.A.C. 17:30-6.6, including:
 - Permitting for qualification, due to prior diversionary programs, as a social equity applicant based upon *arrests* related to cannabis or hashish as opposed to convictions.
 - Permitting for discretionary qualification, based on arrests and/or convictions against parents and close family members, as a social equity applicant, consistent within these regulations and similarly situated regulations.

- **RECOMMENDATION 24:** The CRC should clarify N.J.A.C. 17:30-9.3, including:
 - Whether an applicant or license-holder can lose status qualifying them as a Diversely Owned or Social Equity Business, if they enter into a Management Services Agreement with a company that is not controlled by minorities or women.
 - Whether the supervision by a woman or minority of a contractor under a Management Services Agreement is sufficient control to maintain status as a Diversely Owned Business.
 - Whether an applicant can qualify as a Diversely Owned business through entry into a Financial Source Agreement granting future/contingent ownership interest.
- **RECOMMENDATION 25:** The CRC should clarify N.J.A.C. 17:30-3.4, specifically:
 - Whether collected Social Equity Excise Fees are to be allocated as an appropriation.
 - Whether to create partnerships and plans for making substantial impacts through the Social Equity Excise Fees, including encouragement of expungement of cannabis related criminal records.

Regarding Legal Practice and Generally Practical Considerations:

- **RECOMMENDATION 26:** The CRC should consider clarifying whether and when vendor-contractors, especially attorneys, will be required to apply for a Cannabis Business ID Card. We recommend that the CRC address whether applications for and issuance of Cannabis Business identifications are subject to disclosure upon a request under the Open Public Records Act. Also, the CRC should consider clarifying curriculum and continuing education requirements and whether it will accept/permit related courses offered by continuing professional education providers.
- **RECOMMENDATION 27:** The CRC should consider clarifying that attorneys and firms identified by the CRC as vendor-contractors under N.J.A.C. 17:30-6.8(t)(7) who may be subject to probity review under N.J.A.C. 17:30-7.13 be permitted to exercise privilege if the information requested is not directly related to the investigation of the represented applicant.
- **RECOMMENDATION 28:** The CRC should consider shielding applications in possession of municipalities from production under the Open Public Records Act.
- **RECOMMENDATION 29:** The CRC should consider clarifying achievable scoring criteria, minimums, methodology, and elements separately by license class.

Additional Regulatory Considerations

Regarding Licensing:

- **RECOMMENDATION 30:** We urge the CRC to reconsider allowing all classes of license to distribute their own products, so as to maintain relevance and value of Class 4 Distributor and Class 6 Delivery licenses. In doing so, the CRC should consider promulgation of rules regarding Class 3 Warehousing, Class 4 Distributors and Class 6 Delivery Licenses prior to the scheduled acceptance of requests for applications currently fixed at March 12, 2022.
- **RECOMMENDATION 31:** The CRC should clarify whether ATCs that are capable of expansion will be included in any limitations on cultivation by the numbers.
- **RECOMMENDATION 32:** The CRC should consider clarifying whether accepted expanded ATCs, which have been precluded from fully utilizing the expansion of their ATC permit to a license, will be permitted to apply in those license classes.

Regarding Hemp Regulatory Interaction:

- **RECOMMENDATION 33:** The CRC should consider clarifying that persons and entities licensed by the CRC to operate as a cannabis establishment, distributor, or delivery service (Cannabis Businesses) shall be permitted, if desired, to apply to the New Jersey Hemp Program to operate under a license or licenses to handle, process, transport, and sell hemp and hemp products.
- **RECOMMENDATION 34:** The CRC should consider permitting cannabis retailers and delivery services to sell hemp and hemp products lawfully produced and imported into the State of New Jersey directly to consumers.
- **RECOMMENDATION 35:** The CRC should consider, in conjunction with the Hemp Program, permitting, licensing and regulating products manufactured and/or sold that, in any way include hemp-derived tetra-hydrocannabinol products (*i.e.* Delta-8-THC, Delta-10-THC, etc.), and hold such products to the same consumer protection standards as products containing Delta-9-THC, without regard for the method of derivation.

Regarding Public Safety Concerns:

- **RECOMMENDATION 36:** We urge the CRC to convene the statutorily contemplated task force on identification of acute impairment by cannabis as soon as practicable. The CRC should also consider clarifying and/or expeditiously consult with the Policy Training Commission to create, at least, interim guidelines, for the qualifications and protocols of Workplace Impairment Recognition Evaluation.

V. Acknowledgements

The NJSBA Cannabis Law Committee, especially its legislative subcommittee members, Zachary Windham, Michael Hoffman and John Williams, are acknowledged for their extraordinary effort in harmonizing and relaying the concerns expressed into this report. We acknowledge the contributors to this report as follows:

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