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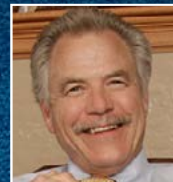
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WHAT A LONG STRANGE TRIP IT'S BEEN¹

By Carlos N. Martinez



Once upon a time, back in the late 1900's, New Mexico's cannabis scene was an underground, unspoken fraternity of consumers ranging from the weekend recreational consumer to the full-time medicinal user. As time passed, cannabis evolved from Reefer Madness into an acceptance and recognition for its numerous benefits outside of recreational use. Now in 2021, we have an adult-use recreational cannabis law on the books, and unless you've been living under a rock for the last couple of years, you may have missed some important news as it relates to New Mexico's cannabis industry. In June of this year, the Land of Enchantment's brand new Cannabis Regulation Act now allows New Mexican residents to grow six mature cannabis plants per person and up to 12 mature cannabis plants per household.² Although maturity is often defined differently in various cultures, New Mexico defines it as a "female cannabis plant in the flowering stage."³ Additionally, no later than April 1, 2022, you'll be able to purchase "two ounces of cannabis, 16 grams of cannabis extract and 800 milligrams of edible cannabis at one time."⁴ The times they are a changin'.⁵

History of New Mexico's Cannabis Programs

New Mexico was the first state in the nation to enact a medical cannabis law via legislature in 1978, the Controlled Substances Therapeutic Research Act,⁶ later renamed in 2007 in honor of Lynn Pierson and Erin Armstrong; the Lynn and Erin Compassionate Use Act.⁷ The program's initial rules and regulations were promulgated in 2010 with the first set of medical cannabis licenses⁸ being issued that same year. In 2015, the rules were revised for the first time, with a second set of medical cannabis licenses being issued. In 2019, Senate Bill 406⁹ revised and amended language in the Lynn and Erin Compassionate Use Act, while adding 15 additional qualifying debilitating medical conditions. Under New Mexico's medical cannabis program, a qualified patient¹⁰ has to be diagnosed by a practitioner as having a debilitating medical condition in order to obtain a medical cannabis card, and patients were limited to approximately eight ounces of cannabis flower in a three-month time-period.¹¹

Under the statutory and regulatory language, a debilitating medical condition could be any of the following: (1) cancer; (2) glaucoma; (3) multiple sclerosis; (4) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity; (5) seizure disorder, including epilepsy; (6) positive status for human immunodeficiency virus or acquired immune deficiency syndrome; (7) admitted into hospice care in accordance with rules promulgated by the department; (8) amyotrophic lateral sclerosis; (9) Crohn's disease; (10) hepatitis C infection; (11) Huntington's disease; (12) inclusion body myositis; (13) inflammatory autoimmune-mediated arthritis; (14) intractable nausea or vomiting; (15) obstructive sleep apnea; (16) painful peripheral neuropathy; (17) Parkinson's disease; (18) posttraumatic stress disorder; (19) severe chronic pain; (20) severe anorexia or cachexia; (21) spasmodic torticollis; (22)

ulcerative colitis; (23) autism spectrum disorder; (24) Friedreich's ataxia; (25) Lewy body disease; (26) spinal muscular atrophy; (27) Alzheimer's disease; (28) opioid use disorder; or (29) any other medical condition, medical treatment or disease as approved by the department.¹²

As the medical cannabis program began to expand, efforts began to be made to bring a recreational adult-use cannabis program to New Mexico. In 2020, there was a failed attempt at passing a recreational cannabis bill¹³ but in 2021, with the assistance of a special session, New Mexico was able to pass the Cannabis Regulation Act¹⁴, and light a metaphorical match to the proverbial powder keg that is the New Mexico Recreational Cannabis industry.

New Mexico's Recreational Cannabis Program

Under the Cannabis Regulation Act, responsibility falls on the Regulation and Licensing Department's Cannabis Control Division to administer its provisions as well as the provisions of the Lynn and Erin Compassionate Use Act. Under the Cannabis Regulation Act, a potential licensee will have the option to apply for a number of license types: 1. Cannabis Producer License; 2. Cannabis Producer Microbusiness License; 3. Manufacturing License; 4. Vertically Integrated Cannabis Establishment License; 5. Retailer License; 6. Cannabis Consumption Area License; 7. Courier's License; 8. Cannabis Testing Laboratory License; 9. Cannabis Research License; and 10. Integrated Cannabis Microbusiness License.¹⁵



The Cannabis Control Division was also tasked with creating the Cannabis Regulatory Advisory Committee (CRAC) to advise the division on the development of the licensing rules and regulations for the Cannabis Regulation Act. It is comprised of 17 individuals, none of which are cannabis law experts, and only one member having any current and direct experience in New Mexico's medical cannabis program as a licensed non-profit producer. As luck would have it, license requirements were developed and released for cannabis producers and cannabis producer microbusinesses on August 24, 2021, a mere 14 days after the CRAC team's first meeting; a meeting in which four members failed to attend.¹⁶ The cannabis producer microbusiness license allows the holder to grow up to 200 mature cannabis plants, while the cannabis producer license allows the holder to grow and cultivate up to 8,000 mature cannabis plants, and in no event more than 10,000 mature cannabis plants. Both licenses also come with the associated privileges of having unprocessed cannabis products tested by a laboratory, transportation of cannabis products to other cannabis establishments, or selling cannabis products wholesale.¹⁷

The annual fees associated with obtaining a cannabis producer microbusiness license depends on the number of mature cannabis plants one intends on growing: 100 mature plants or less will cost \$500 annually, and 101-200 plants will cost \$1,000 annually.¹⁸ The annual fee for the cannabis producer license is \$2,500 and an additional \$1,000 per additional licensed premises. Further, there are "per plant" fees associated with the cannabis producer licenses. The division mandates a per plant fee of \$10 per commercial cannabis plant, and \$5 per medical cannabis plant.¹⁹

In addition to the licensing fees, numerous requirements must be adhered to in order to have a full and complete application for a cannabis license. The department requires license applicants to provide complete contact information for all controlling persons of the business (those with 10% or more financial or voting interest²⁰), proof of age (must be more than 21 years old), and complete contact and location information of the actual cannabis establishment. The department further requires diagrams of businesses, permissions from land owners, proof of legal water rights, energy and water reduction plans, business licenses, inspections, and a host of certifications and attestations. Additionally, the department directs all business applicants to maintain numerous standard operating procedures and policies covering topics that range from wastage and disposal procedures of unusable cannabis, to employee manuals and safe transportation of cannabis and cannabis products.²¹

In contrast to the department's rules and regulations, the cannabis control division's online portal only requires a fraction of the information to be submitted for review. Although the department requires that all information provided by the licensee to be accurate and truthful, the department does not guarantee that the submission

of an application will be accepted as complete. However, once an application has been deemed complete, the department then has 90 days in which to grant or deny the license; but it is still not guaranteed that a complete application will result in the department granting the license!²²

Business Considerations, Issues, and Problems

Along with the task of navigating the murky waters of the license application process, there are intangible business considerations one should address and understand before applying for a cannabis license. Long gone are the days where companies were forced to incorporate as non-profit entities, and be subject to arbitrary board compositions or consumption limits.²³ The Cannabis Regulation Act does not mandate a specific type of legal entity to be utilized in order to own and operate a recreational cannabis license. The question then becomes, which is the best legal entity to choose? Well, it depends; how many owners are there? Do they all own the same amount of equity in the business? Do you prefer the structure of a board of directors, or do you prefer a simpler set up in terms of management and ownership? The most popular legal entity choice seems to favor limited liability companies, however there are multiple applicants

utilizing a more traditional corporate formation, with shareholders, a board of directors, and officers. Whichever entity is decided, it is important to ensure bylaws or operating agreements are drafted to sufficiently protect the interests of the owners of the business, as well as plan for future unforeseen contingencies, mergers or acquisitions.

Additionally, initial startup capital needed for real estate and infrastructure could be an insurmountable task for some entrepreneurs, which is an unfortunate reality that

discourages applicants from entering the industry. Granted, if one were to operate a farm with the capacity to grow 8,000 mature plants, exclusive of mother plants, clones, or immature plants, one would need an exponential amount more space, infrastructure and capital than a farm that grows up to 100 plants. However, under the Cannabis Regulation Act there is not a minimum number of plants that must be grown, and therefore, there is in fact room for a small business owner to enter the space at a lower initial startup cost, while still generating large revenues. Assuming a licensee operates a 50-plant farm, and is able to yield one pound of cannabis flower per plant, per growth cycle,²⁴ it is reasonable to project revenues north of \$200,000 per growth cycle, based off of a \$10/gram figure.²⁵ Nonetheless, once it has been determined that a space has been identified for the farm, one would need to double check with the local authorities and jurisdictions to determine whether or not the farm was properly zoned.

Within the Cannabis Regulation Act, there are explicit provisions providing that local jurisdictions throughout the state have the ability to regulate time, place, manner and density of license restrictions.²⁶ Further, local jurisdictions have their own zoning rules and regulations. This batch of additional rules and regulations oftentimes gives business owners fits, as they are wholly ignorant of



It is extremely hard to gauge what the anticipated demand will be, and whether or not New Mexico's budding cannabis industry will be able to meet the same.

the fact that they must deal with local zoning boards and commissions. Compounding this issue is the very real fact that not all local jurisdictions are completely ready to develop and implement new zoning rules and regulations that comply with the Cannabis Regulation Act. This delay in getting the requisite zoning approval forces business owners to “wait and see,” and these delays hold up much needed inspections, permissions, and other necessary approvals needed in order to provide a complete application packet to the cannabis control division.

The division’s application also requires that the licensee demonstrate that they have a legal right to use the water for their respective farms, which can be proven in one of two ways: 1. Provide documentation from the respective water provider indicating that the applicant has the right to use the water from the provider, and that the use is compliant with the water provider’s rules; or 2. Provide documentation from the office of the state engineer’s office “showing that the applicant has a valid and existing water right, or a permit to develop a water right, for irrigation purposes for outdoor cultivation, or a commercial purpose for indoor cultivation at the proposed place of use of the cannabis establishment.”²⁷ Obtaining this documentation has proven problematic, specifically for the fact that up until now, no water authority has had to provide this type of correspondence in the past. Additionally, it will be interesting to see how these water issues continue to develop in the future, especially as they relate to usage. As the industry grows, an increase in cannabis plants will be needed; and the more cannabis plants that are grown, the more business owners will have to squeeze water out of the desert.

Lastly, accompanying this monumental task of instituting the provisions of the Cannabis Regulation Act, the Cannabis Control Division now faces serious realities as they relate to basic concepts of supply and demand; at the time of the writing of this article, the medical cannabis program had 122,801 active patients.²⁸ To address this anticipated shortage of medical cannabis, the division may require licensees to ensure that 10% of its inventory is set aside for qualified patients, primary caregivers and reciprocal participants, or the division may also incentivize increased production of cannabis plants for medical users. After exhausting measures to increase production, the division may even exclude commercial cannabis activity for up to 6 months, and require licensees to produce a specified quota of mature cannabis plants for the medical program.²⁹

Conclusion

As recent judicial orders have indicated, there may be an increase in the purchase limits for medicinal patients, caregivers and reciprocal patients, and added to this, the beginning of the recreational adult use program. It is extremely hard to gauge what the anticipated demand will be, and whether or not New Mexico’s budding cannabis industry will be able to meet the same. However, the medicinal and adult-use markets have huge potential to provide an immensely positive impact for the State of New Mexico and its residents, as well as multiple opportunities for large and small business owners. The Cannabis Regulation Act further encourages those to participate who have been disproportionately harmed by previous cannabis prohibitions through arrest or enforcement, which is a part of the social equity built into the law.³⁰ Be positive, be open-minded, and

be excellent to each other.³¹ Embrace the change, it’d be a lot cooler if you did.³² ■

Carlos N. Martinez is a cannabis law attorney at Legal Solutions of New Mexico, LLC. He is the founder of the Cannabis Law Section and currently serves on the board of directors as Chairperson of the section. He also practices in family law and is a member of the Family Law Section’s board of directors. He holds degrees in accounting and finance, an M.B.A. in international business, and a juris doctorate.

Endnotes

¹ *What a Long Strange Trip It’s Been*; Grateful Dead, Warner Bros. Records; August 18, 1977

² NMSA 1978, § 26-2C-25(A)(9)

³ 16.8.8.8(B) NMAC

⁴ NMSA 1978, § 26-2C-3(B)(4)(a); a person who is twenty-one years old or older

⁵ *The Times They Are a-Changin’*; Bob Dylan, Columbia Records; January 13, 1964.

⁶ NMSA 1978, § 26-2A-1 to 26-2A-7

⁷ NMSA 1978, § 26-2B-1 to 26-2B-10

⁸ Non-profit producers, 7.34.4.8 NMAC; Manufacturers, 7.34.4.14 NMAC; Testing Laboratories, 7.34.4.17 NMAC; Couriers, 7.34.4.20 NMAC;

Personal Production Licenses, 7.34.4.21

⁹ 2019 Regular Session-SB 406; <https://www.nmlegis.gov/Sessions/19%20Regular/final/SB0406.pdf>

¹⁰ NMSA 1978, § 26-2B-3(N)

¹¹ NMAC 7.34.3.9, et seq.; However, see Case No. D-202-CV-2021-04058

¹² NMSA 1978, § 26-2C-1, et seq.;

¹³ 2020 Regular Session-SB 115; <https://www.nmlegis.gov/Legislation/Legislation?chamber=S&legtype=B&legno=115&year=20>

¹⁴ NMSA 1978, § 26-2C-1 to 26-2C-42

¹⁵ NMSA 1978, § 26-2C-6(B)

¹⁶ <https://ccd.rld.state.nm.us/wp-content/uploads/2021/09/08.010.2021-C-RAC-Minutes-EK-signature.pdf>

¹⁷ NMSA 1978, § 26-2C-2(I); NMAC 16.8.8.9(A)-(F)

¹⁸ NMAC 16.8.11.9(H)

¹⁹ NMAC 16.8.11.9(D); NMAC 16.8.11.11

²⁰ NMSA 1978, § 26-2C-2(U)

²¹ NMAC 16.8.2.21 et seq.

²² NMAC 16.8.2.8(G)

²³ NMAC 7.34.4.8(J)

²⁴ NMAC 16.8.8.8(A)

²⁵ Sofis, M. S. P. D., & Slade, M. S. M. P. H. (2021, June). Cannabis Public Policy Consulting: Estimating Cannabis Demand in New Mexico.

https://ccd.rld.state.nm.us/wp-content/uploads/2021/07/FINAL_Estimating-Cannabis-Demand_DOH_June23.pdf; 50lbs=22,679.6 Grams*\$10.05 per gram=\$227,929.98

²⁶ NMSA 1978, § 26-2C-12 et seq.

²⁷ NMAC 16.8.2.22(A)(5)

²⁸ Medical Cannabis Program Patient Statistics August 2021. (2021, August). <https://www.nmhealth.org/publication/view/report/6871/>

²⁹ NMSA 1978, § 26-2C-6(L); NMAC 16.8.8.11

³⁰ NMSA 1978, § 26-2C-3(B)(7) and (9)

³¹ Ted “Theodore” Logan; *Bill and Ted’s Excellent Adventure* (1989)

³² Wooderson; *Dazed and Confused*, (1993).

Advertising and Marketing Cannabis

By Joel Krukar, Tina Muscarella Gooch, and Christy Lucky

Well before New Mexico passed the Cannabis Regulation Act, NMSA 1978, § 26-2C-1, *et seq.*, brand development and marketing within the cannabis industry has had its own unique legal requirements and challenges. For example, each state that has legalized medical and/or recreational cannabis has its own unique laws and regulations. Still, no matter the market, there are some commonalities across each state. Even with some common laws, regulators in each state may apply laws differently. This article discusses New Mexico law regarding advertising cannabis, as well as shared experiences regarding marketing cannabis, through the Mountaintop Extract TerpKey.

The New Mexico Cannabis Regulation Act (CRA)

New Mexico recently legalized recreational cannabis use through the passage of the Cannabis Regulation Act (CRA), NMSA 1978, § 26-2C-1, *et seq.* Among the many things included in the CRA, this law created a new division under the New Mexico Regulation and Licensing Department which must, by next Jan. 1, 2022, promulgate rules for the marketing and sale of cannabis, in consultation with several agencies and the newly appointed cannabis advisory committee. NMSA 1978, § 26-2C-3(B)(5).

The CRA provides various advertising and marketing restrictions.

A. prohibit the advertisement and marketing of cannabis products:

- (1) on radio, television or other broadcast media, internet pop-ups and mass transit vehicles; provided that the division shall not prohibit advertising and marketing to:
 - (a) subscribers of subscription-based radio, television or other broadcast media who are twenty one years of age or older; or
 - (b) persons twenty-one years of age or older who have solicited the advertising or marketing;
- (2) that are false, deceptive or misleading, including making unproven health benefit claims;
- (3) that are on billboards, posters, handbills or other visual media that are located or can be viewed within three hundred feet of a school, daycare center or church;
- (4) that depict consumption by children or other persons who appear to be younger than twenty-one years of age;
- (5) that use predatory marketing and advertising practices targeting minors; or
- (6) that are designed using cartoon characters or to mimic any other product brand; and

B. require:

- (1) all advertisements and marketing to accurately and legibly identify all persons responsible for its content; and
- (2) advertisements in print and digital communications to be placed only where the audience is reasonably expected to be twenty-one years of age or older as determined by reliable, current audience composition data.

NMSA 1978, § 26-2C-20.

It remains to be seen how these CRA requirements appear in regulations and how those regulations are interpreted and enforced. Regardless, the TerpKey demonstrates how to provide esthetically pleasing marketing that complies with the CRA. It not only includes accurate information about terpenes, it also includes a useful tool for consumers to use in selecting cannabis. Further, in trying to estimate how New Mexico will address cannabis marketing and advertising, it is helpful to know more about how other states have addressed these issues, as well as experiences of others in the cannabis industry.

What to expect based on shared experiences throughout the cannabis industry

Do not develop a brand appealing to children

In general, this just means not to use cartoon characters, or any type of whimsical branding that can be interpreted as appealing to children. Color schemes that are neon and pop highly can also be risky. Black market branded cannabis edibles will sometimes be reiterations of famous candies that are now infused with cannabis. Regardless of the regulations that will be issued, it is certain that there will be prohibitions on branding that appeal to minors.

280E, the cannabis industries targeted tax clause

Section 280E of the Internal Revenue Code is a unique clause which disallows businesses that derive income from Schedule 1 Controlled Substances, this includes cannabis, from deducting typical business expenses except for cost of goods sold. And further, it excludes expenses related to advertising and marketing.

For dispensaries, this means their only deduction is the cost they paid for goods (plus delivery) to resell. For a producer or manufacturer, under tax code 471, this means they may include additional expenses that are “incident to and necessary for production or manufacturing operations or processes” (by way of using accrual and cost absorption accounting). This definition excludes marketing and advertising, but does include packaging. For brand development and marketing, that means every dollar spent is considered taxable profit. With a federal tax rate of 21%, purchasing an ad in a cannabis magazine for \$1,000 actually costs \$1,210 to the cannabis business.

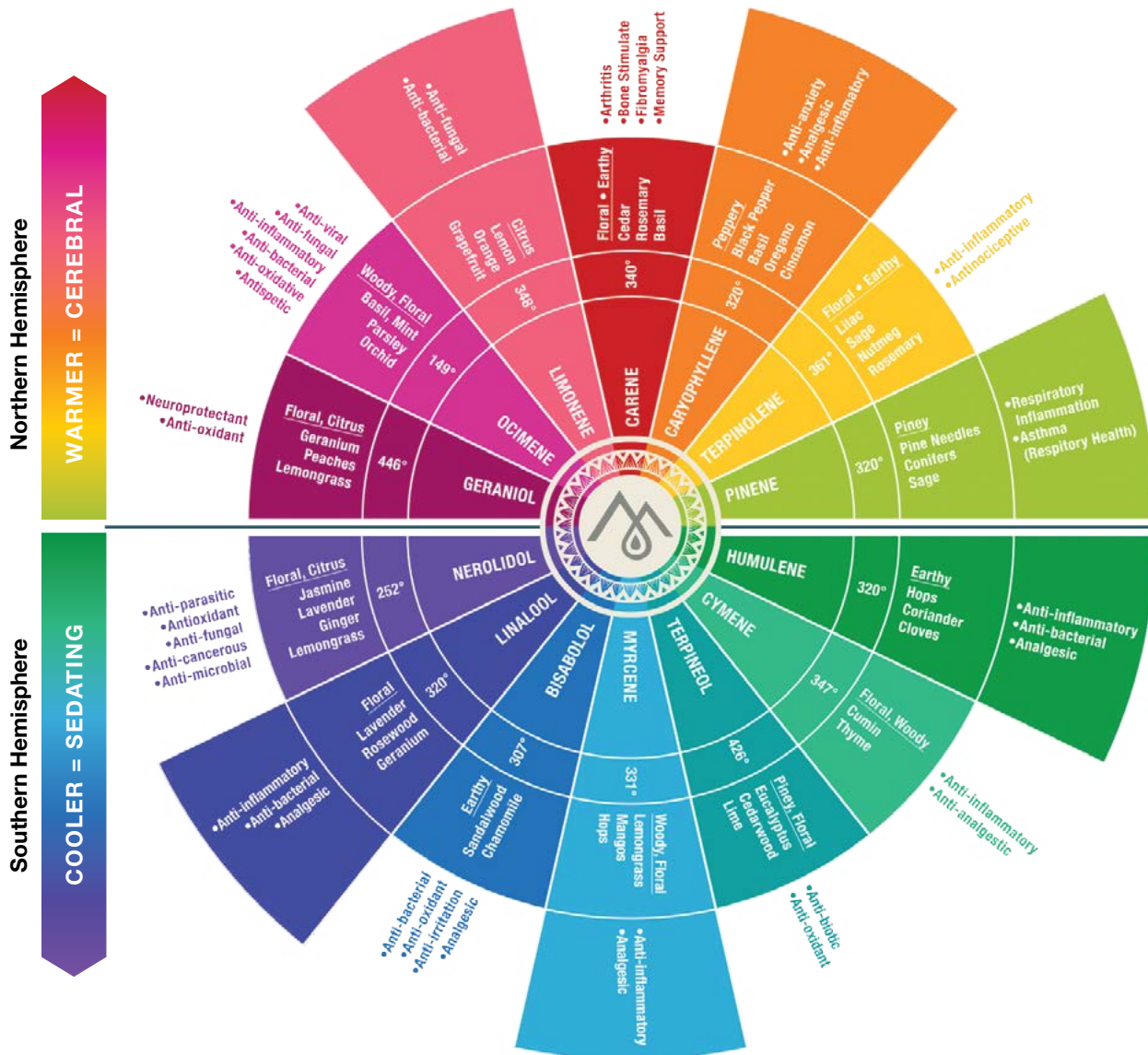
Since the condition of 280E only allows for tax deductions related to the cost of goods for the creation of the product, focus is best placed on creating strong packaging that can strongly appeal to the potential customer from off the shelf. Expensive packaging with strong appeal may be costly per unit, but it is a deductible cost when operating a cannabis business. Since a cannabis product can only be sold through a dispensary, appeal from inside the store is critical.

Budtenders are some of the most influential people when recommending a cannabis product

Unlike a normal retailer, you cannot walk into a dispensary, grab

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what you want, then leave. In the cannabis industry, you are almost always expected to talk to a “buddtender,” or a customer service agent at a dispensary. During these interactions, your purchasing habits change and you engage in a dialogue for what you are looking for and want. In this environment, a product recommended by the buddtender is significantly more likely to translate to a sale. Events to promote popularity of cannabis products amongst buddtenders are successful and a thoughtful way to consider marketing in this industry.

Mountaintop Extract TerpKey:

Mountaintop Extracts, in following guidelines for marketing and communication that are moral and legal, has begun to utilize a new system of consumer transparency called TerpKey.

Terpenes are the critical part of any cannabis profile that distinguishes different strains from one another. One terpene

combination can be excellent for rest, while another is best for daytime use. Each person has a unique experience from cannabis, and understanding the terpenes gives insight into what one may experience. Without making any claims to health and benefits, TerpKey simply shows the elements that exist within the cannabis strain. The TerpKey wheel shows what benefits have been shown to exist with each individual terpene.

To help educate and empower consumers, the TerpKey wheel is designed to highlight different terpene combinations in each cannabis strain. Over time, an individual can begin to recognize patterns for what they enjoy most in different cannabis profiles. Through this marketing effort, Mountaintop Extracts is not only ensuring it is staying within the guidelines of marketing within the cannabis industry but also hoping to help cannabis users understand more about the products they are purchasing.

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Human Health

and the Importance of the

Endocannabinoid System

By Terence L. Jones

The Cannabis Training Institute of the Southwest's educational programming not only ensures that students, patients, consumers, industry staff and professionals as well as health professionals have accurate and reliable information about cannabinoid medicine, but also ensures they understand the laws.

The overarching objective of the CTISW programming is to train and educate those interested in botanical cannabinoid medicine. The program is not only about providing someone with a base level of knowledge to intelligently speak and safely sell the product.”

Cannabis is a more complicated product. The education curve is going to be steeper. Therefore, it only makes sense that you need the person selling you the product to be able to speak about it intelligently.

The training/education program CTISW provides also addresses concerns that New Mexicans have had, prior to and since legalization took place, which includes but is not limited to that of people driving while inebriated. The course makes sure that all who partake and educate about cannabinoids can recognize if someone is already under the influence when they come into a dispensary. Industry staff are not allowed to sell cannabis to a person if they appear to be a client/customer who is already intoxicated in some way.

The initial course curriculum has a specific focus: basic biology, policy and law and cannabis as medicine. It also includes information related to the history of the botanical medicine of cannabis as well as the state's medical cannabis program, the compassionate use act, and the cannabis regulation act for adult recreational use.



As educators, we can continually explore expanding the CTISW program. HB2 opens the doors to broader curricula for health professionals and other people/occupations interested in the industry.

The first step in developing a rigorous program of education is to comply with state regulations and mandates as they apply to cannabis education. Moreover, to provide interested participants with the knowledge and understanding of cannabis as medicine and its' evolution and ethnobotany plus the regulations and laws that inform us.

To understand cannabis as medicine let us begin with an understanding of the role of the human body's Endocannabinoid system. The ECS is a biological regulatory system responsible for maintaining homeostasis—or equilibrium—throughout the body. Sleep, memory, appetite, stress response, and immunity are some of the essential functions that the ECS plays a role in modulating.¹ The ECS functions through the interaction of molecules called endocannabinoids (Anandamide, AEA the bliss molecule, and 2AG) with special protein structures called cannabinoid receptors. (CB1/CB2)²

One simple analogy is that cannabinoid receptors function like a lock, while the endocannabinoids that bind to these receptors function like a key. This exchange acts as a mechanism of complex inter-cellular communication that regulates numerous physiological responses. Cannabinoid receptors are found throughout the body and appear to play an extremely important role in physiology. For example, in animal research studies where the ECS has been genetically altered researchers noticed the subjects display many adverse effects including a disruption in pain sensitivity, increased depressive behaviors, and abnormal immune function.^{3,4}

While a thorough understanding of the ECS is still emerging, its dysfunction has been implicated in numerous medical conditions in humans such as migraine, fibromyalgia, irritable bowel syndrome, and depression.^{5,6}

One example of a disease condition that may result from the disruption of ECS balance is the seizure disorder, epilepsy. Seizures occur when neurons (brain cells) become overexcited and do not receive appropriate regulatory signals. The endocannabinoid system is responsible for a regulatory process that calms the overexcitation.⁷

This regulatory input from the ECS can be compared to turning down the temperature on a thermostat when it gets too hot. Certain molecules from outside the body, including many of those produced by cannabis plants, (Phyto cannabinoids, namely THC/CBD) can also interact with the ECS due to their chemical similarity to endocannabinoids.

The discovery of the ECS was ground-breaking for revealing that our bodies produce molecules like those found in cannabis plants. (Anandamide (arachidonoyl ethanolamide, AEA) and 2-arachidonoyl glycerol (2AG) are physiologically occurring, biologically active compounds on CB (1) and CB (2) receptors with multiple physiological functions. This relationship begins to explain, for instance, how cannabis stimulates appetite and sleep, since these are two functions known to be influenced by the endocannabinoid system.

As potential modulators of the ECS, cannabinoids hold exceptional promise as novel treatments for a variety of medical conditions. Despite the apparent importance of the ECS in health and disease, most clinicians are poorly educated on its function. Most medical school deans admit that the teaching of cannabinoid medicine in any aspect is limited to no more than 9% of medical schools nationwide. Although pharmacy, nursing and some medical schools are increasing their interests in the topic overall.

It is essential that clinicians are educated on ECS function, and that research continues to explore the physiological effects of all medical modalities, including cannabis, on the ECS. It should be noted that US research is limited due to the schedule I classification by the Federal government. This classification denotes there is no value medically for cannabis at all. This is contrary to research done outside the US including with our neighbor to the north, Canada.

Researchers point out that the most effective means of using cannabis medicine requires its ingestion via the use of the entire flower rather than a single synthesized isolate. "It's a mixture of CBD, cannabidiol, THC and the phytochemicals, the terpenoids," says Harvard Professor, Dr. Lester Grinspoon. "You need all three of them to get the best therapeutic effect."

But Dr. Grinspoon says that the entourage effect, the broad-based experience cannabis users have when they consume marijuana containing all three components, is improperly named,

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Grinspoon told listeners of the *Planet Green Trees Radio Show* on March 10. He prefers the term “therapeutic ensemble.”

“I think that the ensemble is a better idea than entourage, because the word ‘entourage’ implies one item moving in this direction – and it has company,” Dr. Grinspoon explained, “and it is [the item] that is responsible for that activity, and the others just go along. That is entourage. “The word ‘ensemble’” he continued, “means that these are the three things that are required for the best therapeutic effect, but you can manipulate the percentage of two of them.”

Those are THC and CBD, explained Dr. Grinspoon. “The phytochemicals, the terpenoids, they come with it, as long as it is derived from the plant and not from some oil where all the phytochemicals have been distilled out. As long as you are getting it from the plant you can manipulate by mixing strains.”

One method used to illustrate the advantage of the therapeutic ensemble, and the effect seen when it is absent: “Cannabidiol is a non-psychoactive cannabinoid, which in fact opposes tetrahydrocannabinol, the psychoactive element. In general, if you take a large dose of CBD for therapy during the day and you try to use THC at night you will not get the desired high. On the other hand, you can make the THC high compared to the CBD, the ratio is reversed, and you will get a high. If you have the two of them, and the phytochemicals, the terpenoids, you will get a therapeutic effect.” ■

Terence L. Jones, PhD, the science/legal consultant for the Cannabis Training Institute of the Southwest, is an epidemiologist and board member of the State Bar Cannabis Law Section.

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Advertising and Marketing Cannabis

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Conclusion

If you are providing legal advice regarding cannabis marketing and advertising you must keep the CRA's prohibitions and limitations in mind. Running afoul of these could be disastrous to cannabis licensees. While New Mexico is just starting out its recreational cannabis industry, it has had a medical program for many years that should help guide the marketing and advertising regulations to be promulgated under the CRA. This history, coupled with the CRA language, and the shared experience of those in the cannabis industry should make the transition to marketing and advertising recreational cannabis flawless. ■

Joel Krukar leads business development and marketing for Mountaintop Extracts. Cannabis education has been crucial for Mountaintop Extracts

to make cannabis a more approachable medicine. He continues to support new business growth and is actively preparing for legalization in New Mexico. He is a board member of the Cannabis Law section of the State Bar of New Mexico

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Christy Lucky, CPA and sole proprietor of Lucky's Numbers, She brings her background of non-profit accountant/ CFO, non-profit Senior Auditor, AICPA member, QB specialist, and DOPE CFO trained cannabis accountant and 25+ years accounting experience in helping small and large businesses develop processes and implement compliance.

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