

1 gaming regulations and statutes. As of 2020, Boyd's statutes and regulations are carbon copies of
2 Nevada's laws and regulations.

3 The Board was created to protect the stability of the gaming industry and maintain public
4 confidence in gaming. As a result, the Board was tasked with conducting investigations, overseeing initial
5 licensing, and enforcing the laws and regulations adopted by Boyd Gaming Commission and Boyd
6 Legislature. Further, the Board works to ensure that all licensees pay their gaming taxes and fees.

7 The Commission is the final authority on licensing matters. As a result, the Commission has the
8 ability to approve, restrict, limit, condition, deny, revoke, or suspend any gaming license. As mentioned
9 above, the Commission is in charge of adopting regulations to implement and also works to enforce Boyd
10 laws that govern gaming.

11 Together, the Board and the Commission are responsible for regulating the Boyd gaming industry.
12 When the Board believes discipline against a gaming licensee is appropriate, it acts in the prosecutorial
13 capacity while the Commission acts in a judicial capacity to determine whether sanctions are warranted.
14

15 Pursuant to the BGB, the Commission has approved license for four large Las Vegas style casinos
16 throughout the state. The four casinos were completed in late 2015 and all opened to the public in early
17 2016. The opening of the casinos quickly created a surge in Boyd's economy. Because Boyd is a small
18 state, all Boyd residents were within a one-hour drive of one of the state's four casinos. Additionally,
19 Boyd's airport is uniquely positioned in the center of Boyd's four casinos making each of them easily
20 accessible to tourists. Due to these unique circumstances, Boyd's casinos became extremely popular with
21 Boyd residents and tourists alike. In 2019, Boyd's casinos were visited by 6 million people (5 million of
22 whom were tourists).

23 In addition to gaming, Boyd has built an economy around entertainment by opening numerous
24 shows, restaurants, nightclubs, theme parks, and a variety of other entertainment venues in the immediate
25

1 vicinity of the casinos and in the bustling northern area. In late 2018, Boyd followed the recent trend of
2 several states and legalized Marijuana for both medical and recreational uses.

3 Together, the gaming, entertainment, and marijuana industries have generated approximately \$1.3
4 billion in tax revenue and \$5 billion in economic activity for the state's economy in 2020. This figure
5 includes not only direct economic impact, but also money indirectly contributed to the economy via
6 employee wages and third-party services hired by the casinos, entertainment, and marijuana
7 establishments.

8 Boyd's largest casino, the Flora Casino and Resort ("Flora"), is located in a bustling nightlife and
9 entertainment city in Northern Boyd. Flora is surrounded by luxury condominiums, bars, nightclubs,
10 marijuana dispensaries, the largest shopping mall in Boyd, and several well-known restaurants. Since the
11 opening of Flora, the area has become a major tourism hub for travelers.

12 Since marijuana legalization is relatively new, Boyd's legislature has yet to pass laws that discuss
13 gaming and marijuana. However, at the insistence of Governor Lucky, the Board and Commission have
14 expressly come out and explained that, in accordance with the laws of Boyd, the BGB, and the BGCA,
15 Boyd Gaming Licensees shall not participate in the marijuana industry at this time. Additionally, Boyd
16 Gaming License holders must report any marijuana use that occurs on their casino premises.

17 In early 2020, an airborne infectious disease began spreading throughout the United States. This
18 disease is commonly referred to as COVID-20. COVID-20 spreads between individuals through
19 respiratory droplets. Additionally, the disease has proven to be highly infectious when large groups of
20 people gather in close quarters with one another for extended periods. As a result, Boyd has put in place
21 mandatory lockdown orders and ordered several businesses to close – including Boyd's four casinos.
22 Boyd's economy took a major hit, and many people were without employment. After about a month of
23
24
25

1 closure, Governor Lucky, Boyd’s Legislature, the Board, and the Commission worked together to reopen
2 casinos under specific conditions.

3 These conditions largely mimicked federal government recommendations like social distancing,
4 requiring wearing masks, and banning smoking inside the casinos. While these restrictions helped to
5 mitigate the spread of COVID-20 in casinos, a lot of individuals were still hesitant to return to casino
6 floors. In order to entice travelers to return, the four major Casinos in Boyd, including Flora, have begun
7 lowering room rates, offering deals with businesses in the surrounding area, and, unfortunately, turning a
8 blind eye when COVID-20 restrictions are violated.

9 The Board and Commission became aware that their four casinos were not enforcing safety
10 protocols and opened a formal investigation. As a part of the investigatory process, the Board and
11 Commission explored claims that Flora was not enforcing mask restrictions and ignoring marijuana use
12 occurring inside its casino. While the Board’s investigation did not substantiate any of the original claims,
13 their investigation revealed that Flora CEO Todd H. Carter (“Carter” or “Respondent”) was a marijuana
14 user and frequented one of the dispensaries close to Flora. While the employees were not aware of exactly
15 how long Carter had been using marijuana, the various employees claimed that Carter had been using it
16 anywhere from three (3) to six (6) months.

17
18 In reality, Carter was a medical marijuana user. Carter began using medical marijuana sometime
19 after his diagnosis with Crohn's disease last year. Carter thought he had kept this information relatively
20 private with only a few members of the Flora’s board of directors knowing of his diagnosis and even less
21 knowing of his use of marijuana to help combat the inflammation. However, Carter’s trips to the
22 dispensary, despite his best efforts, and the members of the boards sharing information, led to several
23 individuals knowing or, at the least, suspecting that Carter used medical marijuana.
24
25

1 After determining Carter had an active and valid state legal medical marijuana card and after
2 hearing the employees' statements, the Board filed a complaint for disciplinary action against Carter. As
3 a part of proceeding, the Board called Carter to testify and questioned him about his personal marijuana
4 use and his stance on marijuana, both medical and recreational, in the gaming industry. During the
5 questioning, the Board asked Carter whether he used medical marijuana. Uncertain what to say, Carter
6 relied on the advice of counsel and invoked his Fifth Amendment privilege against self-incrimination.
7 Ultimately, Carter invoked his Fifth Amendment privilege to all questions dealing with his use of medical
8 marijuana.

9 Following the disciplinary proceeding, the Board and Commission decided to revoke Carter's
10 gaming license on two independent grounds: (1) Carter failed to comply with a proper and lawful Board
11 investigation by invoking his Fifth Amendment privilege and (2) Carter's use of medical marijuana
12 violated federal laws. Without Carter's leadership, Flora began to struggle financially and began firing
13 staff. Following the Board's ruling, Carter petitioned for judicial review with Boyd District Court.

14 While the case developed through the district court, Flora continued experiencing extreme
15 financial losses and rises in COVID-20 cases among its staff. As a result of these losses, Flora temporarily
16 stopped operation. With Flora's closure, the surrounding economy suffered. Tourists stopped traveling to
17 the Northern portion of Boyd. Other tourist-driven businesses in North Boyd began to suffer losses, with
18 some drastically reducing staff and some closing all together. Ultimately, the combination of COVID-20
19 and Flora's closure resulted in Boyd's economy becoming the worst in the country.

20 Following a lengthy process, the district court granted summary judgment to Carter and held that:
21 (1) Carter's invocation of his Fifth Amendment privilege was proper and permissible and should not result
22 in revocation of Carter's gaming license and (2) Carter's legal use of medical marijuana did not violate
23 neither the Gaming Control Act or the regulations promulgated by the Commission.
24
25

1 We reverse.

2 **II. Standard of Review**

3 We review *de novo* a district court’s grant of summary judgment. BRS 322.94(3).¹ But the factual
4 determinations and the documents contained in the record from the Board and Commission’s proceedings
5 are upheld. *See* BRS 463.316.

6 **III. Discussion**

7 A gaming license is not granted unless the Commission finds that the applicant is: “(a) A person
8 of good character, honesty and integrity; (b) A person whose prior activities, criminal record, if any,
9 reputation, habits and associations do not pose a threat to the public interest of this State or to the effective
10 regulation and control of gaming or charitable lotteries, or create or enhance the dangers of unsuitable,
11 unfair or illegal practices, methods and activities in the conduct of gaming or charitable lotteries or in the
12 carrying on of the business and financial arrangements incidental thereto; and (c) In all other respects
13 qualified to be licensed or found suitable consistently with the declared policy of the State.” BRS 463.170
14 (2). In addition to the strict requirements for an applicant, the Commission requires that those granted a
15 license or found suitable “continue to meet the applicable standards and qualifications set forth in this
16 section and any other qualifications established by the Commission by regulation.” BRS 463.170(8).

17
18 The legislature decided to subject Gaming licensees to these strict regulations during the licensing
19 process and throughout the time a licensee holds a license in order to maintain “public confidence and
20 trust” because “the gaming industry is vitally important to the economy of the State and the general welfare
21 of the inhabitants.” BRS 463.0129(1)(a) & (c). As explained in BRS 463.0129, these regulations help to
22 “protect the public health, safety, morals, good order and general welfare of the inhabitants of the State,
23

24
25

¹ Unlike the other Boyd Revised Statutes, BRS 322.94(3) does not correspond to a Nevada Revised Statute. BRS is a
fictitious statute which declares Boyd’s appellate court reviews grants of summary judgment *de novo*.

1 to foster the stability and success of gaming and to preserve the competitive economy.” BRS
2 463.0129(1)(d).

3 In order to satisfy the policy objectives and ensure all requirements are met, the legislature
4 empowered the Board the power to investigate applicants and “observe the conduct of all licensees and
5 other persons having a material involvement directly or indirectly with a licensed gaming operation” to
6 ensure that there is not any material involvement in gaming operations by “unqualified, disqualified or
7 unsuitable persons, or persons whose operations are conducted in an unsuitable manner.” BRS
8 463.1405(1).

9 From these investigations, the Board can “recommend . . . the limitation, conditioning or restriction
10 of any license, registration, finding of suitability or approval, the suspension or revocation of any license,
11 registration, finding of suitability or approval or the imposition of a fine upon any person licensed,
12 registered, found suitable or approved for any cause deemed reasonable by the Board.” BRS 463.1405(3).
13 If these investigations reveal a failure to continue to meet the standards set forth in BRS Chapter 463 or a
14 failure to comply with any of the regulations set forth by the Commission, the Board can initiate
15 proceedings against the licensee. BRS 463.310(b)

16 At the conclusion of the proceeding the Commission has “full and absolute power and authority to
17 . . . limit, condition, restrict, revoke or suspend any license.” BRS 463.1405(4). While the Commission
18 has full and absolute power to reach a decision regarding alleged violations, “any person aggrieved by a
19 final decision or order of the Commission . . . may obtain a judicial review thereof in the district court of
20 the county in which the Respondent resides or has his, her or its principal place of business.” BRS
21 463.315(1). The reviewing court may affirm the decision, remand for further proceedings, or reverse “if
22 the substantial rights of the petitioner have been prejudiced because the decision is: (a) In violation of
23 constitutional provisions; (b) In excess of the statutory authority or jurisdiction of the Commission; (c)
24
25

1 Made upon unlawful procedure; (d) Unsupported by any evidence; or (e) Arbitrary or capricious or
2 otherwise not in accordance with law.” BRS 463.317 (3)

3 This matter comes before us on appeal from Boyd District Court’s ruling reversing the Gaming
4 Control Board and Gaming Commission’s decision to revoke Respondent’s gaming license for (1) failure
5 to comply with the Gaming Control Boards proper and lawful investigation and (2) using medical
6 marijuana in violation of federal law and the policies set forth by the legislature. While the lower court
7 and this court’s dissent believe that the Board and Commission’s decision violated Respondent’s Fifth
8 Amendment rights and that his personal use of state-legalized medical marijuana did not justify revocation
9 of his gaming license, the Gaming Commission was justified in revoking Respondent’s gaming license.

10 **I. Failure to Comply with a Board Investigation by Invoking the Fifth Amendment is a Valid**
11 **Reason to Revoke a Gaming License**

12 Respondent’s improper invocation of his Fifth Amendment right violated his duty to comply with
13 the Gaming Control Board’s investigation and is independent grounds for revocation of his gaming
14 license. As explained above and in the Commission's regulations, “the burden of proving [] qualifications
15 to hold any license rests at all times on the licensee.” Boyd Gaming Reg. 5.040 (2018). Further, the license
16 must “keep himself informed of the content of all such regulations” because “ignorance [] will not excuse
17 [a] violation.” Boyd Gaming Reg. 5.030 (2018).

18
19 As a part of an investigation and subsequent proceeding, “the board may summon any licensee or
20 his agents or employees to appear to testify before it or its agents with regard to the conduct of any licensee
21 or the agents or employees of any licensee.” Boyd Gaming Reg. 5.070 (2018). According to the
22 regulations, a licensee shall not “neglect or refuse to produce records or evidence or to give information
23 upon proper and lawful demand by a board or commission member or any agent of the board, or shall
24 otherwise interfere, or attempt to interfere, with any proper and lawful efforts by the commission, the
25

1 board, or any agent to produce such information.” Boyd Gaming Reg. 5.060 (1). Accordingly, a “failure
2 to so appear and testify fully at the time and place designated, unless excused, shall constitute grounds for
3 the revocation or suspension of any license held by the person summoned, his principal or employer.”
4 Boyd Gaming Reg. 5.070 (2018). Additionally, “if, on a ground other than the properly invoked privilege
5 against self-incrimination, a respondent fails to respond to a subpoena, or fails or refuses to answer a
6 material question propounded to the respondent, the Commission may deem such failure or refusal to be
7 independent grounds for granting the relief requested by the Board in the complaint with respect to that
8 respondent.” Boyd Gaming Reg. 7.180(3). Therefore, whether Respondent's license was validly revoked
9 depends on whether Respondent properly invoked his Fifth Amendment Privilege against self-
10 incrimination.

11 The Fifth Amendment provides that “[n]o person . . . shall be compelled in any criminal case to be
12 a witness against himself.” U.S. Const., amend. V. While the Fifth Amendment is primarily used in
13 criminal proceedings, the Fifth Amendment’s protections have been deemed to also apply to individuals
14 in civil, administrative judicial, investigative, and adjudicatory proceedings when answering testimony
15 can implicate the individual in criminal offenses. *See Lefkowitz v. Turley*, 414 U.S. 70, 77 (1973); *Kastigar*
16 *v. United States*, 406 U.S. 441, 444 (1972).

17 While the protections apply to a variety of non-criminal proceedings, the privilege is limited to
18 instances when an individual reasonably believes that disclosure could be used in a criminal prosecution
19 or lead to evidence that could be used in criminal prosecution. *Doe ex rel. Rudy-Glanzer v. Glanzer*, 232
20 F.3d 1258, 1263 (9th Cir. 2000) (citing *United State v. Bodwell*, 66 F.3d 1000, 1001 (9th Cir. 1995)).
21 Therefore, courts must consider the possibility of prosecution and whether the possibility of disclosure
22 could provide an indirect link to incriminating evidence. *Id.*
23
24
25

1 The Supreme Court explained that the central standard for the Fifth Amendment Privilege against
2 self-incrimination is “whether the claimant is confronted by substantial and real, and not merely trifling
3 or imaginary, hazards of incrimination.” *Marchetti v. United States*, 390 U.S. 39, 53 (1968). Here,
4 Respondent invoked his Fifth Amendment privilege against self-incrimination during questioning about
5 his medical marijuana use. While marijuana use is illegal federally, medical marijuana use is legal under
6 Boyd state law. In Boyd, like many other states that legalize medical marijuana, an individual medical
7 marijuana user will not face state prosecution so long as the user is complying with all applicable state
8 laws. Further, federal prosecution of an individual using medical marijuana in compliance with all state
9 laws is extremely rare. Given the almost non-existent chance that Respondent would be federally
10 prosecuted for his legal medical marijuana use, the threat of incrimination arising from his testimony is
11 “merely trifling or imaginary.”

12
13 Ultimately, Respondent bore the burden of ensuring he was in compliance with all applicable
14 requirements for a gaming license. When Respondent refused to testify about his medical marijuana use,
15 Respondent, a licensee, refused or, at the very least, neglected to give the Gaming Control Board
16 information, which it properly and lawfully demanded by the Board. Although Respondent attempted to
17 invoke his Fifth Amendment Privilege, it was improper because the threat of self-incrimination for legal
18 medical marijuana use was neither substantial nor real. Therefore, the Board and Commission’s revocation
19 of Respondent’s license was justified due to his failure to comply with the Gaming Control Board’s
20 investigation.

21 **II. Marijuana Use by a Gaming License Holder is a Valid Reason to Revoke a Gaming License**

22 Respondent’s medical marijuana use, even though it is legal under state law, independently
23 supports the Gaming Commission’s decision to revoke his gaming license. As explained above, a licensee
24 must continue to meet the standards and qualifications set forth in the gaming statutes and the Board’s
25

1 regulations. *See* BRS 463.170(8). Further, “it is the responsibility of the licensee to keep himself informed
2 of the content of all such regulations, and ignorance thereof will not excuse violation.” Boyd Gaming Reg.
3 5.030 (2018).

4 As explained in the regulations, a gaming license can be revoked for a “failure to comply with or
5 make provision for compliance with all *federal*, state and local *laws* and regulations.” Boyd Gaming Reg.
6 5.011(8) (2018) (*emphasis* added). While medical marijuana is legal under state law, it is illegal under
7 federal law. *Green Cross Medical, Inc. v. Gally*, 395 P.3d 302, 307 (Ariz. App. Ct. 2017). The United
8 States Supreme Court illustrated this position in *Gonzales v. Raich* when the court held that the Controlled
9 Substance Act applied to intrastate growth and use of marijuana because of the relation to interstate
10 commerce. 545 U.S. 1, 15-17 (2005).

11 While there may be a growing acceptance of marijuana use for medicinal purposes and it is legal
12 in Boyd, marijuana use remains firmly against federal laws. Here, the analysis is simple, Respondent’s
13 use of medical marijuana violates federal law. By violating federal law, Respondent is failing to “comply
14 with . . . all federal laws.” *See* Boyd Gaming Reg. 5.011(8) (2018). Therefore, the Gaming Control Board
15 revocation of Respondent’s gaming license was permissible and warranted under applicable gaming
16 regulations.
17

18 Further, the policies surrounding gaming and the strict regulation of the industry further supports
19 the Board’s revocation of Respondent’s license. As explained in BRS 463.0129(1)(a), “the gaming
20 industry is vitally important to the economy of the State and the general welfare of the inhabitants.” In
21 order to maintain and grow gaming the public must have confidence and trust that gaming is conducted
22 honestly and free from criminal and corrupt elements. BRS 463.0129(1)(b). Therefore, gaming is subject
23 to strict regulations of all persons, locations, practices, associations, and activities related to the operation
24 of licensed gaming establishments. BRS 463.0129(1)(c).
25

1 Given the importance of gaming to Boyd’s economy, the Board and Commission promulgated
2 strict regulations to ensure that all licensees comply with all applicable laws and to ensure that their actions
3 do not discredit the gaming industry. In order to protect a vital part of the State’s economy and shield the
4 industry from negative federal scrutiny, the Board and Commission have taken a strict approach, electing
5 to apply more stringent regulation on a party when state and federal law conflict. Further, the Board and
6 Commission will no doubt want to dispel any connection with any actions that can be seen as criminal by
7 any entity, including the federal government. Therefore, the Board and Commission’s revocation of
8 Respondent’s license is warranted under the applicable statutes and regulations and the public policy
9 underlying the enforcement of gaming licensees.

10 **III. Conclusion**

11 Summary judgment in favor of Boyd Gaming Control Board is appropriate on both of
12 Respondent’s claims. The issues decided by this Court today go to the Boyd’s policies and objectives in
13 both the Gaming and Marijuana industries. We are confident that our decision comports with federal law,
14 Boyd law, and public policy in each industry.

15 We reverse.
16
17
18
19
20
21
22
23
24
25

1 **SILVA, J., dissenting:**

2 **I. Petitioner’s Proper Invocation of his Fifth Amendment Right does not Warrant Revocation**
3 **of his Gaming License.**

4 While the Majority correctly holds the Fifth Amendment protects against self-incrimination in civil
5 matters such as the instant investigation by the Gaming Control Board, it incorrectly categorizes
6 Petitioner’s attempt to invoke this protection at his hearing before the Gaming Control Board as invalid.
7 *See Lefkowitz v. Turley*, 414 U.S. 70, 77 (1973). Particularly, the majority reasons that Petitioner’s attempt
8 to conceal his medical marijuana use from the Gaming Board was not protected by the Fifth Amendment
9 because the “threat of self-incrimination for legal medical marijuana use was not substantial or real.”

10 While federal prosecution for state-permitted marijuana use may be rare, the existence of federal
11 law criminalizing its use moves the possibility firmly above the threshold of impossibility, especially
12 under the Department of Justice’s current policy directives. *See generally* 21 U.S.C.S. § 801; OFFICE OF
13 ATT’Y GEN., MEMORANDUM FOR ALL UNITED STATES ATTORNEYS (2018) (reversing previous policy of
14 non-interference with state marijuana laws).

15
16 Regardless, the ultimate standard does not inquire into the likelihood of federal prosecution for
17 existing federal crimes, but whether the individual invoked his Fifth Amendment privilege to avoid giving
18 testimony he reasonably believed might tend to show that he committed a crime. *Lefkowitz v. Turley*, 414
19 U.S. 70, 77 (1973) (citing *Brown v. Walker*, 161 U.S. 591 (1896)); *Kastigar v. United States* 406 U.S. 441
20 (“[the Fifth Amendment] protects against any disclosures that the witness reasonably believes could be
21 used in a criminal prosecution or could lead to other evidence that might also be so used.”). Respondent’s
22 medical use of marijuana directly implicated that he violated the Controlled Substances Act. *See generally*
23 21 U.S.C.S. § 801.

1 Without assurances that his testimony could not be used against him in a future criminal
2 proceeding, Respondent properly invoked his Fifth Amendment right to avoid disclosing his medical
3 marijuana use before the Gaming Control Board. Given Respondent's proper invocation of his Fifth
4 Amendment right under Boyd Gaming Reg. 7.180(3), Respondent's failure to answer is not independent
5 grounds for granting relief. Therefore, the Board and Commission improperly revoked Respondent's
6 gaming license.

7 **II. The Board and Commission Acted outside its Statutory Authority when it Revoked**
8 **Respondent's Gaming License on the Grounds of his Medical Marijuana Use.**

9 The Majority also erred in holding that Respondent's use of medical marijuana provided
10 independent grounds for revocation of his gaming license. The Majority should have found that
11 Respondent's rights were substantially violated when the Gaming Control Board acted outside its statutory
12 authority under BRS 463.315(1). The basis for this judgement is twofold: 1) the policy goals of gaming
13 regulation in Boyd are similar to those governing medical marijuana use and 2) the Gaming Commission
14 derives the entirety of its statutory authority from the state of Boyd.
15

16 The Gaming Control Board acted outside its scope when—in the interest of strictness alone—it
17 applied federal law over state law on a party when the two conflicted. Our dissent neither intends nor
18 should be construed as advocating the Gaming Control Board actively usurp federal law. This court
19 admittedly finds itself in uncharted territory in two respects. First, Boyd's law has never conflicted with
20 federal law before without action or even clarification from the federal government. Subsequently, this
21 Court has never been faced with the task of adjudicating the legality of a state-created entity's decision to
22 favor federal law over the conflicting law of the state which created it. Absent further clarification from
23 Congress regarding the legality of medical marijuana use, this court must recognize the policy adopted by
24
25

1 Boyd in legalizing medical marijuana use, a policy we believe works in accordance—not conflict—with
2 its stated policy regarding the regulation of gaming.

3 The gaming industry is vitally important to the economy of the State and the general welfare of
4 the inhabitants of Boyd. BRS 463.0129(a). The history of Boyd and that of gaming in the United States
5 are inexorably intertwined. Similar policies motivated Boyd’s legislature to legalize the use of medical
6 marijuana. “The success of the general cannabis industry in the State is vitally important to the economy
7 of Boyd and to the State’s capacity to fund critical educational reforms, among other public programs.”
8 2019 Bill Text Boyd E.O. 3.² Indeed, the stated policy goals of gaming and marijuana use are distinctly
9 similar, such that the two industries could be said to run parallel towards the same objectives of economic
10 vitality and public welfare in Boyd. The Gaming Commission has authority to regulate licensing to protect
11 the health, safety, and general welfare of the state’s inhabitants. BRS 463.0129(1)(d). To hold both gaming
12 and medical marijuana use as vital to the interests of Boyd, yet allow the regulation of the former to
13 encroach on the later, would harm the policy directives of both.
14

15 In the face of unambiguous Boyd policy and decidedly ambiguous federal direction regarding
16 medical marijuana use, this court should have held that the Board and Commission acted in excess of its
17 statutory authority when it revoked Respondent’s gaming license on the basis of his medical marijuana
18 use.
19
20
21
22
23
24
25

² The text of 2019 Bill Text Boyd E.O. 3 is included in the appendix at the end of the document.

APPENDIX

EXECUTIVE ORDER 2019-03

**ORDER ESTABLISHING THE GOVERNOR'S ADVISORY PANEL FOR CREATING A
BOYD CANNABIS COMPLIANCE BOARD**

WHEREAS, the people of the State of Boyd have declared both medical and retail marijuana ("cannabis") legal under State law. The success of the general cannabis industry in the State is vitally important to the economy of Boyd and to the State's capacity to fund critical educational reforms, among other public programs. The continued success of Boyd's cannabis economy is dependent upon public confidence and trust that certified distribution, cultivation, production, and laboratory testing of cannabis are conducted with transparency and integrity and that such businesses do not unduly impact the quality of life enjoyed by residents of the surrounding neighborhoods, that the rights of creditors of cannabis certificate holders are protected, and that the cannabis industry is free from corrosive criminal and corruptive elements.

WHEREAS, public confidence and trust is best maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of medical and retail cannabis distribution, production, cultivation, and laboratory testing establishments.

WHEREAS, all operational cannabis establishments must, therefore, be certified or licensed and controlled to protect the public health, safety, good order and general welfare of the inhabitants of the State and to protect the reputation of the State of Boyd and ensure the development of a legal cannabis economy that captures some-if not most-of the illegal cannabis trade. The federal government should view Boyd's cannabis industry as adhering to the following policy mandates:

- I. preventing the distribution of cannabis to minors;

1 II. preventing revenue from the sale of cannabis from going to criminal enterprises, gangs, and
2 cartels;

3 III. preventing the diversion of cannabis from Boyd, where it is legal under state law, to other
4 states;

5 IV. preventing state-authorized cannabis activity from being used as a cover or pretext for the
6 trafficking of other illegal drugs or other illegal activity, especially financial crimes that are the
7 lifeblood of large-scale criminal enterprises, gangs, and cartels;

8 V. preventing violence and the use of firearms in the cultivation, production, and distribution of
9 cannabis, unless used by trained security staff to protect the health and safety of cannabis
10 establishment patrons, property, and employees; and

11 VI. preventing drugged driving and the exacerbation of other adverse public health consequences
12 associated with cannabis use.
13

14 WHEREAS, Boyd's world class gaming industry and the renowned regulatory structure which protects
15 the gaming industry, its patrons, and the State's reputation evolved in a manner instructive to Boyd's
16 medical and retail cannabis economies.

17 WHEREAS, the historical parallels between the development of Boyd's legal gaming industry-the result
18 of the genius and initiative of the industry's most important figures and the active management of the
19 industry by Boyd's world class regulatory structure, often responding to considerable pressure from
20 federal law enforcement agencies-and the early history of Boyd's nascent medical and retail cannabis
21 industry, subject to similar federal law enforcement scrutiny and pressure, suggests that the latter, if
22 properly managed, could follow a similar trajectory as Boyd's successful gaming industry.

23 WHEREAS, the thoughtful and informed development of a Cannabis Board is a significant priority for
24 the cannabis industry, the State of Boyd, and its people.
25

1 WHEREAS, the thoughtful and informed development of a Cannabis Compliance Board is a significant
2 priority for the cannabis industry, the State of Boyd, and its people; and

3 WHEREAS, by the authority vested in me as Governor by the Constitution and laws of the State of
4 Boyd and the United States, it is hereby ordered as follows:

5 NOW, THEREFORE by the authority vested in me as Governor by the Constitution and laws of the
6 State of Boyd and the United States, it is hereby ordered as follows:

7 SECTION 1: The Governor's Advisory Panel for Creation of a Cannabis Board ("Advisory Panel")
8 is established within the executive department, Office of the Governor.

9 SECTION 2: The scope of items for Advisory Panel consideration include, but are not limited to,
10 the following:

11 A. studying the Boyd Department of Taxation's current cannabis regulatory structure and
12 licensing procedures; review of Boyd's gaming regulatory apparatus and other similar
13 regulatory structures, identifying elements necessary to create an exemplary Cannabis
14 Compliance Board;

15 B. review of potential banking solutions for Boyd's cannabis industry;

16 C. review of potential cannabis consumption lounges;

17 D. review of current advertising restrictions applicable to the cannabis industry;

18 E. review of the current confidentiality provisions employed by the Boyd Department of
19 Taxation in licensing and regulation of the cannabis industry, which have resulted in claims
20 of opaque application grading and certificate award processes; compact status for federally
21 recognized tribes in the State; and
22

23 F. review of current enforcement mechanisms and practices for current cannabis
24 establishment certificate holders;
25

1 G. review of antitrust provisions concerning market concentration of cannabis establishment
2 ownership groups; and

3 H. review of Boyd cannabis law, policy, and compact status for federally recognized tribes in
4 the State.

5 IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Boyd
6 to be affixed at the State Capitol, this 25th day of January, in the year two thousand nineteen.

7
8 **GAMING LAW STATUTES AND REGULATIONS**

9 All gaming statutes (BRS) and regulations (Boyd Gaming Reg.) used throughout the Boyd Appellate
10 Court Opinion and set out in the record follow the Nevada Gaming Statutes and Regulations found at the
11 following link: <https://gaming.nv.gov/index.aspx?page=51>
12
13
14
15
16
17
18
19
20
21
22
23
24
25