



MEETING AGENDA

Wednesday, October 17, 2018

9:00 am – 12:00 pm

(or conclusion of business)

State Personnel Board Building, 1st Floor Auditorium
801 Capitol Mall,
Sacramento, CA 95814

1. Call to Order and Establishment of Quorum

Sabrina Ashjian, Chair

2. New Panel Member Introduction

Sharon-Frances Moore, Member

3. Approval of August 13, 2018 Meeting Minutes

Sabrina Ashjian, Chair

4. Executive Management Report

Anne Hawley, Executive Director

5. Informational Presentation: State Cannabis Licensing Framework

Lori Ajax, Chief, Bureau of Cannabis Control

Richard Parrot, Director, California Department of Food and Agriculture

Miren Klein, Assistant Deputy Director, Department of Public Health

- a. Overview and discussion of the responsibilities of the state cannabis licensing entities.

6. Public Hearing and Possible Action Regarding Proposed Regulation Text to Establish Appeals Procedures and Timelines

Christopher Phillips, Chief Counsel

Note: This concludes the 45-day public comment period. The Panel may adopt the proposal as presented or modify the text of the proposal as necessary.

7. Discussion and Possible Action on Administrative Delegation of Authority to the Executive Director

Anne Hawley, Executive Director

- a. Administering Timesheets for Panel Staff
- b. Purchasing Authority up to \$10,000 Without Express Consent of Panel Members
- c. Administering Travel Expense Reimbursements for Panel Members and Staff
- d. Staff Hiring



8. Discussion and Possible Action on Proposed Dates for 2019 Meeting Schedule

Sabrina Ashjian, Chair

9. Public Comments on Items Not on the Agenda

The Panel may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7 (a)]

10. Future Agenda Items

11. Adjournment

MEMBERS OF THE PANEL

Sabrina Ashjian – Chair, Fresno County
Diandra Bremond – Member, Los Angeles County
Adrian Carpenter – Member, Yuba County
Sharon-Frances Moore – Member, San Diego County
Vacant – Speaker of the Assembly Appointee

NOTICE TO THE PUBLIC

The public may provide appropriate comment on any issue before the panel at the time the item is discussed. If public comment is not specifically requested, members of the public should feel free to request an opportunity to comment. Total time allocated for public comment may be limited.

All times are approximate and subject to change. The meeting may be cancelled without notice. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. Action may be taken on any item on the agenda. Time limitations for discussion and comment will be determined by the Chair.

This panel meeting is open to the public and is accessible to the physically disabled. A person who needs a disability-related accommodation or modification to participate in the meeting may make a request by contacting Christopher Phillips at (916) 322-6870. Providing your request at least five business days before the meeting will help to ensure availability of the requested accommodation.

If you wish to participate, please plan to attend at the physical location. Seating for all attendees cannot, however, be guaranteed in the event the room reaches capacity. Interested parties should access the Panel's website for the meeting agenda and more information at <http://www.ccap.ca.gov/>. Requests for further information should be directed to Christopher Phillips at (916) 322-6870 or in writing to: Cannabis Control Appeals Panel, 801 Capitol Mall, 6th Floor, Sacramento, CA 95814.

AGENDA ITEM 1

**THERE ARE NO
MEETING MATERIALS**

AGENDA ITEM 2

**THERE ARE NO
MEETING MATERIALS**

AGENDA ITEM 3

**APPROVAL OF
AUGUST 13, 2018
MEETING MINUTES**



CANNABIS CONTROL APPEALS PANEL

Open Session Meeting Minutes

Monday, August 13, 2018

1:00 – 4:00 pm

CalEPA Headquarters Building - 2nd Floor/Sierra Hearing Room
1001 I Street, Sacramento, CA 95814

Members present:

- Sabrina Ashjian
- Diandra Bremond
- Adrian Carpenter

Staff present:

- Peter Williams, General Counsel and Deputy Secretary, Business, Consumer Services and Housing Agency
- Sonya Logman, Deputy Secretary, Business, Consumer Services and Housing Agency
- Philip Laird, Deputy General Counsel, Business, Consumer Services and Housing Agency
- Catherine Ohaegbu, Assistant Director, Business, Consumer Services and Housing Agency

Public present:

- Deborah Hoffman, Business, Consumer Services and Housing Agency
- Russ Heimerich, Business, Consumer Services and Housing Agency
- Patricia Ochoa, Business, Consumer Services and Housing Agency
- Aurora Rudd, Business, Consumer Services and Housing Agency
- Sunny Anderson, organization not listed
- 1 member of the public

Summary:

1. General Counsel Williams, called the meeting to order at 1:01 pm and took roll. Panel members Sabrina Ashjian, Diandra Bremond and Adrian Carpenter were present. Quorum was established.
2. Each of the Panel Members gave a brief introduction of what county they reside in (Ashjian – Fresno; Bremond – Los Angeles; Carpenter – Yuba) and an overview of their most recent professional work. They also expressed sincere appreciation to the Governor for appointing them to serve on the Panel.
3. Deputy Secretary Logman gave an informational presentation on the work that the Business, Consumer Services and Housing Agency has conducted on behalf of the Panel to begin establishing their organization. The presentation covered activities conducted between January to July 2018, which generally included updates on: securing an office location, various interagency agreements for



CANNABIS CONTROL APPEALS PANEL

administrative services, information technology, communications, branding, and personnel. Logman also covered policies and other agreements that would need to be established after the hire of the Panel's full-time staff.

4. General Counsel Williams gave an informational presentation on the Bagley-Keene Open Meeting Act.
5. General Counsel Williams reviewed the staff report and provided an overview of the proposed CCAP Conflict of Interest Code required by Government Code Section 87300.
 - a. Williams informed the panel that if they have a personal interest in an item before the Panel, then they must recuse themselves.
 - b. Williams reviewed the importance of timely filing of each member's Form 700 – Statement of Economic Interest. He advised that certain income outside of salary must be reported and any questions should be directed to staff attorney, who will consult with the FPPC.

Motion (Ashjian): Approve the proposed CCAP Conflict of Interest Code as drafted by staff and file with the appropriate entity. Second: Bremond. Motion passed 3-0.

6. General Counsel Williams gave an overview of the proposed CCAP Board Policy Manual. He provided specific advice regarding incompatible activities, social media presence, and ex-parte communication. Deputy Secretary Logman added that the Panel should consider the manual a living document, to be amended over time to meet the evolving needs of the organization.

Motion (Ashjian): Approve the CCAP Board Policy Manual as proposed by staff. Second: Bremond. Motion passed 3-0.

7. Deputy Secretary Logman facilitated the election of the Chair as outlined in the adopted Board Policy Manual. Panel members were asked to make interest to serve as Panel Chair known. Ashjian and Bremond expressed interest to serve as Chair.

Motion (Carpenter): Elect Ashjian to serve as the Panel Chair. Bremond and Carpenter received no nominations. Motion passed 2-1.

8. General Counsel Williams provided a brief introduction of the Administrative Procedures Act. Deputy General Counsel Laird gave an informational presentation that reviewed the specific requirements of the Administrative Procedures Act.
9. General Counsel Williams provided an overview of the proposed regulation text to establish the Panel's procedures and timelines. He noted that the proposed text conforms with the statutory requirement that they are to be modeled after the Alcohol Beverage Control Appeals Board laws and regulations.

Motion (Bremond): Approve the proposed regulation text and authorize Business, Consumer Services & Housing Agency staff to (1) complete and submit the rulemaking package to the Office of Administrative Law (OAL) to formally notice the proposed regulations and schedule a hearing on the



CANNABIS CONTROL APPEALS PANEL

rulemaking to establish regulations under Title 16, Division 45 of the California Code of Regulations and (2) make non-substantive changes to the language as needed. Ashjian seconded. Motion passed 3-0.

10. The public did not request to comment on items not on the agenda.
11. Deputy Secretary Logman reviewed the board report that outlined a possible meeting schedule for the Panel through the end of 2018. The Panel discussed various possible individual conflicts and upcoming holidays which resulted in a modified schedule.

Motion (Ashjian): Adopt a revised 2018 meeting schedule, with future meeting dates on: Wednesday, October 17; Wednesday November 28; and Thursday, December 20. Bremond seconded. Motion passed 3-0.

12. Deputy Secretary Logman requested the Panel members to submit future agenda items and suggested having the three state licensing bureaus present an overview of the licensing framework at the next Panel meeting. No other future agenda items mentioned.
13. Open session suspended at 2:15 pm to begin closed session under authority of Government Code 11126(a)(1).

Open session resumed at 2:27 pm.

Ashjian announced that the Panel moved to hire candidates for the Executive Officer and Assistant Chief Counsel positions under the Panel; with announcement subject to the appropriate hiring processes and acceptance by the candidates.

14. **Motion (Ashjian): Adjourn the meeting. Bremond seconded. Motion passed 3-0.**

Meeting adjourned at 2:30 pm.

AGENDA ITEM 4

**THERE ARE NO
MEETING MATERIALS**

AGENDA ITEM 5

INFORMATIONAL
PRESENTATION:
STATE CANNABIS LICENSING
FRAMEWORK

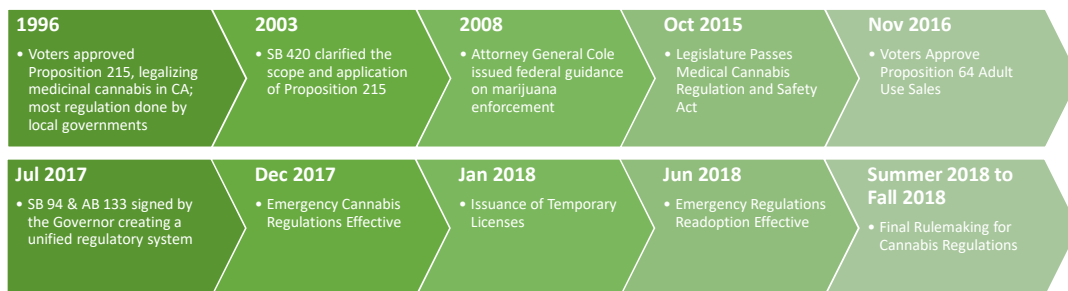
Cannabis Regulation in California



LORI AJAX
BUREAU OF CANNABIS CONTROL
OCTOBER 17, 2018

Cannabis Regulation in California

Timeline:



Highlights:

- Local Control – State licensing entities cannot issue license if in conflict with local ordinance or regulation
- Vertical Integration Allowed (except for those holding a Laboratory Testing License)
- Three state licensing authorities

MAUCRSA

The Medicinal and Adult-Use Cannabis Regulation and Safety Act

- A single regulatory system for commercial cannabis activity in California
- Requires all persons engaged in commercial cannabis activity to be licensed
- Allows local jurisdictions to control what activities are permitted in their jurisdiction
- Places the protection of the public as the highest priority

Commercial Cannabis Activity

Who needs to be licensed?

- All businesses conducting commercial cannabis activity
- Commercial cannabis activity includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products
- A separate license is required for each location (premises) where the business engages in commercial cannabis activity
- Does not include personal use cultivation that is done at a private residence in accordance with Health and Safety Code sections 11362.1 and 11362.2
- Beginning January 1, 2018 all commercial cannabis activity may only be conducted between licensees

NOTICE REGARDING THE REPEAL OF HEALTH AND SAFETY CODE SECTION 11362.775 MEDICAL MARIJUANA PROGRAM – COLLECTIVES OR COOPERATIVES

Health and Safety Code section 11362.775 provides that it shall remain in effect only until one year after the Bureau of Cannabis Control posts a notice on its website that the state licensing authorities have commenced issuing licenses pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act. (Division 10 [commencing with section 26000] of the Business and Professions Code.)

Licensing authorities, the Bureau of Cannabis Control, the Department of Public Health, and the Department of Food and Agricultural, have commenced issuing licenses pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act. Health and Safety Code section 11362.775 shall be repealed one year from the date of this Notice.

DATED: JANUARY 9, 2018

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Overview of Licensing Authorities

Bureau of Cannabis Control, Department of Consumers Affairs

- Distributors
- Retailers
- Microbusinesses
- Testing Laboratories
- Temporary Cannabis Events

CalCannabis Cultivation Licensing, California Department of Food & Agriculture

- Cultivators

Manufactured Cannabis Safety Branch, California Department of Public Health

- Manufacturers

6

Local Approval of Cannabis Activity

Local Ordinance



State License



State licensing authority cannot issue a license if doing so will violate any local ordinance or regulation passed pursuant to BPC 26200.

BPC 26200 allows for locals to adopt and enforce local ordinances to regulate commercial cannabis businesses, including but not limited to zoning, land use, license requirements, exposure to second hand smoke, or completely prohibiting cannabis activity types within jurisdiction.

7

State Cannabis Licenses

TEMPORARY LICENSE

- Valid 120 days
- Submitted through the Bureau's online licensing system or paper application
- Must have a copy of a license, permit, or other authorization from the local jurisdiction
- May be extended for 90 days with submittal of an annual application; sunsets 12/31/2018

ANNUAL LICENSE

- Valid 1 year
- Submitted through the Bureau's online licensing system or paper application
- Must not violate the local jurisdiction's regulations and ordinances



**BUREAU OF
CANNABIS
CONTROL**
CALIFORNIA

Bureau of Cannabis Control
www.bcc.ca.gov
(833) 768-5880

Adult-Use and Medicinal - Distributor Temporary License

LICENSE NO:
C11-18-0000216-TEMP

VALID:
9/21/2018

LEGAL BUSINESS NAME:
License Certificate, LLC

EXPIRES:
1/19/2019

PREMISE:
2920 Kilgore Rd.
Sacramento, CA 95604

Non-Transferable

*Prominently display this license
as required by Title 16 CCR § 5039*



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Owner

- All applicants must have at least one member that meets the definition of owner
- All owners must submit fingerprints to the Department of Justice
- Persons with a financial interest in the cannabis business must also be disclosed on the application

An Owner Is:

1. A person with an aggregate interest of 20% or more
2. The CEO of a nonprofit or other entity
3. A member of the board of directors of a nonprofit
4. The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business held in trust
5. An individual who will be participating in the direction, control, or management of the business. This includes:
 - A general partner of a cannabis business that is organized as a partnership
 - A non-member manager or managing member of a limited liability company of a cannabis business organized as such
 - An officer or director of a cannabis business that is organized as a corporation
 - Any individual who assumes responsibility for the licensee

Financial Interest

What is a financial interest:

- Investment into a commercial cannabis business
- Loan provided to a commercial cannabis business
- Any other equity interest in a commercial cannabis business

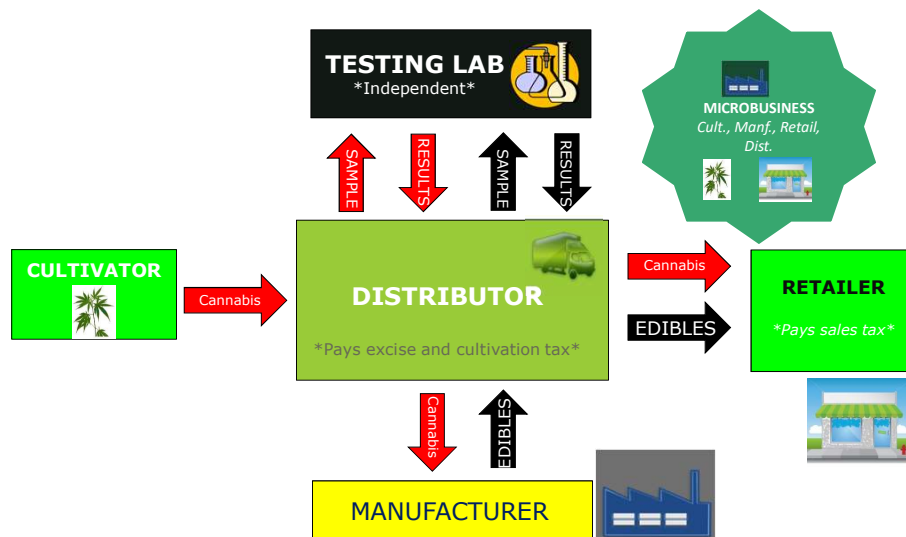
Information required of those with a financial interest, but not owners:

- Name
- Birthdate
- Government issued identification type and number

Who is not required to be listed on the application:

- A bank or financial institution providing a loan
- Those with a diversified mutual fund, blind trust, or similar instrument
- Those with a security interest, lien, or encumbrance on property that will be used by the business
- Those with shares of stock that are less than 5% of the total shares in a publicly traded company

Product Movement



Distributor



Distributor

- Transports cannabis goods
- Arranges for laboratory testing
- Conducts quality assurance review of cannabis goods to ensure they comply with all packaging and labeling requirements
- May provide storage of cannabis goods

Distributor Transport Only

- Transports cannabis goods between licensed cultivators, manufacturers, and distributors
- Does not transport cannabis goods to retailer except for immature live plants and seeds being transported from a licensed nursery

Testing Laboratory



Activities:

- Collects samples of each cannabis goods batch from the distributor's premises
- Tests cannabis goods in accordance with MAUCRSA and its implementing regulations for:
 - Cannabinoids
 - Foreign material
 - Heavy metals
 - Microbial impurities
 - Mycotoxins
 - Moisture content and water activity
 - Residual pesticides
 - Residual solvents and processing chemicals
 - Terpenoids
 - Homogeneity

Retailer



Retailer (Type 10)

- Sells cannabis goods to customers at its licensed retail premises
- May deliver cannabis goods to customers
- May have on-site consumption if allowed by the local jurisdiction

Non-Storefront Retailer (Type 9)

- Sells and delivers cannabis goods to customers from a licensed premises that is not open to the public

Microbusiness



- Must engage in at least 3 of the 4 commercial cannabis activities (cultivation, manufacture, distribution, and/or retail)
- Must identify which activities it will be engaging in on its application and supply the appropriate information for those activities
- Must comply with all requirements for each commercial cannabis activity the licensee engages in

- Must be an event organizer to obtain a temporary cannabis event license
- Temporary event up to 4 days
- Allows onsite sale and consumption of cannabis goods
- Must be allowed by the local jurisdiction

Retail Customers

ADULT-USE

- Must be at least 21 years of age and present valid identification.



MEDICINAL

- Must be at least 18 years of age, present valid identification, and a valid physician's recommendation.
- A physician's recommendation is a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Health and Safety Code section 11362.5.

Enforcement

Unlicensed Activity:

- Persons engaging in unlicensed activity are subject to civil penalties of up to three times the amount of the license fee for each violation.
- The court may order destruction of cannabis associated with the violation(s)
- Each day of operation constitutes a separate violation
- Criminal penalties apply to persons engaging in unlicensed activity in violation of the MAUCRSA

Licensed Activity:

- The licensing entities have full access to inspect the licensed premises, test any vehicles or equipment used, test any cannabis goods, and copy any records
- The licensing entities may issue citations containing orders of abatement, fines, license suspension, and license revocation for violations
- Minor decoys may be used at licensed retailers

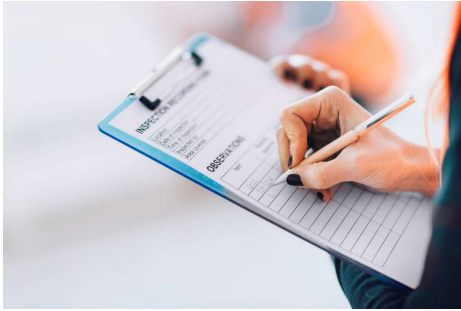
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Bureau Enforcement Options

- Notices to Comply
- Citations
- Disciplinary Actions (Suspension, Revocation, Suspension, Probationary Restrictions, Fines)

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Notice to Comply



- The Bureau may issue a notice to comply to a licensee for violation(s) observed during an inspection
- The licensee may sign and return the notice to comply declaring under penalty of perjury that each violation was corrected and describing how compliance was achieved
- Failure to correct violation(s) in the notice to comply may result in disciplinary action

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Bureau Citations

- The Bureau may issue citations containing orders of abatement and/or fines against a licensee or an unlicensed person for any acts or omissions which are in violation.
- Individuals in receipt of a citation may:
 - Contest the citation requesting a hearing at the Office of Administrative Hearings in writing within 30 calendar days.
 - Waive the right to a hearing.
 - Submit a written request for an informal conference with the Bureau regarding the alleged acts or omissions.

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Bureau Citations (Continued)

- At the conclusion of the informal conference (if requested), the Bureau may affirm, modify, or dismiss the citation, including any fines levied or orders of abatement issued. A written decision will be prepared and be deemed to be a final order with regard to the citation issued.
 - If the citation is dismissed, any request for a hearing is withdrawn.
 - If affirmed or modified, the person may withdraw the request for a hearing, or proceed with the administrative hearing process.

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Disciplinary Actions

- The Bureau may make an accusation recommending disciplinary action for certain acts and omissions outlined in the Disciplinary Guidelines.
- Such accusation may recommend:
 - License revocation
 - License suspension
 - Suspension with or without probationary restrictions
 - Fines
 - Any combination thereof
- A hearing shall be conducted at the Office of Administrative Hearings to determine if cause exists to take action against the licensee.
- If the hearing results in a finding that the licensee has committed the acts or omissions, the Bureau may order the license revoked, suspended, or suspended on probationary restriction, impose a fine, or any combination thereof.

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Cannabis Control Appeals Panel Reviews

- Any person aggrieved by the following decisions may appeal that decision to the panel:
 - Denial of an application for licensure (Statement of Issues)
 - Denial of the renewal of a license (Statement of Issues)
 - The placement of a license on probation (Accusation)
 - Imposition of conditions on a license (Accusation)
 - Discipline of a license (Accusation)



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Cannabis Control Appeals Panel Reviews (Continued)

- The panel's review of a licensing authority's decision shall be limited to:
 - Whether the licensing authority proceeded without or in excess of its jurisdiction
 - Whether the licensing authority has proceeded in the manner required by law
 - Whether the decision of the licensing authority is supported by the findings
 - Whether the findings are supported by substantial evidence in light of the whole record

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Cannabis Cultivation Update

Richard Parrott, Director
CalCannabis Cultivation Licensing Division
California Department of Food and Agriculture

Our Mission

We ensure public safety and environmental protection by licensing and regulating commercial cannabis cultivators in California. We also manage the state's cannabis track-and-trace system.

Our Programs

Licensing Branch

- Issue temporary and annual licenses to commercial cultivators.
- Determine compliance with CEQA and mitigate any potentially significant environmental impacts of cannabis cultivation.
- Developing a comparable organic program and appellations program for cannabis.

Compliance and Enforcement Branch

- Perform inspections on commercial cultivation licensees' premises.
- Issue enforcement actions, when necessary.
- Ensure compliance with environmental protection measures specified in regulations.

IT Projects

- Implementing an online licensing program and a statewide track-and-trace system to record the movement of cannabis and cannabis products through the supply chain.

License Categories

Category	Outdoor	Indoor	Mixed Light
Specialty Cottage	Up to 25 mature plants	Up to 500 sq. ft	Up to 2,500 sq. ft
Specialty	Up to 5,000 sq. ft or up to 50 mature plants	Up to 5,000 sq. ft	Up to 5,000 sq. ft
Small	5,001-10,000 sq. ft	5,001-10,000 sq. ft	5,001-10,000 sq. ft
Medium (limited)	10,001 sq. ft to 1 acre	10,001- 22,000 sq. ft	10,001- 22,000 sq. ft
Large (Not issued until 2023)	Greater than 1 acre	Greater than 22,000 sq. ft	Greater than 22,000 sq. ft
Nursery	No size limit defined in statute (no canopy)		
Processor	Conducts only trimming, drying, curing, grading, or packaging of cannabis and non-manufactured cannabis products		

Current License Counts

(As of October 2, 2018 8:00am)

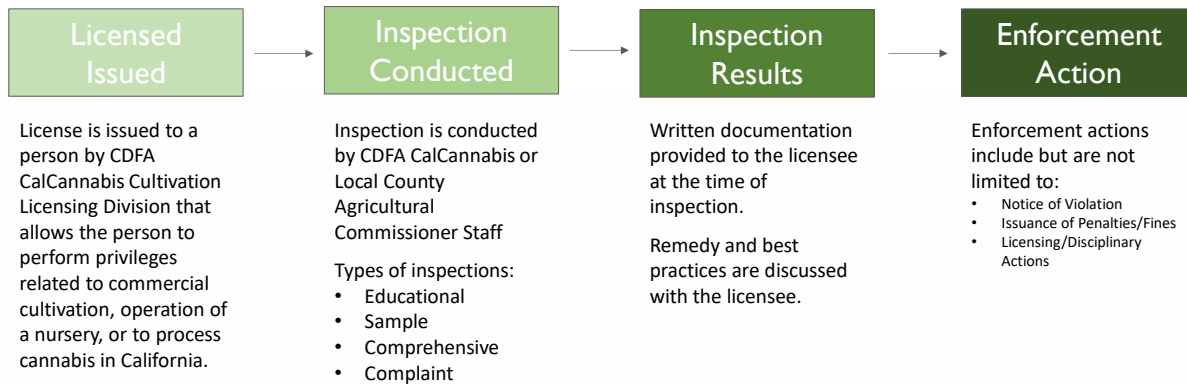
Public Users: 8,669
Active Temporary Licenses: 2,717
Temporary Denials: 2,714
Pending Temporary Applications: 790
Total Temporary Applications Received: 8,324*
Pending Annual Applications: 2,318

*Includes inactive, active, denied, and pending.

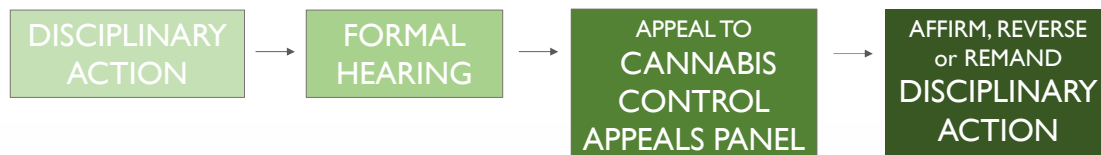
Annual License Application Review Process



Enforcement Process



Disciplinary Actions



- Disciplinary actions include, but are not limited to, actions to suspend, revoke, place on probation, or impose any term and condition on a license.

Emergency Decisions



- Emergency decisions and orders for temporary interim relief may include the administrative hold of cannabis and/or cannabis manufactured or unmanufactured product.

Contact Us!



Visit our website and join our email-alert list:
cannabis.cdfa.ca.gov



1-833-CALGROW



cannabis@cdfa.ca.gov



Facebook.com/CACultivationLicensing
Instagram.com/cannabis.cdfa
Twitter.com/cal_cannabis

Regulations and Licensing for Cannabis Manufacturing

Miren Klein
California Department of Public Health
Center for Environmental Health
Manufactured Cannabis Safety Branch



California Department of Public Health

Manufactured Cannabis Safety Branch

Role: Protect public health by promoting product and workplace safety

- Regulations
- Licensing
- Compliance



Cannabis Manufacturing

Extraction – separating cannabinoids from cannabis plant material

Infusion – using plant material or concentrates to create a cannabis product

Packaging and Labeling - putting finished cannabis products into a container and/or marking them for sale



Regulatory Requirements

- Cannabis Product Safety
 - Free of contaminants
 - Uniform distribution of THC
 - Product restrictions
- THC Limits
- Packaging and Labeling Requirements
 - Labeling: Primary panel and informational panel
 - Packaging: Tamper evident, resealable, opaque (edibles)
- Operational Requirements
 - Clean, sanitary work environment
 - Control of hazards



California Department of Public Health
Manufactured Cannabis Safety Branch

Licenses

Temporary Licenses

- Valid 120 days, but may be extended
- One-page paper application submitted via email or mail
- Issuing until December 31, 2018
- No application or license fee
- No appeal for denials
- Applicant is not entitled to annual license

Annual Licenses

- Valid 1 year
- Online application process – Manufactured Cannabis Licensing System (MCLS)
- More application requirements
- Requires application fee and, if approved, license fee
- Applicant may appeal the licensing authority's decision



California Department of Public Health
Manufactured Cannabis Safety Branch

License Categories

AM (Adult Use & Medicinal)

M (Medicinal)

A (Adult-use)



License Types

Type 7

- Extraction: Volatile Solvents

Type 6

- Extraction: Non-volatile Solvents, Mechanical Methods

Type N

- Infusions

Type P

- Packaging & Labeling Only

Type S

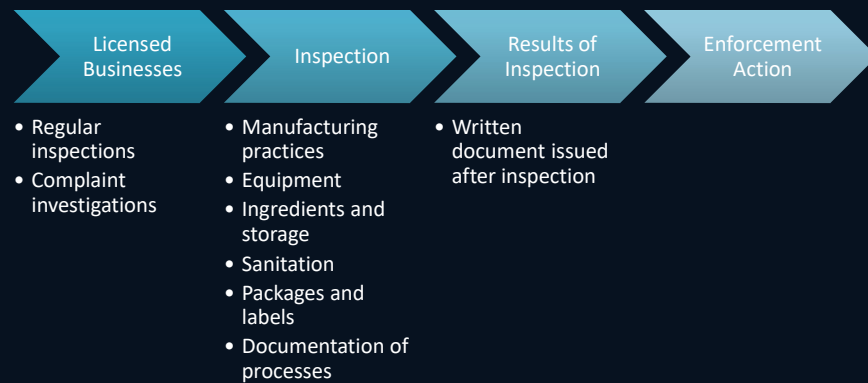
- Shared-Use Facilities



License Review



Enforcement Process

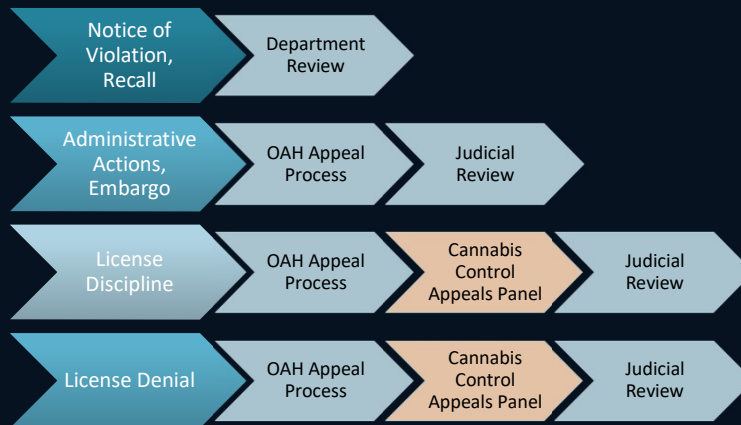


Enforcement Actions

- **Notice of Violation** – issued when deficiencies are found during inspection
Licensee must submit a Corrective Action Plan and correct deficiency
- **Administrative Action** – citations/fines, orders of abatement
- **Embargo/Recall Product** – when product is or may be adulterated
- **License Discipline** - suspension or revocation of license



Appeals Process



Grounds for License Denial

- Doesn't meet minimum qualifications
- Non-compliance with MAUCRSA/regulations
- Substantially-related conviction
- Unauthorized commercial cannabis activity
- No/invalid seller's permit



Thank You

California Department of Public Health
Manufactured Cannabis Safety Branch
www.cdph.ca.gov/mcsb
mcsb@cdph.ca.gov



AGENDA ITEM 6

**PROPOSED REGULATION TEXT
TO ESTABLISH APPEALS
PROCEDURES AND TIMELINES**

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT

REGULAR PANEL MEETING

OCTOBER 17, 2018

Subject: Public Hearing and Action by the Panel Regarding the Proposed Regulation Text to Establish Appeals Procedures and Timelines (Note: This concludes the 45-day public comment period. The Panel may adopt the proposal as presented or modify the text of the proposal as necessary) – Staff Edits and Recommendations to Original Proposed Regulations.

Background:

Business and Professions Code 26042 requires the panel to adopt procedures for appeal similar to those made by the Alcoholic Beverage Control Appeals Board (ABC Board). The procedures must be adopted in accordance with the Administrative Procedure Act (APA).

At the Panel's first meeting, on August 13, 2018, the Panel voted to commence the comment period for the proposed regulation text and authorized Business, Consumer Services & Housing Agency (BCSHA) staff to (1) complete and submit the rulemaking package to the Office of Administrative Law (OAL) to formally notice the proposed regulations and schedule a hearing on the rulemaking to establish regulations under Title 16, Division 45 of the California Code of Regulations and (2) make non-substantive changes to the language as needed.

At the same meeting, the Panel voted to approve the hiring of its first two staff, Anne Hawley as Executive Director, and Christopher Phillips as Chief Counsel. Panel staff has had an opportunity to review the approved proposed regulation text and have determined some modifications may be warranted. Attachment 2 to this agenda item are the proposed regulations, as modified by CCAP staff.

To date, three public comments have been received and are included as Attachment 3. None of the comments directly pertain to the Panel's proposed regulations. In the event any additional comments are received before the end of the comment period (October 15, 2018), these materials will be updated prior to the Panel's meeting. The comments will be presented and if germane to the proposed regulations, staff will provide analysis.

Analysis:

Staff recommends making the following modifications to the proposed regulations:

Rule 6004. Submitting the Record

Under subsection (a), change the required filing of the administrative record by the appellant from the original plus five copies to the original hardcopy plus one electronic version of the record. Staff anticipates reviewing administrative records and disseminating them to Panel members electronically. Requiring the appellant to submit five hardcopies of the administrative record is unnecessary and a waste of resources.

Under subsection (b), delete the word “audiotaped” and replace it with “recorded in a means other than transcription”. The purpose of this subsection is to ensure the Panel receives a transcription of the administrative hearing. By broadening the potential alternative ways an administrative hearing may be recorded (other than audiotaped), the modification anticipates alternative recordation techniques that may be utilized by administrative courts in the future.

Under subsection (c), allow for service of the administrative record to be effectuated electronically, as provided in Rule 6005. Electronic service is the most efficient and cost-effective means of service currently available and provides proof of time of delivery and receipt.

Rule 6006. Filing of Briefs by Parties

Under subsection (d), change the deadline for parties to file a motion to waive the page length restrictions on their briefs. The modification, from 15 days to 10 days before the brief is due, will permit adequate time for the party filing the opposition brief to receive the opening brief, review it and then make an informed decision on whether it is necessary to seek a waiver. Because the opposition brief is due 15 days after service of the opening brief, without the modification there would be no time for the party filing the opposition brief to request a page length waiver.

Under subsection (d), correct a typographical error. Subsection “(e)” should have been referenced rather than subsection “(c)” to cite the provision that contains the filing deadlines for all briefs.

Rule 6008. Oral Argument

Under subsection (a), add two additional subsections relating to oral argument. Proposed subsection (a)(4) will make it explicit and clear that parties may reference only evidence that is contained in the administrative record. This is in accordance with Business and Professions Code section 26043(b) which states in pertinent part, “the panel shall not receive evidence in addition to that considered by the licensing authority.” Proposed subsection (a)(5) will make it explicit and clear that Panel members may ask questions of the parties after the conclusion of oral argument.

Rule 6011. Dismissal of Appeal

Under subsection (a), remove the requirement that the Panel issue an order that affirms the underlying licensing agency’s decision when an appeal is dismissed. There are several reasons why an appeal may be dismissed, some of which are purely procedural in nature. Per Black’s Law Dictionary, “in the practice of appellate courts, to affirm a judgment, decree, or order, is to declare that it is valid and right, and must stand as rendered below.” By affirming an underlying decision, the Panel takes a substantive position on the merits of the appeal. Affirming a decision that has been dismissed on procedural grounds is inappropriate and should not be mandated as originally proposed.

Under subsection (a)(3), correct a typographical error by deleting the repeated term “has been”.

Rule 6014. Stay

Under subsection (b), add an additional subsection relating to the required showing by an appellant to receive a stay of the underlying agency determination pending the appeal with CCAP. Specifically, proposed subsection (b)(3) will require that “the stay is not detrimental to the health and welfare of the public.” This additional requirement will provide the Panel with authority to deny a stay request when

an appellant can meet the first two requirements but further delay of the implementation of the licensing agency's determination may harm the public. This requirement is similar to the one found in Code of Civil Procedure section 1094.5 that concerns administrative writs. When the Superior Court reviews any final administrative order, no such stay shall be imposed or continued if the court is satisfied that it is against the public interest.

Rule 6015. Settlements

Under subsection (a), change the Panel's directive from "remand" to "dismiss" when a settlement has been reached by the parties. Once an administrative hearing has concluded and the licensing agency has issued its final determination, the licensing agency has only 30 days to reconsider its determination. Once the reconsideration period has ended and an appeal has been filed with CCAP, CCAP has jurisdiction over the appeal. If the parties then settle their dispute, the settlement agreement between them is the binding document that contains promises and performance obligations (one of which would be that the appellant dismiss the pending appeal with CCAP). It is appropriate for the Panel to effectuate the appellants request to dismiss the appeal rather than remand the matter back to the licensing agency.

Rule 6017. Form of Order

Under subsection (a), rephrase the possible delivery methods to cite Rule 6005 when delivery is effectuated electronically. This is not a substantive change.

Attachments:

1. Approved proposed regulation text originally noticed to the public
2. Draft proposed regulation text as modified by CCAP staff (additions to original text are double-underlined and deletions are double-strikethrough)
3. Public comments received by CCAP through October 1, 2018

Recommendation:

Approve the draft proposed regulation text as modified by CCAP staff and authorize CCAP Staff to initiate the required fifteen (15) day public comment period. Further, CCAP staff recommends that the Panel *adopt* the proposed regulation text as modified by CCAP staff after the fifteen (15) day public comment period has expired if no comments are received.

Staff Contact:

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CCAP Chief Counsel
(916) 322-6874

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 1. GENERAL
PROPOSED ADOPTION OF
RULE 6000. DEFINITIONS

6000. Definitions.

For purposes of this division:

(a) “Appellant” means any person who files an appeal with the Panel.

(b) “Days” means calendar days, unless otherwise stated.

(c) “Executive director” means the executive director of the Panel.

(d) “Licensing authority” means a state agency responsible for the issuance, renewal, or reinstatement of a license, or a state agency authorized to take disciplinary action against a licensee, as defined in Business and Professions Code § 26001(aa).

(e) “Panel” means the Cannabis Control Appeals Panel of California.

(1) Any reference to the Panel’s “Sacramento office” means 801 Capitol Mall, Suite 500, Sacramento, CA 95814.

(f) “Party” means the licensing authority, the appellant, and any person, other than an officer or an employee of the licensing authority in his official capacity, who has been allowed to appear in the proceeding before the licensing authority.

(g) Unless otherwise stated, the words “appellant” or “party” include the attorney or other authorized agent of such person.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 1. GENERAL
PROPOSED ADOPTION OF
RULE 6001. TIME AND DATE CALCULATIONS

6001. Time and Date Calculations.

(a) The time provided by this division within which any act must be performed shall be computed by excluding the first day and including the last day, unless it is a Saturday, Sunday, or holiday, in which case the last day shall also be excluded.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 1. GENERAL
PROPOSED ADOPTION OF
RULE 6002. NOTICES TO AUTHORIZED AGENTS

6002. Notices to Authorized Agents.

(a) Whenever the Notice of Appeal indicates that a party is represented by an attorney or other authorized agent, such attorney or agent shall be entitled to a copy of all notices and decisions to which the party would be entitled.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 2. FILING OF APPEAL
PROPOSED ADOPTION OF
RULE 6003. TIMING AND CONTENTS OF NOTICE OF APPEAL

6003. Timing and Contents of Notice of Appeal.

(a) Any person aggrieved by the decision of a licensing authority as described in Business and Professions Code section 26043(a) may appeal the licensing authority's written decision to the Panel as follows:

(1) The appellant shall complete and submit the CCAP Form 6003, Notice of Appeal (New 04/18), which is hereby incorporated by reference, to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov.

(2) The Notice of Appeal must be received by the Panel within 30 days after the last day on which reconsideration of the underlying decision can be requested to the licensing authority pursuant to Government Code section 11521.

(A) Failure to submit the Notice of Appeal to the Panel within the time set forth in this subsection may result in dismissal of the appeal pursuant to section 6011.

(3) The appellant shall also serve a copy of the completed Notice of Appeal upon all parties to the proceeding. Such service shall be made by delivering or mailing a copy of the Notice of Appeal to each party, and proof of service shall be submitted to the Panel at the same time the Notice of Appeal is submitted pursuant to subsection (a)(1).

The parties may stipulate in writing to provide service to one another via electronic mail, and such service shall be indicated on the proof of service.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 3. RECORD ON APPEAL
PROPOSED ADOPTION OF
RULE 6004. SUBMITTING THE RECORD

6004. Submitting the Record.

(a) From the date the Notice of Appeal is submitted to the Panel, the appellant shall have 60 days to obtain the complete underlying administrative record from the Office of Administrative Hearings, pursuant to 1 CCR 1038, and submit the original and five copies to the Panel at its Sacramento office. Failure to submit a complete administrative record within the time set forth in this subsection may result in dismissal of the matter pursuant to section 6011.

(1) Notwithstanding the foregoing, if all parties to the appeal so stipulate in writing, and the Panel approves, the appellant may submit only those parts of the administrative record relevant to the issue being appealed. In such event, the Panel may still require submission of the complete administrative record at any time during the appeal.

(b) If the underlying administrative hearing was audiotaped, the appellant shall arrange to have it transcribed prior to submission of the administrative record to the Panel. The complete transcript shall be included with the administrative record at the time of submission to the Panel in accordance with subsection (a).

(c) The appellant shall also serve a copy of the complete administrative record upon all parties to the proceeding. Such service shall be made by delivering or mailing a

copy of the administrative record to each party, and proof of service shall be submitted to the Panel at the same time the administrative record is submitted pursuant to subsection (a).

(d) An appellant may, for good cause, request an extension of the 60-day limit set forth in subsection (a). Such extensions shall be granted or denied by the Panel in its discretion, or the Panel may delegate this authority to its executive director. Alternatively, parties may stipulate in writing to one extension of up to 20 days, which shall be granted by the Panel, or its executive director if so authorized, upon notice to the Panel of the stipulation.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 4. FILING BRIEFS
PROPOSED ADOPTION OF
RULE 6005. SERVICE AND FILING BY ELECTRONIC MAIL

6005. Service and Filing by Electronic Mail.

(a) Upon submission of a Notice of Appeal to the Panel, the appellant shall also complete and submit CCAP Form 6005, Certification of Email Address (New 04/18), which is hereby incorporated by reference, to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov.

(b) Upon receipt of service of the Notice of Appeal, all other parties to the appeal shall, within 30 days, complete and submit CCAP Form 6005, Certification of Email Address (New 04/18), to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov. At the same time, each party shall also serve a copy of their completed Form 6005, Certification of Email Address (New 04/18) on all other parties to the appeal, including the appellant.

(c) Once all parties to the appeal have submitted their CCAP Form 6005, Certification of Email Address (New 04/18), to the Panel, they may use each party's official email address, if one is provided, for service of correspondence, notices, pleadings, or any other documentation in connection with the appeal, unless a stipulation to the contrary has been agreed to.

(d) The Panel and its executive director may use each party's official email address, if one is provided, to send documents, notices, decisions, or any other correspondence to the party.

(e) Any party to an appeal that has submitted its CCAP Form 6005, Certification of Email Address (New 04/18) in accordance with subsection (a) or (b), may subsequently submit notices, pleadings, or any other documentation in connection with the appeal by electronic mail to the Panel at appeals@ccap.ca.gov unless instructed otherwise by the Panel or its executive director.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 4. FILING BRIEFS
PROPOSED ADOPTION OF
RULE 6006. FILING OF BRIEFS BY PARTIES

6006. Filing of Briefs by Parties.

(a) The appellant may file an opening brief, the respondent may file an opposition brief, and the appellant may thereafter file a reply brief.

(b) All briefs shall be typewritten or printed upon paper 8½ x 11 inches in size, and all copies must be legible. Only one side of the paper shall be used and the margins shall not be less than one inch on all sides of the page. The lines shall be double spaced. Headings shall be capitalized. An original of each brief shall contain a certification that copies have been served upon or mailed to each party or his or her attorney or agent. Parties may serve one another by electronic mail in compliance with section 6005.

(c) Briefs shall comply with the following length restrictions; however the page limitations set forth in this subsection do not include exhibits, appendices, tables of contents, cover or title pages:

(1) Opening briefs shall be no more than 20 pages in length.

(2) Opposition briefs shall be no more than 20 pages in length.

(3) Reply briefs shall be no more than 10 pages in length.

(d) Any party to the appeal may file a motion in accordance with section 6010 to request a waiver of the page length restrictions in subsection (c). Such motions shall be submitted to the Panel and served on all other parties at least fifteen (15) days before the moving party's brief is due as set forth in subsection (c) of this section. An opposition to the motion may be submitted to the Panel and served on all other parties within five (5) days of the initial motion's service on the opposing party. The matter will be decided by the Panel without hearing.

(e) The opening brief shall be submitted to the Panel and served on all parties to the appeal within 30 days of the date the administrative record is served on the Panel and other parties pursuant to section 6004. Any opposition brief shall be submitted to the Panel and served on all parties within 15 days after the opening brief is served on the Panel and other parties. Any reply brief shall be submitted to the Panel and served on all parties within seven (7) days after the opposition brief is served on the Panel and other parties. Any party to the appeal may file a motion in accordance with section 6010 to request an extension of time within which to file a brief. Motions may only be granted by the Panel upon a showing of good cause.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 5. HEARINGS
PROPOSED ADOPTION OF
RULE 6007. OPTIONAL HEARING

6007. Optional Hearing.

(a) After all briefs have been submitted to the Panel pursuant to section 6006, the Panel shall make a preliminary decision in the appeal based on the record. Once the Panel has reached its preliminary decision, the executive director shall notify all parties that the Panel is ready to enter its final order in accordance with section 6016. Each party shall have 20 days from the date they are served with the notice to submit a written request for a hearing to the Panel.

(b) Notwithstanding subsection (a), the Panel may direct for a hearing to be conducted on the appeal even if no party requests a hearing.

(c) If requested by a party or directed by the Panel, a hearing date and location shall be set by the Panel's executive director and a notice shall be sent to all parties.

(d) After a date and location has been set for hearing by the executive director, requests by any party for a continuance and/or location change may be granted by the Panel only upon a showing of good cause. The Panel may delegate its authority to decide requests for continuances and location changes to its executive director.

(1) A party seeking a continuance or location change shall stipulate to an alternative date or location for the hearing with all other parties to the appeal, and then coordinate with

the executive director to reschedule the date or location if the panel's schedule and docket permits. If the other party or parties will not stipulate to an alternative date or location, the party can submit a motion to the Panel requesting an alternative date or location in accordance with section 6010. The other party or parties may submit an opposition to the motion to the Panel within five (5) days of the initial motion's service on the opposing party.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 5. HEARINGS
PROPOSED ADOPTION OF
RULE 6008. ORAL ARGUMENT

6008. Oral Argument

(a) In the event a hearing for the appeal or a motion is scheduled, and unless otherwise directed by the Panel:

- (1) A party shall be allowed a maximum of 20 minutes for oral argument;
- (2) Not more than one person on a side may be heard;
- (3) The appellant, or moving party, shall have the right to present an opening statement and closing statement; however, both statements shall count towards the 20-minute total limit.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 6. NEW DISCOVERED EVIDENCE
PROPOSED ADOPTION OF
RULE 6009. NATURE OF EVIDENCE AND SHOWING

6009. Nature of Evidence and Showing.

(a) A party may file a motion to remand the case back to the licensing authority in accordance with Business and Professions Code section 26044 on the grounds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced at the underlying hearing. In support of the motion, the party shall submit the following in the form of a declaration or affidavit:

(1) The substance of the newly-discovered evidence;

(2) Its relevancy and the part of the record to which it pertains;

(3) Names of witnesses to be produced and their expected testimony;

(4) The nature of any exhibits to be introduced;

(5) A detailed statement of the reasons why such evidence could not, with due diligence, have been discovered and produced at the underlying hearing. Merely cumulative evidence shall not constitute a valid ground for remand.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042, 26043, and 26044, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 7. MOTIONS
PROPOSED ADOPTION OF
RULE 6010. MOTIONS

6010. Motions.

(a) Unless otherwise provided for, all motions referenced in this Division shall be prepared and submitted as follows:

(1) Motions shall follow the formatting requirements set forth in section 6006(b).

(2) Motions shall be no more than 10 pages in length unless accompanied by a declaration showing good cause for additional pages, but in no case shall be more than 15 pages.

(3) Motions submitted to the Panel shall include proof of service that the motion was served on all parties to the appeal or their attorneys by electronic or U.S. mail.

(b) Any party opposing a motion may submit their written opposition to the Panel within 5 days of receipt of service of the initial motion, with service on all other parties to the appeal. The opposition shall be no more than 10 pages in length unless accompanied by a declaration showing good cause for additional pages, but in no case shall be more than 15 pages.

(c) The Panel's executive director shall set a date and location for a hearing on the motion and send notice of the hearing to all parties to the appeal within 20 days of the deadline to submit the opposition described in subsection (b). Notwithstanding the foregoing, at any time after receiving the motion and opposition, the Panel may elect to rule on the motion

without holding a hearing.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 8. DISMISSAL OF APPEAL
PROPOSED ADOPTION OF
RULE 6011. DISMISSAL OF APPEAL

6011. Dismissal of Appeal.

(a) The Panel may issue an order dismissing an appeal and affirming the decision of the licensing authority:

(1) Upon appellant submitting to the Panel a request to dismiss the appeal;

(2) Upon motion of a party, or upon the Panel's own notice to the parties, that appellant has failed to perfect his or her appeal by failing to timely submit the Notice of Appeal or the administrative record to the Panel as set forth in sections 6003 and 6004;

(3) Upon certification by the licensing authority that reconsideration has been granted in the case after the Notice of Appeal has been submitted, and dismissal on this ground shall be without prejudice to the submission of a subsequent appeal in the same case.

(4) Upon a motion by the licensing authority or other party, or upon the Panel's own notice to the parties, where sufficient cause exists for dismissal. In such instance, the Panel's decision shall set forth with specificity the sufficient cause for the dismissal.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042, 26043, 26044, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 9. PANEL MEMBERS
PROPOSED ADOPTION OF
RULE 6012. DISQUALIFICATION OF PANEL MEMBERS

6012. Disqualification of Panel Members.

(a) A Panel member shall disqualify himself or herself and withdraw from any case in which the member cannot accord a fair and impartial hearing. Any party may request the disqualification of any member by filing an affidavit before the submission of the case stating with particularity the grounds upon which it is claimed that a fair and impartial appeal cannot be accorded by the Panel member. The issue raised by the request shall be determined by the other members of the Panel. No member of the Panel shall withdraw voluntarily from any hearing, or be subject to disqualification, if this would prevent the Panel from acting in the particular case.

(b) An affidavit submitted to the Panel pursuant to this section shall become a part of the record.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Section 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 9. PANEL MEMBERS
PROPOSED ADOPTION OF
RULE 6013. ATTENDANCE OF PANEL MEMBERS

6013. Attendance of Panel Members.

(a) If a Panel member cannot attend a hearing where there will be oral testimony or argument, the remaining members of the Panel shall determine one other member to recuse himself or herself from the hearing in order to maintain an odd number of members unless to do so would prevent the Panel from acting in a particular case.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 10. STAYS AND SETTLEMENTS
PROPOSED ADOPTION OF
RULE 6014. STAY

6014. Stay.

(a) In any appeal where the underlying decision of a licensing authority is denial of a license renewal, or cancelation, suspension, or revocation of a license, and upon a motion from the appellant made pursuant to section 6010, the Panel may stay the effect of the underlying decision until the Panel enters its final order.

(b) Notwithstanding subsection (a), the Panel may only grant a stay upon a motion by the appellant that demonstrates:

- (1) there is a substantial likelihood that the appellant will prevail in the appeal; and
- (2) the appellant will experience immediate and irreparable harm if the stay is not granted.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 10. STAYS AND SETTLEMENTS
PROPOSED ADOPTION OF
RULE 6015. SETTLEMENTS

6015. Settlements.

(a) Whenever any matter is pending before the Panel, and the parties to the matter agree upon a settlement, the Panel shall, upon the stipulation by the parties that such an agreement has been reached, remand the matter to the licensing authority.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 11. ORDERS
PROPOSED ADOPTION OF
RULE 6016. TIME LIMIT FOR ENTRY OF ORDER

6016. Time Limit for Entry of Order.

(a) In all cases, the Panel shall enter its order within 90 days after the hearing on the merits is held in accordance with section 6007. If no hearing is conducted, then the Panel shall enter its order within 90 days of the executive director's notice to the parties that the Panel has reached a preliminary decision in accordance with section 6007(a).

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 11. ORDERS
PROPOSED ADOPTION OF
RULE 6017. TIME LIMIT FOR ENTRY OF ORDER

6017. Form of Order.

(a) Each order of the Panel on appeal from a decision of a licensing authority shall be in writing and shall be filed by delivering copies to the parties personally or by mailing copies to them by electronic or certified mail. Each such order shall become final upon being filed as provided herein, and there shall be no reconsideration or rehearing by the Panel.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 12. EX PARTE COMMUNICATIONS
PROPOSED ADOPTION OF
RULE 6018. EX PARTE COMMUNICATIONS

6018. Ex Parte Communications.

(a) While an appeal is pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to the Panel from any party to the appeal without notice and opportunity for all parties to participate in the communication.

(b) Nothing in this section precludes a communication made on the record at a hearing.

(c) Notwithstanding subsection (a), the following communications are permissible:

(1) Communications that are required for disposition of an ex parte matter specifically authorized by statute.

(2) Communications concerning a matter of procedure or practice that is not in controversy.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 1. GENERAL
PROPOSED ADOPTION OF
RULE 6000. DEFINITIONS

6000. Definitions.

For purposes of this division:

(a) “Appellant” means any person who files an appeal with the Panel.

(b) “Days” means calendar days, unless otherwise stated.

(c) “Executive Director” means the executive director of the Panel.

(d) “Licensing authority” means a state agency responsible for the issuance, renewal, or reinstatement of a license, or a state agency authorized to take disciplinary action against a licensee, as defined in Business and Professions Code § 26001(aa).

(e) “Panel” means the Cannabis Control Appeals Panel of California.

(1) Any reference to the Panel’s “Sacramento office” means 801 Capitol Mall, Suite 500, Sacramento, CA 95814.

(f) “Party” means the licensing authority, the appellant, and any person, other than an officer or an employee of the licensing authority in his official capacity, who has been allowed to appear in the proceeding before the licensing authority.

(g) Unless otherwise stated, the words “appellant” or “party” include the attorney or other authorized agent of such person.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 1. GENERAL
PROPOSED ADOPTION OF
RULE 6001. TIME AND DATE CALCULATIONS

6001. Time and Date Calculations.

(a) The time provided by this division within which any act must be performed shall be computed by excluding the first day and including the last day, unless it is a Saturday, Sunday, or holiday, in which case the last day shall also be excluded.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 1. GENERAL
PROPOSED ADOPTION OF
RULE 6002. NOTICES TO AUTHORIZED AGENTS

6002. Notices to Authorized Agents.

(a) Whenever the Notice of Appeal indicates that a party is represented by an attorney or other authorized agent, such attorney or agent shall be entitled to a copy of all notices and decisions to which the party would be entitled.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 2. FILING OF APPEAL
PROPOSED ADOPTION OF
RULE 6003. TIMING AND CONTENTS OF NOTICE OF APPEAL

6003. Timing and Contents of Notice of Appeal.

(a) Any person aggrieved by the decision of a licensing authority as described in Business and Professions Code section 26043(a) may appeal the licensing authority's written decision to the Panel as follows:

(1) The appellant shall complete and submit the CCAP Form 6003, Notice of Appeal (New 04/18), which is hereby incorporated by reference, to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov.

(2) The Notice of Appeal must be received by the Panel within 30 days after the last day on which reconsideration of the underlying decision can be requested to the licensing authority pursuant to Government Code section 11521.

(A) Failure to submit the Notice of Appeal to the Panel within the time set forth in this subsection may result in dismissal of the appeal pursuant to section 6011.

(3) The appellant shall also serve a copy of the completed Notice of Appeal upon all parties to the proceeding. Such service shall be made by delivering or mailing a copy of the Notice of Appeal to each party, and proof of service shall be submitted to the Panel at the same time the Notice of Appeal is submitted pursuant to subsection (a)(1). The parties may stipulate in writing to provide service to one another via electronic mail, and such service shall be indicated on the proof of service.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 3. RECORD ON APPEAL
PROPOSED ADOPTION OF
RULE 6004. SUBMITTING THE RECORD

6004. Submitting the Record.

(a) From the date the Notice of Appeal is submitted to the Panel, the appellant shall have 60 days to obtain the complete underlying administrative record from the Office of Administrative Hearings, pursuant to 1 CCR 1038, and submit the original hardcopy and one electronic version ~~five copies~~ to the Panel at its Sacramento office. Failure to submit a complete administrative record within the time set forth in this subsection may result in dismissal of the matter pursuant to section 6011.

(1) Notwithstanding the foregoing, if all parties to the appeal so stipulate in writing, and the Panel approves, the appellant may submit only those parts of the administrative record relevant to the issue being appealed. In such event, the Panel may still require submission of the complete administrative record at any time during the appeal.

(b) If the underlying administrative hearing was recorded in a means other than transcription-audiotaped, the appellant shall arrange to have it transcribed prior to submission of the administrative record to the Panel. The complete transcript shall be included with the administrative record at the time of submission to the Panel in accordance with subsection (a).

(c) The appellant shall also serve a copy of the complete administrative record upon all parties to the proceeding. Such service shall be made by delivering or mailing a copy of the administrative record to each party or by electronic service in accordance

with section 6005, and proof of service shall be submitted to the Panel at the same time the administrative record is submitted pursuant to subsection (a).

(d) An appellant may, for good cause, request an extension of the 60-day limit set forth in subsection (a). Such extensions shall be granted or denied by the Panel in its discretion, or the Panel may delegate this authority to its executive director. Alternatively, all parties may stipulate in writing to one extension of up to 20 days, which shall be granted by the Panel, or its executive director if so authorized, upon notice to the Panel of the stipulation.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 4. FILING BRIEFS
PROPOSED ADOPTION OF
RULE 6005. SERVICE AND FILING BY ELECTRONIC MAIL

6005. Service and Filing by Electronic Mail.

(a) Upon submission of a Notice of Appeal to the Panel, the appellant shall also complete and submit CCAP Form 6005, Certification of Email Address (New 04/18), which is hereby incorporated by reference, to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov.

(b) Upon receipt of service of the Notice of Appeal, all other parties to the appeal shall, within 30 days, complete and submit CCAP Form 6005, Certification of Email Address (New 04/18), to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov. At the same time, each party shall also serve a copy of their completed Form 6005, Certification of Email Address (New 04/18) on all other parties to the appeal, including the appellant.

(c) Once all parties to the appeal have submitted their CCAP Form 6005, Certification of Email Address (New 04/18), to the Panel, they may use each party's official email address, if one is provided, for service of correspondence, notices, pleadings, or any other documentation in connection with the appeal, unless a stipulation to the contrary has been agreed to.

(d) The Panel and its executive director may use each party's official email address, if one is provided, to send documents, notices, decisions, or any other correspondence to the party.

(e) Any party to an appeal that has submitted its CCAP Form 6005, Certification of Email Address (New 04/18) in accordance with subsection (a) or (b), may subsequently submit notices, pleadings, or any other documentation in connection with the appeal by electronic mail to the Panel at appeals@ccap.ca.gov unless instructed otherwise by the Panel or its executive director.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 4. FILING BRIEFS
PROPOSED ADOPTION OF
RULE 6006. FILING OF BRIEFS BY PARTIES

6006. Filing of Briefs by Parties.

(a) The appellant may file an opening brief, the respondent may file an opposition brief, and the appellant may thereafter file a reply brief.

(b) All briefs shall be typewritten or printed upon paper 8½ x 11 inches in size, and all copies must be legible. Only one side of the paper shall be used and the margins shall not be less than one inch on all sides of the page. The lines shall be double spaced. Headings shall be capitalized. An original of each brief shall contain a certification that copies have been served upon or mailed to each party or his or her attorney or agent. Parties may serve one another by electronic mail in compliance with section 6005.

(c) Briefs shall comply with the following length restrictions; however the page limitations set forth in this subsection do not include exhibits, appendices, tables of contents, cover or title pages:

(1) Opening briefs shall be no more than 20 pages in length.

(2) Opposition briefs shall be no more than 20 pages in length.

(3) Reply briefs shall be no more than 10 pages in length.

(d) Any party to the appeal may file a motion in accordance with section 6010 to request a waiver of the page length restrictions in subsection (c). Such motions shall be submitted to the Panel and served on all other parties at least ~~fifteen~~ ^{ten} (10) days before the moving party's brief is due as set forth in subsection (e) of this section. An opposition to the motion may be

submitted to the Panel and served on all other parties within five (5) days of the initial motion's service on the opposing party. The matter will be decided by the Panel without hearing.

(e) The opening brief shall be submitted to the Panel and served on all parties to the appeal within 30 days of the date the administrative record is served on the Panel and other parties pursuant to section 6004. Any opposition brief shall be submitted to the Panel and served on all parties within 15 days after the opening brief is served on the Panel and other parties. Any reply brief shall be submitted to the Panel and served on all parties within seven (7) days after the opposition brief is served on the Panel and other parties. Any party to the appeal may file a motion in accordance with section 6010 to request an extension of time within which to file a brief. Motions may only be granted by the Panel upon a showing of good cause.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 5. HEARINGS
PROPOSED ADOPTION OF
RULE 6007. OPTIONAL HEARING

6007. Optional Hearing.

(a) After all briefs have been submitted to the Panel pursuant to section 6006, the Panel shall make a preliminary decision in the appeal based on the record. Once the Panel has reached its preliminary decision, the executive director shall notify all parties that the Panel is ready to enter its final order in accordance with section 6016. Each party shall have 20 days from the date they are served with the notice to submit a written request for a hearing to the Panel.

(b) Notwithstanding subsection (a), the Panel may direct for a hearing to be conducted on the appeal even if no party requests a hearing.

(c) If requested by a party or directed by the Panel, a hearing date and location shall be set by the Panel's executive director and a notice shall be sent to all parties.

(d) After a date and location has been set for hearing by the executive director, requests by any party for a continuance and/or location change may be granted by the Panel only upon a showing of good cause. The Panel may delegate its authority to decide requests for continuances and location changes to its executive director.

(1) A party seeking a continuance or location change shall stipulate to an alternative date or location for the hearing with all other parties to the appeal, and then coordinate with the executive director to reschedule the date or location if the panel's schedule and docket permits. If the other party or parties will not stipulate to an alternative date or location, the party can submit a motion to the Panel requesting an alternative date or location in accordance

with section 6010. The other party or parties may submit an opposition to the motion to the Panel within five (5) days of the initial motion's service on the opposing party.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 5. HEARINGS
PROPOSED ADOPTION OF
RULE 6008. ORAL ARGUMENT

6008. Oral Argument

(a) In the event a hearing for the appeal or a motion is scheduled, and unless otherwise directed by the Panel:

- (1) A party shall be allowed a maximum of 20 minutes for oral argument;
 - (2) Not more than one person on a side may be heard;
 - (3) The appellant, or moving party, shall have the right to present an opening statement and closing statement; however, both statements shall count towards the 20-minute total limit.
 - (4) No evidence, other than what is contained in the administrative record, shall be referenced by any party.
 - (5) Panel members may ask questions of any party after the conclusion of oral argument.
- There are no time constraints on panel member questions or party responses.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 6. NEW DISCOVERED EVIDENCE
PROPOSED ADOPTION OF
RULE 6009. NATURE OF EVIDENCE AND SHOWING

6009. Nature of Evidence and Showing.

(a) A party may file a motion to remand the case back to the licensing authority in accordance with Business and Professions Code section 26044 on the grounds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced at the underlying hearing. In support of the motion, the party shall submit the following in the form of a declaration or affidavit:

- (1) The substance of the newly-discovered evidence;
- (2) Its relevancy and the part of the record to which it pertains;
- (3) Names of witnesses to be produced and their expected testimony;
- (4) The nature of any exhibits to be introduced;
- (5) A detailed statement of the reasons why such evidence could not, with due diligence, have been discovered and produced at the underlying hearing. Merely cumulative evidence shall not constitute a valid ground for remand.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042, 26043, and 20644, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 7. MOTIONS
PROPOSED ADOPTION OF
RULE 6010. MOTIONS

6010. Motions.

(a) Unless otherwise provided for, all motions referenced in this Division shall be prepared and submitted as follows:

(1) Motions shall follow the formatting requirements set forth in section 6006(b).

(2) Motions shall be no more than 10 pages in length unless accompanied by a declaration showing good cause for additional pages, but in no case shall be more than 15 pages.

(3) Motions submitted to the Panel shall include proof of service that the motion was served on all parties to the appeal or their attorneys.

(b) Any party opposing a motion may submit their written opposition to the Panel within five (5) days of receipt of service of the initial motion. The opposition shall follow the same requirements described in subsections (a)(1) through (3).

(c) The Panel's executive director shall set a date and location for a hearing on the motion and send notice of the hearing to all parties to the appeal within 20 days of the deadline to submit the opposition described in subsection (b). Notwithstanding the foregoing, at any time after receiving the motion and opposition, the Panel may elect to rule on the motion without holding a hearing.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 8. DISMISSAL OF APPEAL
PROPOSED ADOPTION OF
RULE 6011. DISMISSAL OF APPEAL

6011. Dismissal of Appeal.

(a) The Panel may issue an order dismissing an appeal ~~and affirming~~ of the decision of the licensing authority:

(1) Upon appellant submitting to the Panel a request to dismiss the appeal;

(2) Upon motion of a party, or upon the Panel's own notice to the parties, that appellant has failed to perfect his or her appeal by failing to timely submit the Notice of Appeal or the administrative record to the Panel as set forth in sections 6003 and 6004;

(3) Upon certification by the licensing authority that reconsideration has been ~~has been~~ granted in the case after the Notice of Appeal has been submitted, and dismissal on this ground shall be without prejudice to the submission of a subsequent appeal in the same case.

(4) Upon a motion by the licensing authority or other party, or upon the Panel's own notice to the parties, where sufficient cause exists for dismissal. In such instance, the Panel's decision shall set forth with specificity the sufficient cause for the dismissal.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042, 26043, 26044, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 9. PANEL MEMBERS
PROPOSED ADOPTION OF
RULE 6012. DISQUALIFICATION OF PANEL MEMBERS

6012. Disqualification of Panel Members.

(a) A Panel member shall disqualify himself or herself and withdraw from any case in which the member cannot accord a fair and impartial hearing. Any party may request the disqualification of any member by filing an affidavit with the Panel before the submission of the case stating with particularity the grounds upon which it is claimed that a fair and impartial appeal cannot be accorded by the Panel member. The issue raised by the request shall be determined by the other members of the Panel. No member of the Panel shall withdraw voluntarily from any hearing, or be subject to disqualification, if this would prevent the Panel from acting in the particular case.

(b) An affidavit submitted to the Panel pursuant to this section shall become a part of the record.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Section 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 9. PANEL MEMBERS
PROPOSED ADOPTION OF
RULE 6013. ATTENDANCE OF PANEL MEMBERS

6013. Attendance of Panel Members.

(a) If a Panel member cannot attend a hearing where there will be oral testimony or argument, the remaining members of the Panel shall determine one other member to recuse himself or herself from the hearing in order to maintain an odd number of members unless to do so would prevent the Panel from acting in a particular case.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 10. STAYS AND SETTLEMENTS
PROPOSED ADOPTION OF
RULE 6014. STAY

6014. Stay.

(a) In any appeal where the underlying decision of a licensing authority is denial of a license renewal, or cancelation, suspension, or revocation of a license, and upon a motion from the appellant made pursuant to section 6010, the Panel may stay the effect of the underlying decision until the Panel enters its final order.

(b) Notwithstanding subsection (a), the Panel may only grant a stay upon a motion by the appellant that demonstrates:

(1) there is a substantial likelihood that the appellant will prevail in the appeal; and

(2) the appellant will experience immediate and irreparable harm if the stay is not granted;

and,

(3) the stay is not detrimental to the health and welfare of the public.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 10. STAYS AND SETTLEMENTS
PROPOSED ADOPTION OF
RULE 6015. SETTLEMENTS

6015. Settlements.

(a) Whenever any matter is pending before the Panel, and the parties to the matter agree upon a settlement, the Panel shall, upon the stipulation by the parties that such an agreement has been reached, ~~remand~~ dismiss the matter to the licensing authority without prejudice.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 11. ORDERS
PROPOSED ADOPTION OF
RULE 6016. TIME LIMIT FOR ENTRY OF ORDER

6016. Time Limit for Entry of Order.

(a) In all cases, the Panel shall enter its order within 90 days after the hearing on the merits is held in accordance with section 6007. If no hearing is conducted, then the Panel shall enter its order within 90 days of the executive director's notice to the parties that the Panel has reached a preliminary decision in accordance with section 6007(a).

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 11. ORDERS
PROPOSED ADOPTION OF
RULE 6017. TIME LIMIT FOR ENTRY OF ORDER

6017. Form of Order.

(a) Each order of the Panel on appeal from a decision of a licensing authority shall be in writing and shall be filed by delivering copies to the parties personally or by mailing copies to them by ~~electronic or~~ certified mail or electronic mail pursuant to rule 6005. Each such order shall become final upon being filed as provided herein, and there shall be no reconsideration or rehearing by the Panel.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 12. EX PARTE COMMUNICATIONS
PROPOSED ADOPTION OF
RULE 6018. EX PARTE COMMUNICATIONS

6018. Ex Parte Communications.

(a) While an appeal is pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to the Panel from any party to the appeal without notice and opportunity for all parties to participate in the communication.

(b) Nothing in this section precludes a communication made on the record at a hearing.

(c) Notwithstanding subsection (a), the following communications are permissible:

(1) Communications that are required for disposition of an ex parte matter specifically authorized by statute.

(2) Communications concerning a matter of procedure or practice that is not in controversy.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

Public Comments Received by CCAP through October 1, 2018

Public Comment #1:

From: Barbara Beth [REDACTED]
Sent: Friday, August 31, 2018 4:58 PM
To: DCA, BCC Comments@DCA <BCC.Comments@dca.ca.gov>
Cc: Laird, Philip@BCSH <Philip.Laird@bcsh.ca.gov>; CDPH Ofc of Regulations <Regulations@cdph.ca.gov>
Subject: Public comment regarding proposed permanent regulations (DPH-17-010)

Re: Public comment regarding proposed permanent regulations for the California cannabis industry: proposed regulations (DPH-17-010)

To Whom it May Concern:

I am writing to you as a person who has seen the positive benefits of Cannabis on medical patients not only within my own family, but also on a professional level within the industry. I want to thank you for your hard work in creating a new agency and necessary regulations for this nascent and growing field. We are all learning. I also want to discuss some concerns and needed changes that will help medical patients, small business owners who helped build this industry and also to make this industry more environmentally more sustainable.

1. Lower the license fee for micro businesses: Small business typically have smaller budgets and earn less profits than larger businesses. As per the emergency regulations, distributors and retailers pay much less in licensing fees for a similar or larger profit range than micro businesses with a smaller profit range. This seems backwards and may negatively affect survival / existence of a small business. Lowering the license fee will help lower income individuals start their own business.
2. Promote the reduction of taxes. The accumulative taxes; for example, over 34% in Oakland, are extremely high for consumers, especially for low income medical patients. This has led to a negative chain reaction of patients who can no longer afford their cannabis medication and the continuation of the black market. Because of the high taxes, even with the addition of the new adult use market, less people are purchasing from the regulated market. This makes it more difficult for licensed retailers to make a profit a provide jobs, leading to layoffs / job losses, for which I personal experienced. If taxes are lowered more people will be able to purchase from licensed retailers, which will also increase the tax revenue and at the same time help low-income medical patients, for whom this industry started.
3. Per the new emergency regulations, cannabis businesses are no longer allowed within a private residence, which effectively nullifies any cottage industry that was allowed within the cannabis industry prior to January 1, 2018 but exists for other industries. Unfortunately, many small and lower income businesses, such as with manufacturing, which helped build the cannabis industry are now out of business, due to the fact that a commercial space outside of one's private residence is unaffordable and there are few spaces available in very limited designated "green zones". This allows for only wealthy

people to start a business and once again the poor and marginalized are at a disadvantage. If a cottage industry is no longer possible under the new regulations for small cannabis businesses, the State of California should at least work with local governments to offer alternatives to help lower-income people start and maintain a cannabis business. For example, subsidizing shared commercial spaces, expanding green zones, and regulating commercial space rents. This will help small businesses at least until a business becomes profitable and self-sufficient.

4. The use of exit bags should not be required. Because it is required that each individual cannabis product be in its own child-proof packaging, further requiring an exit bag is unnecessary, overkill and extremely wasteful. Not only is it polluting to manufacture exit bags, these bags will greatly contribute to plastic pollution in the landfills and marine environments. Requiring exits bags is also counter to the States' zero waste goals.

I hope my suggestions are of value to you and considered for the coming permanent regulations. Thank you for your hard work and time.

Barbara Beth

Staff Response: Ms. Beth's public comment is not germane to CCAP's proposed regulations.

Public Comment #2:

From: Robert Landers [REDACTED]

Sent: Sunday, September 2, 2018 6:34 AM

To: Ohaegbu, Catherine@BCSH <Catherine.Ohaegbu@bcsh.ca.gov>; Laird, Philip@BCSH <Philip.Laird@bcsh.ca.gov>

Cc: traderelations@cbp.dhs.gov; INLCAPJustice@state.gov; INLCAPPoliceTeam@state.gov; INLCorrectionsjobs@state.gov; ODLP@usdoj.gov

Subject: Re: Cannabis Control Appeals Panel Notice of Proposed Rulemaking

The Administrator or the presiding officer (with respect to matters pending before him) may modify or waive any rule in this subpart by notice in advance of the hearing, if he determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served in 21 CFR 1316.44.

Pursuant 21 CFR 1316.43 information regarding procedure under these rules and instructions supplementing these rules in special instances will be furnished by the Hearing Clerk upon request.

*21 CFR 1316.04 - Exclusion from inspection.

*21 CFR 1316.24 - Exemption from prosecution for researchers.

The Memorandum of Understanding between the World Customs Organization and United States Customs and Border Protection regarding the establishment of a World Customs Organization Regional Dog Training Centre in the United States Article 1 states that the WCO will endeavor to use facilities of the CBP Canine Program for the purposes of regional training of canine instructors, handlers and dogs for disciplines including concealed human narcotics detection, human remains detection, currency/firearms detection, patrol, tracking and trailing and search and rescue. The Council may make

arrangements necessary to facilitate consultation and cooperation with non-governmental organizations interested in matters within its competence in agreement with the Convention Establishing a Customs Co-Operation Council Article IX(b).

Please contact for more information:

World Customs Organization
Rue du Marché, 30
B-1210 Brussels
Belgium
Telephone: [REDACTED]

Robert Landers
[REDACTED]
[REDACTED]

Staff Response: Mr. Landers' public comment is not germane to CCAP's proposed regulations.

Public Comment #3:

From: Marlena Monroe [REDACTED]
Sent: Sunday, September 2, 2018 6:50 PM
To: Laird, Philip@BCSH <Philip.Laird@bcsh.ca.gov>
Subject: Cannabis controls

I believe any illegal cannabis retail store should not have first opportunity for a retail license.

Staff Response: Ms. Monroe's public comment is not germane to CCAP's proposed regulations.

AGENDA ITEM 7

**ADMINISTRATIVE DELEGATION
OF AUTHORITY TO THE
EXECUTIVE DIRECTOR**

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT

REGULAR PANEL MEETING

OCTOBER 17, 2018

SUBJECT: Proposed Delegations of Authority to Executive Director.

BACKGROUND:

Business and Professions Code 26041 requires that “[t]he director shall furnish the equipment, supplies, and housing necessary for the authorized activities of the panel and shall perform such other mechanics of administration as the panel and the director may agree upon.” Further, the CCAP Member Handbook that was adopted by the Panel on August 13, 2018, indicates “the Panel delegates this authority and responsibility for management of the civil service staff to the Executive [Director] and legal staff as an instrument of the panel.”

ANALYSIS:

Pursuant to Business and Professions Code 26041 and the CCAP Member Handbook, the Panel has the authority to delegate certain duties to the Executive Director. Upon review of the organizational structure of the Panel and the duties required of it, staff has determined that various delegations to the Executive Director are warranted. Staff has researched and reviewed delegations of other Boards and Panels and proposes the following four delegations to enable efficient administration of Panel business and execution of Panel duties.

1. The Executive Director shall have purchasing authority on any single item up to \$10,000 without prior approval of the Panel;
2. The Executive Director shall have the authority to approve time sheets for staff;
3. The Executive Director shall have the authority to approve travel expense claims for reimbursement to Panel members and staff; and,
4. The Executive Director shall have the authority to hire staff of the Panel.

BUDGET AND FISCAL IMPACTS:

Adopting the proposed delegations will streamline the administrative tasks required of the Panel and will conserve resources that would otherwise be used to repeatedly seek Panel approval.

BENEFITS AND RISKS:

Staff’s recommendation clearly and effectively authorizes the Executive Director to administer the Panel’s business. The risk of not adopting this recommendation relates to the efficiency and effectiveness of the Executive Director. The purchasing authority is necessary to avoid lengthy delays to seek Panel approval for minor purchases. The time sheet and travel expense approval authority is necessary to avoid cumbersome, duplicative and prolonged administrative processes for routine monthly tasks. The hiring authority is necessary for the Executive Director to curate the best staff possible in a timely manner.

ATTACHMENT:

1. Proposed Delegation Resolution 18-01

RECOMMENDATION:

Approve the Proposed Delegation Resolution.

STAFF CONTACT:

Christopher Phillips, Chief Counsel
Cannabis Control Appeals Panel
(916) 322-6874

CANNABIS CONTROL APPEALS PANEL

DELEGATION RESOLUTION

Subject: Executive Director

Delegation No.: 18-01

Pursuant to Business and Professions Code 26041 and the Cannabis Control Appeals Panel Member Handbook, adopted August 13, 2018, the Cannabis Control Appeals Panel hereby delegates to the Executive Director the authority to act finally with respect to any and all matters outlined below:

The Executive Director's actions under this delegation shall be conducted in compliance with applicable laws, regulations and statutes.

1. The Executive Director shall have purchasing authority on any single item up to \$10,000 without prior approval of the Panel;
2. The Executive Director shall have the authority to approve time sheets for staff;
3. The Executive Director shall have the authority to approve travel expense claims for reimbursement to Panel members and staff; and,
4. The Executive Director shall have the authority to hire staff of the Panel.

This Delegation is effective immediately upon signature by both parties. No previous formal delegations have been made to the Executive Director. To the extent any prior delegations have been made informally, those delegations are rescinded and hereby superseded by Delegation No. 18-01.

I hereby certify the Cannabis Control Appeals Panel made and adopted the foregoing Resolution.

Dated: _____

SABRINA ASHJIAN, PANEL CHAIR
CANNABIS CONTROL APPEALS PANEL

Dated: _____

ANNE HAWLEY, EXECUTIVE DIRECTOR
CANNABIS CONTROL APPEALS PANEL

AGENDA ITEM 8

**THERE ARE NO
MEETING MATERIALS**

AGENDA ITEM 9

**THERE ARE NO
MEETING MATERIALS**

AGENDA ITEM 10

**THERE ARE NO
MEETING MATERIALS**