



CANNABIS CONTROL APPEALS PANEL

September 23, 2022
PANEL MEETING

STAFF COPY



CANNABIS CONTROL APPEALS PANEL

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MEMBERS OF THE PANEL

Dr. Diandra Bremond – Chairperson, Los Angeles County
Sharon-Frances Moore, J.D. – Member, San Diego County
Majority Leader Ian Calderon – Member, Orange County

LOCATION	MEETING DATE AND TIME
Cannabis Control Appeals Panel 400 R Street Sacramento, CA 95811 Note: Video Conference Only	Friday, September 23, 2022 1:00 p.m. to 2:00 p.m. (or conclusion of business)

NOTICE TO THE PUBLIC

Pursuant to Government Code section 11133, the Cannabis Control Appeals Panel (Panel) meeting will occur remotely, with no physical meeting location. CCAP will use the video conferencing service, Zoom, to host the meeting and allow for remote public participation.

If you have any questions or comments regarding the meeting, or addressing the Panel, or requesting special accommodations during the public comment portion of the meeting, contact us by email at info@ccap.ca.gov or by calling (916) 322-6870 one week prior to the meeting.

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<https://us02web.zoom.us/j/87286724664?pwd=UmNwV1BqVysyaFZySXJDUHJjOG42QT09>

Meeting ID: 872 8672 4664

Passcode: 447242

Call-In Information:

1-669-444-9171

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MEETING AGENDA

Item 1	Call to Order and Establishment of Quorum <i>Dr. Diandra Bremond, Chairperson</i>	Action Item
Item 2	Approval of April 27, 2022, Minutes <i>Dr. Diandra Bremond, Chairperson</i>	Action Item
Item 3	Executive Management Report <i>Anne Hawley, Executive Director</i>	Information Item

Item 4	Update on Strategic Plan <i>Anne Hawley, Executive Director</i> <i>Christopher Phillips, Chief Counsel</i>	Information Item
Item 5	Discussion and Action Regarding Proposed Revisions to Regulation Text <i>Christopher Phillips, Chief Counsel</i>	Action Item
Item 6	Public Comments on Items Not on the Agenda The Panel may not discuss or act 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)]	Information Item
Item 7	Future Agenda Items <i>Dr. Diandra Bremond, Chairperson</i>	Procedural Item
Item 8	Adjournment <i>Dr. Diandra Bremond, Chairperson</i>	Procedural Item

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, modification, or translation services to participate in the meeting may make a request by contacting Christopher Phillips at Christopher.Phillips@ccap.ca.gov or (916) 322-6870. Providing your request at least one week before the meeting will help to ensure availability of the requested accommodation.

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 Christopher.Phillips@ccap.ca.gov or (916) 322-6870 or in writing to: Cannabis Control Appeals Panel, 400 R Street, Suite 320, Sacramento, CA 95811

AGENDA ITEM 1

**THERE ARE NO
MEETING MATERIALS**

AGENDA ITEM 2

**APPROVAL OF
MINUTES**



CANNABIS CONTROL APPEALS PANEL

GOVERNOR GAVIN NEWSOM

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
Secretary Lourdes M. Castro Ramírez



Open Session Meeting Minutes

Wednesday, April 27, 2022

10:35 am – 11:56 am

Cannabis Control Appeals Panel

400 R Street

Sacramento, CA 95811

Members present via teleconference:

- Dr. Diandra Bremond, Chairperson (in Los Angeles County)
- Sharon-Frances Moore, J.D. (in San Diego County)
- Majority Leader Ian Calderon (in Orange County)

Staff present via teleconference:

- Anne Hawley, Executive Director, Cannabis Control Appeals Panel
- Christopher Phillips, Chief Counsel, Cannabis Control Appeals Panel
- Sarah M. Smith, Senior Staff Attorney, Cannabis Control Appeals Panel
- Brian Hwang, Staff Attorney, Cannabis Control Appeals Panel
- Melita Deci, Administrative and Business Services Coordinator, Cannabis Control Appeals Panel

Others present via teleconference:

- Lourdes M. Castro Ramírez, Secretary, Business, Consumer Services and Housing Agency
- Erica Gonzalez, Deputy Secretary, Business, Consumer Services and Housing Agency
- Victoria Gonzalez-Gerlach, Business, Consumer Services and Housing Agency
- Sonia Rangel, Business, Consumer Services and Housing Agency
- Ann Fisher, Strategic Business Analyst, Department of Consumer Affairs

Summary:

1. Call to Order and Establishment of Quorum.

Chairperson Diandra Bremond called the teleconference meeting to order at 10:35 am.

Melita Deci took the roll call vote. Panel Members Diandra Bremond, Sharon-Frances Moore, and Ian Calderon were present. A quorum was established.

2. Approval of March 30, 2022 Meeting Minutes.

Chairperson Bremond asked the Panel if there were any additions or corrections to the minutes of the March 30, 2022 meeting. There were no additions or corrections. No comments from the public.

Motion (Moore): Approve the minutes of the March 30, 2022 meeting as submitted. Seconded (Calderon). Melita Deci took a roll call vote on the motion. Motion passed 3-0.

3. Welcome and Introduction.

Chairperson Bremond welcomed Lourdes M. Castro Ramírez, Secretary of the Business, Consumer Services and Housing Agency (Agency) to today's meeting. Bremond then summarized the Secretary's background. Secretary Castro Ramírez has served as Agency Secretary since March 2020. She also serves on the California Strategic Growth Council, the California Housing Finance Agency Board, and co-chairs the California Interagency Council on Homelessness. Castro Ramírez has demonstrated a career-long commitment to public service, and before joining the State of California, served the Obama administration by leading the Office of Public and Indian Housing within the U.S. Department of Housing and Urban Development, among many other accomplishments.

Bremond then invited Secretary Castro Ramírez to introduce herself and share some remarks. Castro Ramírez thanked the Panel and CCAP staff for the opportunity to speak today. As Bremond indicated, she serves as Secretary for Agency. In that capacity, she has had the privilege of working with the executive leadership team, CCAP's Executive Director Hawley, and many other departments to contribute to a thriving California for all. She applauded Hawley and each panel member for their leadership, and thanked the Panel for working closely with Hawley and CCAP staff particularly over last two years with the pandemic. The Secretary commended CCAP for remaining committed to creating an efficient and equitable system as they await appeals. Castro Ramírez noted CCAP has been planning for and engaging in rulemaking to streamline the appeals process, as well as embracing equity and inclusion. For example, the Secretary expressed appreciation for how CCAP has worked to incorporate non-binary language in furtherance of gender inclusivity. She then explained Agency leads and provides oversight over 12 state entities that advance policies, regulations, and programs to protect consumers, promote and preserve affordable housing, and work across state systems to prevent and end homelessness. Agency also works closely with the Department of Fair Employment and Housing to guard the civil rights of all Californians.

Castro Ramírez recognized CCAP's work in its strategic planning. This is important work and the Secretary applauded CCAP's leadership in progressing towards providing a clear roadmap to achieve the Panel's mission, vision, values, and goals. Castro Ramírez remarked that Agency is also working on their strategic plan. This is particularly important considering the additional responsibilities that Agency has taken on in the last two years. This includes the newly created Department of Cannabis Control (DCC), which was created in July 2021 through the consolidation of the prior three licensing entities. By having a standalone Department, it has

centralized and streamlined regulatory oversight, and has enhanced licensee participation. Castro Ramírez commented that she and the rest of Agency look forward to working with Director Elliott and the rest of DCC. Finally, as Agency finalizes their strategic plan, they intend to share their plan broadly with partners and stakeholders.

Castro Ramírez thanked Hawley and the Panel for inviting her to today's meeting. She noted her appreciation for the Panel and CCAP staff for their work in creating an efficient and equitable appeals process. She also commended them for their vision of cultivating a transparent and respectful forum for cannabis businesses within all California communities. She closed by sharing that she looks forward to seeing the results of CCAP's final strategic plan.

4. Strategic Planning Session.

Chairperson Bremond then welcomed back Ann Fisher, Strategic Business Analyst and Facilitator with the Department of Consumer Affairs (DCA), who will continue to facilitate the Panel's SOLID workshop today. For background, at the March 30 meeting, Fisher guided panel members through the Panel's environmental scan and helped the Panel develop an early draft of its Strategic Plan. Fisher will now help the Panel review its revised Strategic Plan. The Panel will then vote whether to adopt the Strategic Plan.

Fisher thanked Bremond and then summarized the process so far. The Panel came up with a set of objectives at the last Panel meeting in March. After that meeting, CCAP staff and DCA strategic planning staff (including Fisher) suggested some new items as well as revisions. Fisher then ran through the revisions for each of the goal objectives with the Panel for additional comments and revisions.

Fisher began with reviewing the revisions to Goal Area 1 - Decision Making. Fisher received the following comments and suggestions:

1.1. The Panel's first objective was initially drafted as "Move through the decisions of the Panel efficiently once cases are received for good utilization of Panel resources." It has since been edited by CCAP staff to read as "Efficiently make the decisions of the Panel once cases are received for effective utilization of Panel resources."

- Panel member Calderon expressed that "efficiently" reads a little strange. He thinks a different word choice might be better.
- Calderon also thinks it's redundant to mention "Panel" twice in the same sentence. He suggested rephrasing it to read as something like "Make decisions efficiently once cases are received for effective utilization of Panel resources" or "efficient decision-making once cases are received."
- Bremond is concerned about making the language as clear as possible to the public and to stakeholders. This can be achieved by keeping Calderon's first suggestion and then possibly building on that. Moore agrees about keeping it simple.
- Final update: "Make decisions efficiently once cases are received for effective utilization of Panel resources."

1.2. The Panel's objective was initially drafted as "Create fairness through the decision-making process to provide equity to the Panel's stakeholders." It has been edited to read as "Create impartiality through the decision-making process to provide fairness to the Panel's stakeholders." There were no comments or revisions from the Panel.

1.3. The Panel's objective was initially drafted as "Ensure clarity and transparency in decisions to create/increase/promote public confidence." It has been edited to read as "Ensure clarity and transparency in decisions to promote public and stakeholder confidence."

- Calderon commented that "in decisions" could be taken out.
- Final update: "Ensure clarity and transparency to promote public and stakeholder confidence."

1.4. The Panel's objective was initially drafted as "Identify and develop trainings for Panel members on the decision-making process to provide a solid foundation on decision making." CCAP staff made no edits to this objective.

- Calderon asked why we need to include "to provide a solid foundation on decision making." This part seems implied in the first part of the objective. Bremond also wanted clarification on why the latter portion should be written.
- Fisher answered that while she would defer to the Panel's best judgment, best practice in strategic planning is to include an explanation of the "why" or benefit of the objective. Bremond retracted the previous comment and stated it is fine to keep that latter portion in the draft.
- Calderon commented that mentioning "decision making" twice is redundant. Bremond suggested deleting the first reference to "decision making" but otherwise keeping things the same. Calderon agreed.
- Final update: "Identify and develop trainings for Panel members to provide a solid foundation on decision making."

1.5. The Panel's objective was initially drafted as "Identify and develop trainings for staff in regard to issues that impact the panel to provide competency and support." It has been edited to read as "Identify and develop trainings for staff regarding issues that impact the panel to ensure competency and support."

- Bremond wanted to clarify what "support" refers to. Calderon pointed out objective 1.4 talks about training for panel members, so objective 1.5 here is referring to training for staff.
- Moore commented that they should perhaps end the sentence at "impact the Panel." Bremond replied that, for consistency, the why/benefit statement should stay there.
- Calderon suggested deleting "to ensure competency and support" and replacing it with "to improve decision-making outcomes." Bremond expressed agreement with this edit.
- Final update: "Identify and develop trainings for staff on issues that impact the Panel to improve decision-making outcomes."

1.6. CCAP staff added this as a new objective for the Panel's review. It reads as "Develop and implement a recusal training for CCAP panel members to ensure that Panel members adhere to the highest standards for unbiased and impartial decision making."

- Calderon commented that an issue here, based on his legislative experience, is that legislators would often draft bills meant to create greater transparency in the legislature. However, it could result in poor optics as though legislators were admitting to some sort of guilt. Calderon noted this objective could simply be included in objective 1.5.
- Hawley built on Calderon's comment to share that it might be more appropriate to remove 1.6 as a goal objective and, instead, turn it into an action plan item to implement one of the goal objectives. Hawley confirmed with Fisher that the action plan document is a private document. Staff can work on making this change behind the scenes. Bremond agreed with turning this objective into an item under the action plan.
- Calderon added that there are already recusal requirements in place, so having 1.6 as a highlighted objective is not necessary. This objective should be removed from the public goal objectives and moved into the private action plan. Moore expressed agreement.
- Final update: Pulled from public strategic plan and moved into private action plan.

Fisher next reviewed the revisions to Goal Area 2 - Outreach and Education. She received the following comments and suggestions:

2.1. The Panel's objective was initially drafted as "Develop more modern technology-based approach to education to increase public awareness and provide trainings and information to engage people in the decision making process." It has been edited to read as "Develop more modern technology-based approach to education to increase public awareness and provide trainings and information to educate the public on the decision making process."

- Calderon expressed the current wording sounds strange. The phrase "more modern" is an awkward fit. Bremond suggested changing it to "innovative" instead. Calderon concurred.
- Moore suggested ending the sentence after "to increase public awareness."
- Final update: "Develop innovative approaches to educate and increase public awareness."

2.2. The Panel's objective was initially drafted as "Outreach to ensure stakeholders know the Panel exists to increase accessibility." It has been edited to read as "Increase accessibility by reaching out to stakeholders to ensure they are aware of the Panel's existence."

- Moore suggested using "expand" instead of "increase" accessibility.
- Calderon built on Moore's comment by suggesting the addition of "through engagement with stakeholders" following "expand accessibility."
- Final update: "Expand accessibility through engagement with stakeholders to ensure they are aware of the Panel's existence."

2.3. The Panel's objective was initially drafted as "Create an application to provide trainings and information to engage people in the decision-making process." It has been edited to read as "Create an application to provide trainings and information to educate the public on the decision-making process."

- Bremond expressed concern about the reference to "application." Some stakeholders and members of the public may be more tech savvy than others. Not everyone may understand what "application" refers to or means.
- Calderon commented that 2.3 could probably be an action item under another objective. Moore agreed that 2.3 may be redundant.
- Fisher suggested this could already be included under 2.1. Fisher suggested removing 2.3 as an objective and moving it to an action item under 2.1. The Panel agreed.
- Final update: Pulled from public strategic plan and moved into private action plan.

2.4. The Panel's objective was initially drafted as "Advocate legislative outreach & education to the Legislature to give constituents/local business access to the Panel." It has been edited to read as "Educate the Legislature to improve licensees' access to the Panel and improve legislative awareness of the Panel's purpose."

- Calderon said a potential issue here is that CCAP would have to check with Agency to make sure they are fine with CCAP reaching out directly to the legislature. Perhaps what makes more sense is to work with Agency and ask them to educate legislators about CCAP's existence on its behalf. Agency might prefer reaching out directly through their own legislative liaisons.
- Bremond agrees we should get approval from Agency. Bremond also clarified it should be the staff, not the Panel, who would educate the legislature. Calderon shared that he would be happy to have these conversations with the legislature, but he would defer to staff and their best judgment here.
- Fisher then asked the Panel whether 2.4 should be pulled from the public facing strategic plan, and make this an action item for CCAP staff to investigate and work on behind the scenes. Calderon agreed and noted 2.4 also probably falls under one of the pre-existing objectives.
- Final update: Pulled from public strategic plan and moved into private action plan.

2.5. CCAP staff added this as a new objective for the Panel's review. It reads as "Explore ways to ensure that diverse communities are aware of and have access to the Panel."

- Moore remarked that it's fine as written, but it could be an action item falling under another goal objective.
- Bremond expressed that this objective should remain highlighted in the strategic plan. Bremond also suggested changing "communities" to "stakeholders." Moore commented that "communities" is a more encompassing term. Calderon recommended "constituencies" as another option. Bremond agreed with Calderon.
- Final update: "Explore ways to ensure that diverse constituencies are aware of and have access to the Panel."

2.6. CCAP staff added this as a new objective for the Panel's review. It reads as "Develop a comprehensive outreach and educational plan to inform potential appellants and licensees of their due process rights."

- Calderon commented 2.6 could be removed from the strategic plan. He expressed this objective should not be listed in the public strategic plan if CCAP does not actually commit to creating a "comprehensive outreach and educational plan." This could also be an action item falling under one of the pre-existing objectives to ensure appellants understand that they can avail themselves of the Panel's resources by filing an appeal with CCAP.
- Hawley replied to Calderon to clarify that staff's thoughts here was to be intentional about having a wholistic approach on outreach and education, instead of a scattershot approach. She also agreed this could be moved to the private action plan, if desired.
- Calderon followed up by asking Hawley that if he were a cannabis business that just received an annual license, whether he receives an informational packet that outlines a licensee's rights and resources. He also asked if this information includes explanation of a licensee's appeal rights with CCAP and, if not, if this information could be added.
- Hawley answered that DCC's final decisions include a brief reference to CCAP's website and instructs licensees that they can file an appeal with CCAP if so desired. Currently, however, there is no packet of information provided to newly licensed parties as described and asked by Calderon. Hawley stated this could perhaps be a point of discussion between CCAP legal team and General Counsel at DCC. For example, CCAP might ask if DCC could include a one pager in their final decision that explains a licensee's appeal rights in greater depth.
- Calderon answered that he's open minded, and not thinking about one specific format. Bremond commented that it's not necessary for any plan here to be "comprehensive" or perfect. You want to keep the planning realistic and achievable. Fisher added that just because you come up with a plan does not mean they have to implement said plan. There is wiggle room here.
- Moore commented that simpler is better and suggested deleting "comprehensive."
- Final update: "Develop an outreach and educational plan to inform potential appellants and licensees of their due process rights."

Fisher then reviewed the revisions to Goal Area 3 - Organizational Effectiveness. Fisher received the following comments and suggestions:

3.1. The Panel's objective was initially drafted as "Initiate an internal and external how we are doing feedback (evaluation survey) to share the Panel's effectiveness." It has been edited to read as "Initiate an internal 'how are we doing' feedback survey to assess the Panel's effectiveness and make adjustments as needed."

- Bremond commented adding "evaluation" elsewhere. Calderon suggested adding "evaluation" after "initiate an internal." He also suggested keeping things concise and cutting down on superfluous language such as the "feedback survey" reference.

- Moore suggested changing “initiate” to “develop” because the former sounds a bit too complicated. Bremond and Calderon both expressed agreement with this revision.
- Final update: “Develop an internal evaluation to share the Panel’s effectiveness and make adjustments as needed.”

3.2. The Panel’s objective was initially drafted as “Create an external survey related to their experience and process to improve processes.” It has been edited to read as “Create an external survey related to the appellants’ experience to improve processes by centralizing feedback from participants in the appeals process.” There were no comments or revisions from the Panel.

3.3. The Panel’s objective was initially drafted as “Evaluate how information has been provided by staff to the Panel members” for the benefit of “more effective and efficient decision-making.” It has been edited to read as “Evaluate how information has been provided by staff to Panel members to allow more effective and efficient decision making.”

- Bremond commented 3.3 can be removed as a goal objective and turned into an action item falling under 3.1.
- Final update: Pulled from public strategic plan and moved into private action plan.

3.4. The Panel’s objective was initially drafted as “Create an approach to how the panel evaluates its effectiveness as it pertains to other agencies and stakeholders” for the benefit of the “Panel having a close relationship with other agency entities and address issues that impact the panel.” It has been edited to read as “Establish a metric for evaluating the effectiveness of interactions and agreements between the Panel and its partner agencies to encourage the Panel to build an effective, cooperative relationship with partner agencies, and address issues that impact the Panel.” There were no comments or revisions from the Panel.

3.5. The Panel’s objective was initially drafted as “Evaluate the Panel’s fiscal prudence to ensure prudent financial stewardship.” It has been edited to read as “Evaluate the Panel’s fiscal responsibility to ensure prudent financial stewardship.” There were no comments or revisions from the Panel.

3.6. CCAP staff added this as a new objective for the Panel’s review. It reads as “Report quarterly on progress made on strategic plan objectives to inform Panel members and to ensure objectives are met within designated timeframe.” There were no comments or revisions from the Panel.

Fisher then directed the discussion to Goal Area 4 – Diversity, Equity, and Inclusion. This goal area was added to the strategic plan by CCAP staff and Fisher in a follow-up meeting to the Panel’s March 30 meeting. Fisher received the following comments and suggestions:

The goal statement reads as “Integrate equity practices into operations, programs, and policies.”

- Moore expressed that the word “integrate” is problematic. The current word choice could imply that we are not currently integrating such practices. Fisher suggested replacing “integrate” with “ensure” and Moore agreed.
- Bremond then stated “into” should be replaced with “exist in” to make sure the rest of the goal statement reads logically.
- Final update: “Ensure equity practices exist in operations, programs, and policies.”

4.1. CCAP staff added this as a new objective for the Panel’s review. It reads as “Establish equitable hiring practices to eliminate favoritism and bias in hiring processes.”

- Moore pointed out these action verbs could imply CCAP is not currently engaging in these practices. Moore suggested changing “establish” to “continue.” Bremond agreed.
- Final update: “Continue equitable hiring practices to eliminate favoritism and bias in hiring processes.”

4.2. CCAP staff added this as a new objective for the Panel’s review. It reads as “Create an inclusive culture that values input from all members of the staff and the Panel so that every staff and Panel member, regardless of background, feels empowered to voice their thoughts and opinions.”

- Moore commented that “create” raises a similar problem as the word as “integrate” did in the goal statement. It implies CCAP is not currently fostering and maintaining an inclusive culture. Moore and Calderon agreed changing it to “maintain.”
- Calderon stated it might be redundant to include “regardless of background” as it’s already implied by this objective. Moore agreed with Calderon.
- Final update: “Maintain an inclusive culture that values input from all members of the staff and the Panel so that every staff and Panel member feels empowered to voice their thoughts and opinions.”

4.3. CCAP staff added this as a new objective for the Panel’s review. It reads as “Demonstrate respect for opinions voiced by the public and stakeholders to encourage public participation in government agency operations.” There were no comments or revisions from the Panel.

4.4. CCAP staff added this as a new objective for the Panel’s review. It reads as “Explore and recommend methods of addressing accessibility, translation, or similar requests to promote participation by members of the public.”

- Bremond suggested adding “continue to” following “explore and” to show CCAP is already addressing issues of accessibility.
- Final update: “Explore and continue to recommend methods of addressing accessibility, translation, or similar requests to promote participation by members of the public.”

Fisher thanked the Panel for their hard work in creating, reviewing, and finalizing these objectives. Fisher will deliver a clean copy soon and remarked that many of their clients often use the final product to create brochures to hand out and have available. Fisher also noted that

today concludes the Panel's portion of the strategic planning process. CCAP staff and Fisher will take things from here starting with action planning in May.

Bremond thanked Fisher for all the guidance and assistance throughout the process. Bremond then opened the floor for any other comments. Moore followed up on Calderon's earlier comment about having a brochure or packet that would include information on CCAP. Calderon clarified that he was commenting about whether, upon being licensed, a new annual licensee receives a comprehensive packet of information from DCC, and whether such a resource includes any explanation of their appeal rights with CCAP. Moore suggested that a final handout or brochure regarding the final strategic plan could be included in whatever materials licensees/appellants already receive from DCC.

No other comments from the Panel. No comments from the public.

Motion (Moore): Adopt the current draft of the Strategic Plan. Seconded (Calderon). Melita Deci took a roll call vote on the motion. Motion passed 3-0.

5. Executive Management Report.

Executive Director Anne Hawley presented the Executive Management Report.

Hawley thanked each of the panel members for their significant efforts in developing the objectives and goals for the strategic planning. Hawley also thanked Ann Fisher and CCAP staff for their hard work building on and refining the Panel's ideas. In terms of next steps, staff will meet with Fisher on May 12 to work on the action plan portion of the strategic planning process. Following that meeting, Hawley will reach out to panel members to schedule a publicly noticed meeting, possibly sometime in July. Staff would present the action plan to the Panel at that meeting, receive feedback from the Panel, and continue forward with the strategic planning process.

Hawley began her report by sharing administrative and legal updates. CCAP has the required funding available to participate in the Leave Buy Back program this year. Hawley will share additional information in an email. The deadline to fill out the required form will be Monday, May 9. For those who intend on participating in the program, payments should arrive no later than June 30. Next, the Office of Administrative Law recently approved CCAP's regulations which will take effect on July 1. Hawley thanked the legal team – Chris Phillips, Sarah Smith, and Brian Hwang – on all their hard work on the regulations and moving the package efficiently through the process.

Next, Hawley provided an update on Assembly Bill 2925. The bill was heard in the Assembly Business & Professions Committee on April 5. It was passed out of committee. However, the bill's author stated at the hearing that he would remove the CCAP provisions from the original bill language.

Hawley then moved onto financial updates. Currently, the Department of General Services is still closing the books for March. At the Panel's July meeting, once the books are closed on the entire fiscal year, Hawley would like to present a more comprehensive and detailed financial report to the Panel. Hawley concluded her report and handed the floor back to Bremond.

Bremond opened the floor for any comments or questions.

No comments from the Panel. No comments from the public.

6. Overview of AB-1733, Bagley-Keene.

Chief Counsel Chris Phillips and the legal team provided a report on pending legislation. Phillips stated this is a recurring, informational agenda item as staff identifies relevant legislation. Phillips then introduced Staff Attorney Brian Hwang to present on Assembly Bill 1733. Staff Attorney Hwang introduced himself and began his report. This bill would significantly modernize Bagley-Keene by enacting into law many of the flexibilities temporarily offered during the pandemic. The bill would require a teleconference option be offered in addition to at least one public location for every panel meeting. While this means greater flexibility, it would also create logistical hurdles for CCAP staff. For example, if the bill becomes law, staff must ensure that a teleconferenced meeting – while in open session – must be both audible and visible to the public at any physical location listed in the meeting notice. In practical terms, CCAP's meeting room at its offices would be the designated physical location open to the public. Hwang thanked Hawley for her hard work in ensuring the audio and visual setup in the meeting room is functioning properly. With that said, this report will focus on the changes that are most relevant to panel members.

Hwang first summarized the bill's legislative trajectory. On January 31, AB-1733 was introduced by Assembly Member Quirk. On February 18, the bill was referred to the Assembly Committees on Governmental Organization (Gov Org) as well as Business & Professions. Originally, the bill was scheduled to be heard by the Gov Org Committee last Wednesday, April 20th. However, the bill was pulled from the agenda right before the hearing. Assembly Member Quirk did present on another bill, but he did not speak on AB-1733. As of now, a hearing on the bill has been postponed. Staff will continue to keep a close eye for any new updates. The bill is non-appropriation but is marked as an item to be reviewed by Fiscal Committee. Looking ahead, the deadline for passing AB-1733 is later this summer, August 31. Lastly, the bill contains an urgency clause, which means the bill would take immediate effect upon enactment rather than January 1 of next year.

Hwang then described the three major changes proposed by the bill:

- As background, state bodies including CCAP were exempted from certain Bagley-Keene requirements during the pandemic. These exemptions were provided – on a temporary basis – through things such as the Governor's Executive Orders. The effect of such orders, however, expired as of March 31. This means that, currently, we have returned to the pre-pandemic status quo and must fully comply with all Bagley-Keene

requirements. Under current law, panel members must physically attend the meeting at one of the physical locations listed on the meeting notice. If the bill becomes law, remote attendance would become a permanent option for panel members. For purposes of quorum, panel members will still be deemed 'present' if they attend meetings via teleconference.

- With no more exemptions in effect, CCAP has returned to the pre-pandemic way of conducting public meetings. That is why panel members are tuning into today's teleconference from public locations. Moving forward, physical presence at public locations by panel members will once again be the new normal. If AB-1733 becomes law, however, Panel members may return to what they've been used to doing for the last two years. The bill would make permanent the temporary exemptions offered during the pandemic. This means that panel members may resume attending meetings remotely without their locations being public or identified in the meeting notice.
- While the changes described so far loosen or relax existing obligations, AB-1733 would also add a new requirement for panel members. Specifically, if a panel member attends a meeting from a remote location, they must identify any other adults in the same room as them and their general relationship to them.

Hwang then opened the floor for any questions or comments. Panel member Moore asked about the likelihood of this bill moving forward. Hwang replied he does not have enough information to be completely sure. It's not clear whether the recent committee hearing was postponed due to scheduling issues or due to the bill's current language. Hwang stated he would defer to Panel member Calderon or Chief Counsel Phillips if they have any input on the matter. Calderon commented that while he's not familiar with the bill, the legislative process – in general – can become fluid at a moment's notice. Even if you've passed the policy committee deadline, it potentially takes just one motion on the floor by the Majority Leader to allow committee to hear a bill past the deadline. Calderon speculated that the bill didn't come up for one of two possible reasons. It either didn't have the votes or it contains an emergency clause that exempts the bill from existing deadlines. Calderon expressed that this is just an educated guess on his part. Hawley added to Calderon's thoughts by stating that she hasn't heard anything regarding why the bill might have been pulled from the hearing.

Bremond thanked both Phillips and Hwang for their presentation.
No other comments from the Panel. No comments from the public.

7. Public Comments on Items Not on the Agenda.

Chairperson Bremond warned any comment should not involve pending or future appeals, complaints, applications, or any disciplinary actions that may come before the Panel. No comments from the public.

8. Future Agenda Items.

No comments from the Panel. No comments from the public.

9. Adjournment.

Motion (Moore). Adjourn the meeting. Seconded (Calderon). Meeting adjourned at 11:56 am.

AGENDA ITEM 3

**EXECUTIVE MANAGEMENT
REPORT**

**(NO MEETING MATERIALS/
VERBAL REPORT)**

AGENDA ITEM 4

UPDATE ON STRATEGIC PLAN

**ADOPTED PLAN INCLUDED AS A
REFERENCE**

(VERBAL REPORT ONLY)



CANNABIS CONTROL APPEALS PANEL

Strategic Plan 2022-2024

Prepared by:

SOLID Planning Solutions

Department of Consumer Affairs

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Panel Members

Dr. Diandra Bremond, Chairperson
Governor Appointee, Los Angeles County

Sharon-Frances Moore, Member
Senate Committee on Rules Appointee, San Diego County

Ian Calderon, Member
Speaker of the Assembly Appointee, Orange County

Gavin Newsom, Governor

Lourdes Castro Ramírez, Secretary, Business, Consumer Services and Housing Agency

Anne Hawley, Executive Director

About the Panel

The Cannabis Control Appeals Panel is responsible for appeals of any decision by state cannabis licensing authorities relating to the order of any penalty assessment, issuing, denying, transferring, conditioning, suspending, or revoking any license provided under MAUCRSA.

The Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), enacted in 2017, created a regulatory framework for the licensing and enforcement of the cultivation, manufacture, transportation, storage, and distribution of medical marijuana in California.

In November of 2016, voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). Under Proposition 64, adults 21 years of age or older can legally grow, possess, and use cannabis for non-medicinal purposes, with certain restrictions. Beginning on January 1, 2018, AUMA makes it legal to sell and distribute cannabis through a regulated business. AUMA also requires recreational cannabis businesses to obtain state licenses in categories like those in MAUCRSA. Given the inconsistencies between the MAUCRSA and AUMA, specifically in the areas of license restrictions, taxes and license types, the Governor signed Senate Bill 94, which makes amendments to ensure the laws are compatible and preserve legislative intent under MAUCRSA as well as the intent of the AUMA.

The Panel consists of five members. Three are appointed by the Governor, one by the Senate Committee on Rules, and one by the Speaker of the Assembly. Each member appointed by the Governor, at the time of their initial appointment, shall be a resident of a different county from the one in which either of the other members appointed by the Governor resides. (Business and Professions Code - CHAPTER 4. Appeals BPC § 26040 (a)(2)).

Message from the Panel Chairperson

This Strategic Plan is a result of the combined efforts of the Panel Members and staff. The process was professionally facilitated by the Department of Consumer Affairs SOLID Unit.

Strategic planning is a long-term, future-oriented process of assessment, goal setting, developing objectives, and strategy building that maps an explicit path between the present and a vision of the future. This Plan relies on careful consideration of the Panel's environment and leads to priority-based actions to implement successfully.

The Panel's Strategic Plan will act as a road map to guide the Panel and staff as it moves forward to achieve its mission, vision, values, and goals. This has been a team effort to build consensus on the future direction of the Cannabis Control Appeals Panel.

As Chairperson, I am privileged to present the 2022-2024 Strategic Plan and to express my gratitude for all the work that took place in its development.

Sincerely,

Dr. Diandra Bremond
Chairperson, Cannabis Control Appeals Panel
April 2022

Mission

The Cannabis Control Appeals Panel provides fair, accessible, and timely quasi-judicial resolution of appeals from the Department of Cannabis Control's licensing decisions.

Vision

Cultivating a transparent and respectful forum for cannabis businesses within all California communities.

Values

- Efficiency
- Fairness
- Professionalism
- Respect
- Transparency

Goals and Goal Statements

Goal 1 – Decision Making

Ensuring appeals from decisions of the Department of Cannabis Control are resolved in a fair and timely manner.

Goal 2 – Outreach and Education

To provide education on the appeals process for cannabis stakeholders.

Goal 3 – Organizational Effectiveness

To develop an effective and collaborative work environment while maximizing resources.

Goal 4 – Diversity, Equity, and Inclusion

Ensure equity practices exist in operations, programs, and policies.

Goal 1 – Decision Making

Ensuring appeals from decisions of the Department of Cannabis Control are resolved in a fair and timely manner.

- 1.1 Make decisions efficiently once cases are received for effective utilization of Panel resources.
- 1.2 Create impartiality through the decision-making process to provide fairness to the Panel's stakeholders.
- 1.3 Ensure clarity and transparency to promote public and stakeholder confidence.
- 1.4 Identify and develop trainings for Panel members to provide a solid foundation on decision making.
- 1.5 Identify and develop trainings for staff on issues that impact the Panel to improve decision-making outcomes.

Goal 2 – Outreach and Education

To provide education on the appeals process for cannabis stakeholders.

- 2.1 Develop innovative approaches to educate and increase public awareness.
- 2.2 Expand accessibility through engagement with stakeholders to ensure they are aware of the Panel's existence.
- 2.3 Explore ways to ensure that diverse constituencies are aware of and have access to the Panel.
- 2.4 Develop an outreach and educational plan to inform potential appellants and licensees of their due process rights.

Goal 3 – Organizational Effectiveness

To develop an effective and collaborative work environment while maximizing resources.

- 3.1 Develop an internal evaluation to share the Panel’s effectiveness and make adjustments as needed.
- 3.2 Create an external survey related to the appellants’ experience to improve processes by centralizing feedback from participants in the appeals process.
- 3.3 Establish a metric for evaluating the effectiveness of interactions and agreements between the Panel and its partner agencies to encourage the Panel to build an effective, cooperative relationship with partner agencies, and address issues that impact the Panel.
- 3.4 Evaluate the Panel’s fiscal responsibility to ensure prudent financial stewardship.
- 3.5 Report quarterly on progress made on strategic plan objectives to inform Panel members and to ensure objectives are met within designated timeframe.

Goal 4 – Diversity, Equity, and Inclusion

Ensure equity practices exist in operations, programs, and policies.

- 4.1 Continue equitable hiring practices to eliminate favoritism and bias in hiring processes.
- 4.2 Maintain an inclusive culture that values input from all members of the staff and the Panel so that every staff and Panel member, regardless of background, feels empowered to voice their thoughts and opinions.
- 4.3 Demonstrate respect for opinions voiced by the public and stakeholders to encourage public participation in government agency operations.
- 4.4 Explore and continue to recommend methods of addressing accessibility, translation, or similar requests to promote participation by members of the public.

Strategic Planning Process

To understand the environment in which the Panel operates as well as identify factors that could impact the Panel's success in carrying out its statutory duties, the Department of Consumer Affairs' SOLID Planning Unit conducted a SWOT analysis of the Panel's internal environment through interviews with the Panel members and staff. A total of eight interviews were conducted.

The most significant themes and trends identified from the SWOT analysis were discussed by the Panel during a strategic planning session facilitated by SOLID on March 30, 2022, and the objectives developed were further refined by the staff during a strategic planning session on April 13, 2022. The document was refined and adopted on April 27, 2022.

Cannabis Control Appeals Panel

400 R Street, Suite 320
Sacramento, CA 95811
ccap.ca.gov

Strategic plan adopted April 27, 2022

This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the Cannabis Control Appeals Panel on March 30, April 13, and April 27, 2022.



Prepared by:

SOLID Planning Solutions
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Sacramento, CA 95834

AGENDA ITEM 5

**DISCUSSION AND
ACTION REGARDING
PROPOSED REVISIONS
TO REGULATIONS**

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT

REGULAR PANEL MEETING

September 23, 2022

SUBJECT: Discussion and Action Regarding Proposed Revisions to Regulation Text

BACKGROUND:

Business and Professions Code 26042 requires the Panel to adopt procedures for appeals similar to those made by the Alcoholic Beverage Control Appeals Board (Board), as outlined in Article 3 (commencing with Section 23075) and Article 4 (commencing with Section 23080) of Chapter 1.5 of Division 9 of the Business and Professions Code.

- *ARTICLE 3. The Alcoholic Beverage Control Appeals Board [23075 - 23077]* establishes the Board in state government under the Business, Consumer Services, and Housing Agency, notes that all personnel are under the direction of the Board and refers back to the authority the Board is vested under the California Constitution.
- *ARTICLE 4. Appeals from Decisions of the Department [23080 - 23089]* more specifically outlines how any party aggrieved by a final decision may file with the Board. The section of law outlines how documents shall be delivered, specific timelines that must be followed, how the board derives revenue through surcharges on annual fees, and how final orders may be reviewed by the courts.

Business and Professions Code 26042 also requires the Panel to adopt procedures in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The regular rulemaking process under the Administrative Procedures Act includes comprehensive public notice and comment requirements. This comprehensive process is intended to create an adequate rulemaking record for review by the Office of Administrative Law and the courts.

At the Panel's first meeting, on August 13, 2018, the Panel voted to commence the rulemaking process. The Office of Administrative Law approved CCAP's regulations on April 12, 2019 and have been effective since July 1, 2019.

At the Panel's meeting on September 16, 2021, the Panel voted to commence the rulemaking process due to the recent merger of the three licensing entities, the office location change for CCAP, and the newly developed additional option for appellants to initiate an appeal with CCAP via an online portal. The Office of Administrative Law approved CCAP's regulations on April 5,

2022. The current version of regulations, found in Title 16, Division 45, of the California Code of Regulations at sections 6000 – 6020, have been effective since July 1, 2022.

This agenda item and the Panel’s approval of the proposed amendments is the first step in the rulemaking process.

ANALYSIS:

Since the establishment of CCAP in 2018, only one appeal has been filed (withdrawn by appellant due to lack of ripeness and jurisdiction). While it was expected that not many appeals would be filed early on, the continuing dearth of annual licensees that have availed themselves to the due process that the Panel provides has been of growing concern. Staff has identified the most likely causes contributing to the lack of appeals and has reported to the Panel in the past.

Of the four major contributing factors that staff has identified (the large number of provisional licenses that do not have appeal rights compared to annual licenses that do, the focus of enforcement efforts directed primarily at the illicit market, the annual (versus permanent) nature of a cannabis license, and the absence of a stay of enforcement pending appeal), only one is within the control of CCAP; namely, the procedures related to a stay of enforcement pending appeal.

As noted above, Business and Professions Code 26042 requires the Panel to adopt procedures for appeals similar to those made by the Alcoholic Beverage Control Appeals Board. The relevant statute relating to a stay of execution for the Alcoholic Beverage Control Appeals Board is found at section 23082 of the Business and Professions code and reads:

No decision of the department shall become effective during the period in which an appeal may be filed and the filing of an appeal shall stay the effect of the decision until such time as a final order is made by the board.

The above language is commonly referred to as an “automatic stay” and provides immediate injunctive relief to appellants upon the filing of an appeal. By comparison, no similar provision protects cannabis licensees. Moreover, the regulations governing appeals before CCAP allow for a stay of enforcement pending appeal only where the licensee files a motion demonstrating

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

(Code Regs., tit. 16, § 6014(b).) The burden is on the licensee to establish these factors; in particular, the first factor may prove difficult for most licensees to meet, as the Panel will not yet have access to the administrative record at the time the motion is filed.

Additionally, even where the licensee clearly establishes all three factors, the stay of enforcement is discretionary: “the Panel *may* stay the effect of the underlying decision,” but is not required to do so. (Code Regs., tit. 16, § 6014(a), emphasis added.)

In most cannabis disciplinary cases, then, there is little incentive to pursue an appeal if the motion for stay of enforcement fails. This is especially true for limited-term license suspensions, which may be substantially complete—if not served in their entirety—before Panel staff can review the motion for stay of enforcement. A favorable outcome on appeal would have little value.

Licensees facing revocation or denial will have more incentive to pursue an appeal even absent the stay of enforcement, since a successful appeal could lead to reinstatement. However, there are financial limits—a licensee may not have the funding to put all operations on hold for the duration of an appeal before CCAP. If the loss of a license for a period of several months is enough to push the licensee into insolvency, then it is more likely to cut its losses and forego an appeal before CCAP.

Due to these factors, staff believes that the Panel should initiate the rulemaking process to promulgate a regulation that is substantially similar to the automatic stay provided to alcohol licensees. While an automatic stay would not require an appellant to demonstrate that the stay is not detrimental to the health and welfare of the public, a rebuttable presumption is created by an automatic stay that can be overcome by a showing from the Department that the stay will place the public safety at risk and should not be granted. Staff believes that this burden-shifting to demonstrate public safety risk, from the appellant to the Department, places the onus on the party in the best position to make such a showing.

BUDGET AND FISCAL IMPACTS:

Negligible. An automatic stay may have a minor impact on staff workload due to fewer motions being filed by appellants seeking a stay. This reduction in appellant motions may be offset by motions filed by the department seeking to deny the stay for public safety concerns.

BENEFITS AND RISKS:

There are no known risks associated with approving the proposed regulation text. There are, however, several benefits:

- To provide adequate and meaningful due process for all appellants, despite their financial condition or the type of enforcement action taken against them.
- To provide clear, accurate, and up to date procedures for appeals as mandated by Business and Professions Code 26042.

- To better align the Panel's stay procedures with those of the Alcoholic Beverage Control Appeals Board as required by Business and Professions Code 26042.

ATTACHMENTS:

1. Draft proposed regulation text
2. Current regulation text

RECOMMENDATION:

Approve the proposed regulation text and authorize staff to (1) complete and submit the rulemaking package to the Office of Administrative Law to formally notice the proposed regulation amendments and schedule a hearing on the rulemaking to amend regulations under Title 16, Division 45 of the California Code of Regulations and (2) make non-substantiative changes to the language as needed.

STAFF CONTACT:

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

**CANNABIS CONTROL APPEALS PANEL
TEXT OF PROPOSED REGULATIONS**

**CALIFORNIA CODE OF REGULATIONS
TITLE 16
DIVISION 43. CANNABIS CONTROL APPEALS PANEL**

§ 6014. Stay.

- (a) In any appeal where the underlying decision of the licensing authority is denial of a license renewal, or cancelation, suspension, or revocation of a license, the filing of an appeal shall stay the effect of the decision until such time as a final order is made by the Panel.
- (b) Notwithstanding subsection (a), the licensing authority may file a motion, pursuant to section 6010, demonstrating that the stay would present an immediate danger to the health, safety, and welfare of the public.

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

**CANNABIS CONTROL APPEALS PANEL
TEXT OF REGULATIONS**

**CALIFORNIA CODE OF REGULATIONS
TITLE 16
DIVISION 43. CANNABIS CONTROL APPEALS PANEL**

§ 6014. Stay.

- (a) In any appeal where the underlying decision of the 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 demonstrating that:
 - (1) there is a substantial likelihood that the appellant will prevail in the appeal;
 - (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.

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

AGENDA ITEM 6

**THERE ARE NO
MEETING MATERIALS**

AGENDA ITEM 7

**THERE ARE NO
MEETING MATERIALS**

AGENDA ITEM 8

**THERE ARE NO
MEETING MATERIALS**