



CANNABIS
CONTROL
APPEALS
PANEL

March 22, 2023
PANEL MEETING

STAFF COPY



CANNABIS CONTROL APPEALS PANEL

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CANNABIS CONTROL APPEALS PANEL

GOVERNOR GAVIN NEWSOM

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



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

Cannabis Control Appeals Panel
400 R Street
Sacramento, CA 95811

Note: Video Conference Only

MEETING DATE AND TIME

Wednesday, March 22, 2023
10:00 a.m. to 11:00 a.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.

Join Zoom Video Meeting

<https://us02web.zoom.us/j/85680737003?pwd=RExFSDRvMUxTbnF3NUlFRm02ZHordz09>

Meeting ID: 856 8073 7003

Passcode: 704143

Call-In Information:

+1 669 900 9128

Meeting ID: 856 8073 7003

Passcode: 704143

MEETING AGENDA

- | | | |
|---------------|---|-------------------------|
| Item 1 | Call to Order and Establishment of Quorum
<i>Dr. Diandra Bremond, Chairperson</i> | Action Item |
| Item 2 | Approval of February 9, 2023, Minutes
<i>Dr. Diandra Bremond, Chairperson</i> | Action Item |
| Item 3 | Executive Management Report
<i>Anne Hawley, Executive Director</i> | Information Item |
| Item 4 | Possible Action Regarding Proposed Regulation Amendment to Improve Due Process by Instituting Automatic Stay
<i>Christopher Phillips, Chief Counsel</i> | Action Item |

Item 5	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 6	Future Agenda Items <i>Dr. Diandra Bremond, Chairperson</i>	Procedural Item
Item 7	Adjournment <i>Dr. Diandra Bremond, Chairperson</i>	Procedural Item

NOTICE TO THE PUBLIC

Pursuant to Government Code section 11125.7, 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 Chairperson.

The Cannabis Control Appeals Panel complies with the Americans with Disabilities Act (ADA) by ensuring that the meeting facilities are accessible to persons with disabilities and providing that this notice and information given to the panel members is available to the public in appropriate alternative formats when requested. If you need further assistance, including disability-related modifications or accommodations, you may contact Christopher Phillips at Christopher.Phillips@ccap.ca.gov or (916) 322-6870. Providing your request at least five business days before the meeting will help to ensure availability of the requested accommodation.

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.

Interested parties should access the Panel’s website for the meeting agenda and more information at www.ccap.ca.gov.

AGENDA ITEM 1

**THERE ARE NO
MEETING MATERIALS**

AGENDA ITEM 2

**APPROVAL OF THE
MINUTES**



CANNABIS CONTROL APPEALS PANEL

GOVERNOR GAVIN NEWSOM

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



Open Session Meeting Minutes

Thursday, February 9, 2023

1:33 pm – 2:02 pm

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

Summary:

1. Call to Order and Establishment of Quorum.

Chairperson Diandra Bremond called the teleconference meeting to order at 1:33 pm.

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 October 17, 2022 Meeting Minutes.

Chairperson Bremond asked the Panel if there were any additions or corrections to the minutes of the October 17, 2022 meeting. There were no additions or corrections. No comments from the public.

Motion (Moore): Approve the minutes of the October 17, 2022 meeting as submitted. Seconded (Calderon). Melita Deci took a roll call vote on the motion. Motion passed 3-0.

3. Executive Management Report.

Executive Director Anne Hawley presented the Executive Management Report. Hawley began by thanking Abby Ridge, who is the Administrative and Legislative Analyst for the California Commission on Disability Access. She is providing IT support for the Panel meeting today.

Hawley's report will provide an update on (1) the Panel's financial health and (2) the implementation of the Panel's strategic plan.

First, Hawley discussed the CCAP budget. CCAP's budget is divided into two segments – personal services and operating expenses. The conservative projection is that CCAP will have about \$417,000 remaining for personal services at end of the year. This surplus is due to vacancies in staff positions as well as two unfilled spots on the Panel.

Hawley then moved onto operating expenses, starting off with general expenses. General expenses include items such as office supplies, subscriptions, and bar fees. Hawley noted that if this line item needs additional funding, CCAP can pull from other budget line items. Currently, there is \$54 remaining on this budget line item.

Printing category includes copier rental supplies, graphic services, outreach for brochures, etc. This spending category is still being processed. Cell phones and related services cost around \$9,800. CalNET – which is part of the internet package – is roughly \$1,900.

For the travel category, travel is expected to increase because of the expiration of AB-1733, which allows boards, bureaus, and commissions to hold meetings via teleconference. This bill will expire on July 1, 2023 unless renewed by the Legislature. So far, CCAP staff's outreach efforts have been conducted via teleconference and have not included in-person presentations, but this may change in the future. For facilities operation, this includes rent and security for the building.

For consultant and professional services, they include internal and external transactions. Internal services are provided through interagency agreements with other state agencies. When these expenses are processed, payments will go to the Department of General Services (Office of Human Resources), the Business, Consumer Services and Housing Agency, the Department of Consumer Affairs ("DCA") (for IT support), and DCA again for the new multimedia contract (which is a one-time contract).

For consultant and professional services that are external, incurred costs will go toward annual subscriptions (e.g., web-based legal research tools, translation services for the website, interpreters for hearings, auditing fees for IT audits conducted by the California Military Department).

The Information Technology category includes CCAP's case management system annual subscription (\$60,000) along with internet and cable services. The budget for this category will be increased to \$71,000 next year.

Overall, CCAP is budgeted at \$3,302,000 for personal services and operating expenses combined. Through the first two quarters, CCAP has spent a little over \$1,000,000 with about \$2,344,000 remaining. This includes the \$43,000 reimbursement from the Alcoholic Beverage Control Appeals Board. For the rest of the fiscal year, CCAP is projected to remain under budget because of the lower-than-expected cost for personal services.

Next, Hawley transitioned to discuss the implementation of the Panel's Strategic Plan. As a reminder, Strategic Goal #2 is to provide education on the appeals process for cannabis stakeholders. This week, CCAP completed an interagency agreement with DCA to assist CCAP with multimedia content for outreach and education. Hawley thanked Staff Attorney Brian Hwang, who created the content for these educational materials, as well as Administrative and Business Services Coordinator Melita Deci for executing the interagency agreement. Under the agreement:

- DCA will provide voiceover and audio for seven instructional PowerPoint videos that will educate cannabis stakeholders, appellants, and legal counsel on topics such as briefs, final decisions, Forms 6003 and 6005, jurisdiction, motions, oral argument, etc. These videos will be self-paced and will be housed on CCAP's website and YouTube channel.
- DCA will also provide technical expertise to develop two Public Service Announcements that will be published on CCAP's website and YouTube channel. These PSAs will be 30 seconds to one minute in length, and will educate the public on CCAP's mission and how to go about filing an appeal. The PSAs will feature b-roll, stock images, and CCAP website content.
- Timeline: Script development will begin in March 2023, filming will begin in April, and the editing process will begin in May. The final product is tentatively scheduled to be delivered to CCAP no later than the end of August.

Hawley also provided an update on Strategic Goal #1, which is ensuring that appeals from the decisions of the Department of Cannabis Control are resolved in a fair and timely manner. One of the objectives under this goal is to provide impartial decision making and fairness to all who come before the Panel. Hawley thanked Chief Counsel Chris Phillips for spearheading the effort to amend Rule 6014 within CCAP's regulations to improve due process and fairness by instituting an automatic stay. Hawley thanked the legal staff as a whole – Phillips, Senior Staff Attorney Sarah Smith, and Hwang – for their hard work in the rulemaking process.

Hawley also spoke about the work being done in another objective under Goal #1 – to identify and develop trainings for Panel members to provide a solid foundation on decision making. Under the direction of Phillips, Hwang has completed creating the internal training content on 16 topics which include, but are not limited to, the administrative hearing process, burden of proof, and Panel recusal.

In wrapping up, Hawley thanked the entire CCAP staff for their team effort in implementing the Panel's Strategic Plan. There will be more updates provided at the Panel meeting in March. Hawley completed her presentation and returned the floor to Bremond.

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

4. Public Hearing and Possible Action Regarding Proposed Action Item Regulation Amendment to Improve Due Process by Instituting Automatic Stay.

Before handing the floor to Chief Counsel Phillips, Bremond provided background on the rulemaking process. As discussed at previous Panel meetings, this rulemaking package would amend Rule 6014 of the Panel's regulations to improve due process for appellants by introducing an automatic stay.

Chief Counsel Phillips started his report by outlining the next steps in the rulemaking process. Today's purpose is to conduct a public hearing on the proposed regulation amendment. Back in October 2022, the Panel voted to approve the proposed regulatory change to institute an automatic stay and initiate the 45-day public comment period. The approved text from last October can be found in Attachments 1 and 2 to today's hearing materials. Phillips will refer to those documents as the "original approved text." During the 45-day comment period, which closed at the start of today's hearing, staff has taken steps to amplify CCAP's notice of rulemaking to solicit public feedback and comments. For example, Phillips has given presentations at various cannabis bar events and sought public comment from those in attendance.

As a result of these efforts, two public comments were received. First, the International Cannabis Bar Association's ("INCBA") comment expressed wholehearted support of the proposed change from a merit-based stay to an automatic stay. CCAP appreciates INCBA for taking the time to submit their comment.

The other comment came from the Department of Cannabis Control ("DCC") and is substantive in nature. After reviewing the Department's comment, staff has determined the originally approved text (Attachments 1 and 2) can be amended and improved upon. The revised text that staff is now recommending can be found in Attachments 3 and 4 to today's meeting materials. In their comment, DCC applauds the Panel's efforts in providing cannabis licensees and applicants with fair hearings that respect their procedural rights while also ensuring the protection of the public. Their comment also contains suggestions for improvements. The Department commented that the proposed rules should clarify that: (1) the Panel will vacate the stay if the Department makes the required showing of an immediate harm, and (2) the Department's required showing is in the disjunctive (rather than the conjunctive).

Phillips explained the Department's public comment in greater detail. In the *originally* approved text (prior to the Department's comment), the Department would have to show an immediate danger to the health, safety, *and* welfare of the public in order to succeed on their motion to

have the stay vacated. The “and” links all three scenarios together – the health, safety, and welfare of the public. Under this language, the DCC would have to demonstrate an immediate harm in *all* three categories.

In the *revised* version of the approved text, which takes the Department’s suggestion into consideration, the “and” has been changed to an “or.” The “or” breaks up the three situations into distinct scenarios where any one or a combination of them can be used by the DCC to demonstrate immediate danger to the public. Staff believes this is the more appropriate approach because there may be instances where licensee actions pose a true and immediate danger to the public, but only to public safety and not public welfare or health. The other revision proposed by staff adds a sentence to the end of subdivision (b) which clarifies the action the Panel may take as a result of a motion made by the Department. It reads: “After considering the motion and any opposition, the Panel may vacate the stay.”

After any public comment today, the Panel can choose between two versions of the proposed regulation: (1) the *originally* approved text (see Attachments 1 and 2), and (2) the *revised* text (see Attachments 3 and 4).

Phillips then outlined the four options before the Panel:

- First, the Panel can choose to act on the originally approved text (Attachments 1 and 2) by adopting it and then directing staff to continue with finalizing the rulemaking package.
- Second, the Panel can choose to act on the revised text (Attachments 3 and 4) by approving it for a 15-day public comment period. Following the conclusion of that period, at the next Panel hearing, the Panel would be right back to considering the revised text and whether to adopt it before proceeding with the final rulemaking package.
- Third, the Panel can choose to act on the originally approved text by rejecting it to end the rulemaking process altogether.
- Fourth, the Panel can choose not to act on *either* version of the text (original or revised), and postpone the matter until the next Panel hearing. This may be appropriate if, for example, there is additional public comment today and the Panel wants additional time to deliberate.

Phillips opened the floor for any questions from the Panel or the public. No questions from the public. Prior to a motion being made on this agenda item, Panel members expressed confusion regarding the options before them and which of the options is being recommended by CCAP staff.

Chief Counsel Phillips clarified the different options available to the Panel, depending on the version of the proposed regulation text. The difference between moving forward with Attachments 1 & 2 versus Attachments 3 & 4 is that the former (*originally* approved text) has already undergone and completed the 45-day public comment period. With the latter (*revised*

text integrating the Department's suggestions), this is a new version with new edits that have not yet gone through the public comment process.

With that clarification made, Phillips specified which of the four options CCAP staff is recommending. Staff recommends that the Panel go with the second option, that is, approving Attachments 3 & 4 (*revised* text) to go out for a 15-day public comment period. At the end of that period, the Panel will have the opportunity to adopt the revised language and proceed with finalizing the rulemaking process.

The motion being voted on, then, is to approve the *revised* regulation text (see Attachments 3 and 4) to go out for a 15-day public comment period. Chairperson Bremond confirmed this is the motion being voted on.

Motion (Moore): Approve the *revised* proposed regulation text of Rule 6014 (Attachments 3 and 4), and authorize staff to notice a 15-day public comment period. Seconded (Calderon). Melita Deci took a roll call vote on the motion. Motion passed 3-0.

5. Election of the Chairperson.

Chief Counsel Phillips stated it is time for the annual election of the Panel Chairperson for the next year.

Before conducting the election, Phillips provided an overview of election procedures. The first step is to determine any and all candidates, including self-nominations. Once the candidates are determined, each one may provide a statement or speech in support of their candidacy. Melita Deci will then take a roll call vote in which each Panel member may vote for only one candidate. If there is a tie, those procedures will be explained later.

Phillips asked for interested candidates to identify themselves and to provide a speech, if desired. Bremond self-nominated and remarked that it has been a pleasure serving as Chairperson to date. Phillips asked if anyone else was interested as a candidate. There were no other candidates.

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

Melita Deci then took a roll call vote on Bremond being re-elected as Chairperson. The Panel voted 3-0 in favor of Bremond's re-election. Bremond thanked the Panel members and CCAP staff.

6. 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.

7. Future Agenda Items.

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

8. Adjournment.

Motion (Moore). Adjourn the meeting. Seconded (Calderon). Meeting adjourned at 2:02 pm.

AGENDA ITEM 3

**EXECUTIVE MANAGEMENT
REPORT**

(NO MEETING MATERIALS)

AGENDA ITEM 4

**POSSIBLE ACTION REGARDING
PROPOSED REGULATION
AMENDMENT TO IMPROVE
DUE PROCESS BY
INSTITUTING AUTOMATIC
STAY**

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT

REGULAR PANEL MEETING

March 22, 2023

SUBJECT: Possible Action Regarding Proposed Regulation Amendment to Improve Due Process by Instituting Automatic Stay

BACKGROUND:

Business and Professions Code section 26042 requires the Panel to adopt procedures for appeals similar to those used by the Alcoholic Beverage Control Appeals Board (the 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 [sections 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 to the authority vested in the Board under the California Constitution.
- *ARTICLE 4. Appeals from Decisions of the Department [sections 23080 - 23089]* more specifically outlines how any party aggrieved by a final decision of the Department of Alcoholic Beverage Control may file an appeal with the Board. These sections dictate 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 of the Board may be reviewed by the courts.

Business and Professions Code section 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. Those regulations 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, has been effective since July 1, 2022.

At the October 17, 2022, Panel Meeting, the Panel voted to approve the proposed regulatory change to institute an automatic stay and to initiate the 45-day public comment period as required by the Administrative Procedure Act. The public comment period ends at 1:30 pm on February 9, 2023. As of the drafting of this staff report, the only public comment that has been received is from the Department of Cannabis Control. If any additional comments are received during the remaining comment period or at the public hearing itself, the Panel will have the opportunity to consider those comments prior to taking any final action on the proposed regulatory change.

At the Panel's February 9, 2023, Panel Meeting, the Panel considered revised regulation text proposed by staff. Staff proposed the revised text after receiving a public comment from the Department of Cannabis Control. The Department suggested that the proposed rules should clarify that the Panel will vacate a stay if the Department makes the required showing, and that the proposed rules should clarify that the Department's required showing is disjunctive. The Panel voted to approve the revised proposed regulation text (Attachments 1 and 2) and authorize staff to notice a 15-day public comment period. The 15-day public comment period ran from February 16, 2023, to March 3, 2023. No additional public comments were received.

This agenda item and the Panel's adoption of the proposed amendments is a necessary and required step in the rulemaking process.

ANALYSIS:

Since the establishment of CCAP in 2018, only two appeals have been filed before the Panel (one withdrawn by appellant due to lack of ripeness and jurisdiction, and the other dismissed for lack of jurisdiction). While it was expected that few 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 section 26042 requires the Panel to adopt procedures for appeals similar to those governing the Alcoholic Beverage Control Appeals

Board. The relevant statute relating to a stay of enforcement 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 filing appeals before the Panel. Moreover, the regulations governing appeals before CCAP allow for a stay of enforcement pending appeal only where the licensee files a motion 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.

(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 the Panel. 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 the Panel.

Due to these factors, staff believes that the Panel should complete 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 of Cannabis

Control 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, and protects the public by allowing the stay to be withheld in cases involving particularly egregious or dangerous violations.

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 adopting 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 section 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 section 26042.

ATTACHMENTS:

1. Approved proposed regulation text (marked up)
2. Approved proposed regulation text (clean)

RECOMMENDATION:

Adopt the approved proposed regulation text (Attachments 1 and 2) and authorize staff to complete and submit the rulemaking package to the Office of Administrative Law to amend section 6014 of the California Code of Regulations, Title 16, Division 43.

STAFF CONTACT:

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

**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.~~ 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 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.~~ 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 or~~ welfare of the public. *After considering the motion and any opposition, the Panel may vacate the stay.*

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

**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, or welfare of the public. After considering the motion and any opposition, the Panel may vacate the stay.

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

AGENDA ITEM 5

**PUBLIC COMMENTS ON
ITEMS NOT ON THE
AGENDA**

(NO MEETING MATERIALS)

AGENDA ITEM 6

**THERE ARE NO
MEETING MATERIALS**

AGENDA ITEM 7

**THERE ARE NO
MEETING MATERIALS**