



CANNABIS CONTROL APPEALS PANEL

August 15, 2023
PANEL MEETING

STAFF COPY



CANNABIS CONTROL APPEALS PANEL

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



MEETING DATE AND TIME

Tuesday, August 15, 2023
10:00 a.m. to 11:00 a.m.
(Or conclusion of business)

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

SACRAMENTO COUNTY

Cannabis Control Appeals Panel
400 R Street
Hearing Room, Suite 330
Sacramento, CA 95811

Note: Open to the public

ORANGE COUNTY

Department of Alcoholic
Beverage Control
2 MacArthur Place, Room 200
Santa Ana, CA 92707

Note: Open to the public

NOTICE TO THE PUBLIC

HOW TO PARTICIPATE: Under Government Code section 11123, all teleconference locations are listed above, and are accessible to the public. If you wish to participate in person, you may attend any of the above public locations. Alternatively, members of the public may participate remotely by either watching the meeting through Zoom (using the link below) or listening to the meeting by phone (using the call-in information below):

Join Zoom Video Meeting

<https://us02web.zoom.us/j/87471052640?pwd=QVJ5cStlZkUrM01aSDB1RVZoczBSZz09>

Meeting ID: 874 7105 2640

Passcode: 371856

Call-In Information:

Phone Number: +1 669-444-9171

Meeting ID: 874 7105 2640

Passcode: 371856

MEETING ACCESSIBILITY: This panel meeting 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 Christopher.Phillips@ccap.ca.gov, (916) 322-6870, or in writing to: Cannabis Control Appeals Panel, 400 R Street, Suite 320, Sacramento, CA 95811. Providing your request at least one week before the meeting will help to ensure availability of the requested accommodation.

ADDITIONAL INFORMATION OR REQUESTS: Interested parties may access the meeting agenda and more information at <http://www.ccap.ca.gov>. All other inquiries (such as translation services) should also be directed to Christopher Phillips at least one week prior to the meeting.

IMPORTANT NOTICES: All times and the order of agenda items are subject to change at the discretion of the Panel Chair. Action may be taken on any item listed on the agenda. The meeting may be cancelled without notice. Public comment on items of discussion will be taken during each item. If public comment is not specifically requested, members of the public should feel free to request an opportunity to comment. The time allotted for public comment may be limited at the discretion of the Chair.

MEETING AGENDA

Item 1	Call to Order and Establishment of Quorum <i>Dr. Diandra Bremond, Chairperson</i>	Action Item
Item 2	Approval of March 22, 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	Update on SB-544, Bagley-Keene <i>Christopher Phillips, Chief Counsel</i> <i>Brian Hwang, Staff Attorney</i>	Information Item
Item 5	Designate Quarterly Meeting Dates (2023-2024) <i>Dr. Diandra Bremond, Chairperson</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	Closed Session <i>Dr. Diandra Bremond, Chairperson</i> a. Annual review of the Executive Director pursuant to Government code §11126(a)(1).	Procedural Item
Item 9	Adjournment <i>Dr. Diandra Bremond, Chairperson</i>	Procedural Item

AGENDA ITEM 1

No Meeting Materials

AGENDA ITEM 2

Approval of the
Minutes



Open Session Meeting Minutes

Wednesday, March 22, 2023
10:03 am – 10:17 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

Summary:

1. Call to Order and Establishment of Quorum.

Chairperson Diandra Bremond called the teleconference meeting to order at 10:03 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 February 9, 2023 Minutes.

Chairperson Bremond asked the Panel if there were any additions or corrections to the minutes of the February 9, 2023 meeting. There were no additions or corrections. No comments from the public.

Motion (Moore): Approve the minutes of the February 9, 2023 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.

As an initial matter, Hawley informed the Panel that the third quarter budget-to-actuals report will be shared at a future Panel meeting in April or May. This is because the books for the third quarter won't be closed until March 31.

Hawley's report then covered CCAP's Strategic Plan Implementation. She discussed the four items that CCAP staff has been working on to implement Goal #2 – Outreach and Education.

First, the Department of Consumer Affairs' ("DCA") Public Affairs has finished designing the new PowerPoint template for CCAP. This template will be used as the background for CCAP's internal and external educational materials that will be housed on CCAP's website.

Second, DCA will record the voiceover and complete the final production for the outreach and educational training videos by no later than the end of this August.

Third, for the Public Service Announcements, the script is currently being edited. B-Roll filming will take place in April, and the final product will be delivered this August.

Fourth, the one-page flyer about appeal rights is close to being finalized. This flyer will outline an annual licensee's appeal rights as well as instruct on how to file an appeal and how to find resources. It will be housed on the website and hard copies will also be sent to annual licensees. These flyers will also be made available to other stakeholders like legislative offices that may need rapid information to provide to constituents who are struggling with the licensing process. The production on this will probably conclude around late March or early April.

In closing, Hawley thanked CCAP staff for their efforts in the strategic plan implementation. She thanked the legal staff – Chief Counsel Chris Phillips, Senior Staff Attorney Sarah Smith, and Staff Attorney Brian Hwang – for creating the content for all these projects. Hawley also thanked Administrative and Business Services Coordinator Melita Deci for executing all the contracts that have made these projects possible.

Hawley completed her presentation and returned the floor to Bremond.

Panel member Calderon asked for a quick clarification about the flyer. Calderon was wondering if the "Department" referenced in the flyer functions as a link to a web page. Hawley stated this is something they could add to the electronic version of the flyer. Hawley also commented that

the final version of the flyer might want to make it clear it applies to *California* annual licensees and applicants. This is because many businesses hold cannabis licenses in multiple states.

Calderon replied by clarifying he was curious about the reference to a “Department” in the parenthetical after “Department of Cannabis Control.” He wanted to know if that was just text or something else (e.g., a link to an external page). Hawley clarified that “Department” is listed in parenthesis to indicate that it is an abbreviation for “Department of Cannabis Control” and that other references to “Department” in the document refers to the same. On this note, Hawley stated it might be better to abbreviate it as “DCC” instead of “Department” since it is shorter. Calderon agreed.

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

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

Chief Counsel Phillips started his report by informing the Panel that this is the next step in the rulemaking process. Depending on the outcome today, this may be the last time the Panel has to take any actions in this particular rulemaking.

Phillips then briefly summarized the process. Last October, the Panel voted to approve proposed regulatory language from CCAP staff and make it available for a 45-day public comment period. CCAP received one substantive comment from the Department of Cannabis Control. Based on the Department’s suggestions, staff believed additional revisions were warranted and made further amendments to the proposed regulatory language. At the last Panel meeting in February, the Panel voted to approve these new amendments and make them available for a 15-day public comment period. No public comments were received.

Today, the Panel is presented with proposed regulatory text that has been fully vetted and has gone through the required public comment periods. The next step for the Panel, then, is to formally adopt that text and have staff proceed to finalizing the rulemaking process. The text can be found in Attachments 1 and 2. The first attachment is the “marked-up” version which shows all the underlines, strikethroughs, etc. The second attachment is the “clean” version which shows only the final text.

Phillips then outlined staff’s recommendation. Staff recommends that the Panel adopt the approved regulation text and authorize staff to complete and submit the rulemaking package to the Office of Administrative Law (“OAL”). In terms of timing, if this text is adopted today, CCAP will likely submit the final rulemaking package first to Agency (Business, Consumer Services and Housing Agency) for their approval – which can take up to 30 days. After this, it would probably be around the end of April when CCAP submits the final rulemaking package to OAL. If OAL reviews and approves CCAP’s package without delay, the new regulation will likely be effective beginning July 1, 2023. However, if OAL’s approval process is delayed or CCAP is delayed in

submitting the final rulemaking package to OAL, the new regulation will probably not be effective until the next quarter – October 1, 2023.

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

Motion (Calderon): 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 Rule 6014. Seconded (Moore). Melita Deci took a roll call vote on the motion. Motion passed 3-0.

5. 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.

6. Future Agenda Items.

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

7. Adjournment.

Motion (Moore). Adjourn the meeting. Seconded (Calderon). Meeting adjourned at 10:17 am.

AGENDA ITEM 3

Executive Management Report

(No Meeting Materials)

AGENDA ITEM 4

Update on SB-544,
Bagley-Keene

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT

REGULAR PANEL MEETING

August 15, 2023

SUBJECT: Pending Legislation Presentation: Senate Bill 544

BACKGROUND:

Existing law, under the Bagley-Keene Open Meeting Act, requires – with limited exceptions – that all meetings of a state body be open and public, and all members of the public be permitted to attend any meeting of the state body. Bagley-Keene further permits meetings to be held remotely through a teleconference subject to certain requirements, such as the state body posting agendas at all teleconference locations.

On March 17, 2020, Governor Newsom issued Executive Order (“EO”) N-29-20, citing that complying with open meeting requirements during COVID-19 would be impracticable. To minimize delays to state operations and to protect the public, EO N-29-20 authorized state bodies to hold public meetings via teleconference and waived many of the teleconference requirements under Bagley-Keene, such as each teleconference location being open to the public. In 2022, Senate Bill 189 extended this waiver through July 1, 2023. Since July 1, CCAP has resumed complying with the standard requirements of Bagley-Keene.

SB 544, introduced in the Senate, would codify EO N-29-20 and amend existing law to remove certain teleconference requirements under Bagley-Keene that were waived under the Governor’s Executive Order.

ANALYSIS:

According to the bill’s author, although the Governor’s order was intended to be temporary, the state saw “significant benefits of remote meetings such as increased participation and reduced operating costs to the state.” The author’s office added that “SB 544 will empower California voices all across the state.”

Among key changes, SB 544 would eliminate the requirement that CCAP post meeting agendas at all teleconference locations (including those of Panel members), that each teleconference location be identified in the meeting notice and agenda, and that each teleconference location be accessible to the public. Under this bill, CCAP must provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting at least one physical address, and provide an opportunity for the public to address the Panel directly. Furthermore, SB 544 would allow a member of CCAP staff to satisfy the requirement

that someone be physically present at the physical location specified in the meeting notice, as opposed to existing law which requires the physical presence of a Panel member.

UPDATES:

SB 544 was heard by the Assembly Committee on Governmental Organization on July 12, 2023. At the hearing, the bill's author agreed to make two amendments to the bill.

The first revision adds a sunset date of January 1, 2026. According to the Committee's bill analysis, this will allow for "further analysis of the implementation and overall impact of this and previous Bagley-Keene waivers."

The second revision requires that a quorum of the state body be present at one physical location for at least 50 percent of the meetings held by the state body each year. According to the Committee's bill analysis, this amendment would provide the public "with the opportunity to participate in person and interact directly with members at designated meetings."

In practical terms, this means a minimum of three Panel members must be present at one public location for at least half of CCAP's meetings each year. The location for these meetings will generally be CCAP's hearing room in Sacramento.

CCAP may continue to run all remaining public meetings in a manner identical to the way they have been run over the last three years. Panel members can attend these meetings remotely, without the necessity of noticing their remote locations or being accessible to the public.

BUDGET AND FISCAL IMPACTS:

To the extent the Panel meets remotely, CCAP will save on travel costs as well as costs that would otherwise be required for in-person meetings (e.g., technical support, security services).

These savings, however, will likely be reduced or negated by the costs incurred from holding in-person meetings as required by the recent amendments. To comply with these amendments, CCAP staff would also have to create and follow two separate processes depending on whether an upcoming meeting is "in-person" or "remote" – which may cause additional strain on resources.

BENEFITS AND RISKS:

The benefits of SB 544 include the following:

- Increased flexibility by allowing Panel members and CCAP staff to hold meetings remotely while spread across California.
- Protects Panel members' privacy, safety, and well-being by eliminating the requirement that their remote meeting locations be disclosed and accessible to the public.

- Decrease in travel and operating costs to CCAP and California taxpayers.
- Promotes equity and greater participation by allowing the public to attend Panel meetings remotely if they are unable to do so in person (e.g., low-income individuals, individuals living in rural areas, individuals with disabilities, etc.). For example, appellants (and their attorneys) can appear before the Panel remotely and save on travel costs. It would also reduce other costs they would otherwise incur from being away from their home or business to travel to appear before the Panel in person.
- Ensures accessibility by requiring CCAP to implement and advertise a process for receiving and processing requests for reasonable modification or accommodation from individuals with disabilities when meetings are held electronically or remotely. Please note that this practice has already been implemented by CCAP.

The risks include the following:

- Reduced flexibility by limiting the number of remote meetings CCAP can hold each year.
- Reduced savings in travel and operating costs to CCAP and California taxpayers by requiring at least 50 percent of meetings to be held in person each year.

ATTACHMENTS:

None.

STAFF CONTACT:

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

AGENDA ITEM 5

Designate Quarterly
Meeting Dates
(2023-2024)
(No Meeting Materials)

AGENDA ITEM 6

Public Comments on
Items Not on the
Agenda

(No Meeting Materials)

AGENDA ITEM 7

Future Agenda Items
(No Meeting Materials)

AGENDA ITEM 8

Closed Session

(Meeting Materials Provided by
the Department of Consumer
Affairs)

AGENDA ITEM 9

Adjournment

(No Meeting Materials)