CANNABIS CONTROL APPEALS PANEL

April 28, 2026
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 Tomiquia Moss

MEMBERS OF THE PANEL
Dr. Diandra Bremond – Chairperson, Los Angeles County
Cathryn Rivera – Member, Sacramento County
Jim Wood – Member, Sonoma County
Josh Newman – Member, Orange County

MEETING DATE AND TIME
Tuesday, April 28, 2026
10:00 a.m. to 12:00 p.m.
(Or conclusion of business)

MEETING LOCATION
Cannabis Control Appeals Panel
400 R Street, Suite 330
Sacramento, CA 95811
(Open to the public)

NOTICE TO THE PUBLIC

If you wish to participate in person, you may attend the above public location. Or members of the public may take part remotely. You can watch the meeting through Zoom using the link below. You can also listen by phone using the call-in information.

Join Zoom Video Meeting
https://us02web.zoom.us/j/88491804873?pwd=B9TYrxuaDRnazYiqjb3XrbFzbVygaK.1
Meeting ID: 884 9180 4873
Passcode: 414395

Call-In Information:
Phone Number: 1-669-900-9128
Meeting ID: 884 9180 4873
Passcode: 414395

MEETING AGENDA

Item 1	**Call to Order and Establishment of Quorum** *Dr. Diandra Bremond, Chairperson*	**Action Item**
Item 2	**Approval of the Minutes** *Dr. Diandra Bremond, Chairperson*	**Action Item**
Item 3	**Executive Management Report** *Anne Hawley, Executive Director*	**Information Item**
Item 4	**Administrative Delegations** *Christopher Phillips, Chief Counsel*	**Action Item**

Item 5	**Panel Handbook Updates** *Christopher Phillips, Chief Counsel*	**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** *Dr. Diandra Bremond, Chairperson*	**Procedural Item**
Item 8	**Closed Session** CCAP Case No. 2025-08-DCC-0003 SANTA ANA MAIN DISTRO, LLC dba O'Mina Distribution, Inc. Department Decision: DCC23-0002236-INV License: C11-0001780-LLC Deliberation heard under the authority of Government Code section 11126 (c)(6).	**Action Item**
Item 9	**Adjournment** *Dr. Diandra Bremond, Chairperson*	**Procedural Item**

NOTICE TO THE PUBLIC

MEETING ACCESSIBILITY: A person who needs a disability-related accommodation 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.

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

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

AGENDA ITEM 1

No Meeting Materials

AGENDA ITEM 2

Approval of the
Minutes

CANNABIS CONTROL APPEALS PANEL

Open Session Meeting Minutes

Tuesday, March 10, 2026
10:32 am – 12:35 pm

Cannabis Control Appeals Panel
400 R Street
Sacramento, CA 95811

Members present:

- Dr. Diandra Bremond, Chairperson (in Sacramento County – In Person)
- Cathryn Rivera, J.D. (in Sacramento County – In Person)
- Jim Wood (in Sacramento County – In Person)
- Josh Newman (in Sacramento County – In Person)

Staff present:

- 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, Senior Staff Attorney, Cannabis Control Appeals Panel
- Melita Deci, Administrative and Business Services Coordinator, Cannabis Control Appeals Panel
- Ruben Garza, Office Technician, Cannabis Control Appeals Panel

Summary:

1. **Call to Order and Establishment of Quorum.**

Chairperson Diandra Bremond called the teleconference meeting to order at 10:32 am.

Melita Deci took the roll call vote. Panel Members Diandra Bremond, Cathryn Rivera, Jim Wood, and Josh Newman were present. A quorum was established.

2. **Hearing.**

The Panel heard oral argument on CCAP Case No. 2025-08-DCC-0003. Appellant is Santa Ana Main Distro, LLC (dba O'Mina Distribution, Inc.) and Respondent is the Department of Cannabis

Control. This is an appeal from Department Case No. DCC23-0002236-INV. Both parties were represented by counsel. Appellant was represented by Raza Lawrence, who appeared remotely before the Panel. The Department was represented by Matthew Beasley, who appeared in person before the Panel.

Following oral argument, open session suspended at 11:40 am for Panel deliberation in closed session, under the authority of Government Code section 11126(c)(6). Open session resumed at 12:34 pm.

Chairperson Bremond informed both parties that the Panel completed its deliberation and will take the matter under submission. Bremond instructed the parties that they will be notified when the Panel issues its Final Decision.

3. Approval of the Minutes.

Chairperson Bremond asked the Panel if there were any additions or corrections to the minutes of the November 17, 2025, meeting. There were no additions or corrections. No comments from the public.

Motion (Wood): Approve the minutes of the November 17, 2025, meeting as submitted. Seconded (Newman). Melita Deci took a roll call vote on the motion. Motion passed 4-0.

4. Executive Management Report.

Executive Director Hawley deferred presenting the report and submitted it for the record. Hawley explained the report would be uploaded to CCAP's website as soon as feasible. Hawley then opened the floor for questions.

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

5. Election of the Chairperson.

As this is the first meeting of the year, Chairperson Bremond stated it is time to elect the next Chair. Bremond then handed the floor to Chief Counsel Phillips to oversee the voting process.

Phillips explained the election process. The first step is to identify the candidates, including self-nominations. Once all candidates are determined, each may provide a statement or speech in support of their candidacy. There will then be a roll call vote in which each Panel member may vote for only one candidate. Tie-breaking procedures will be explained later – if necessary.

Phillips opened the floor for nominations. Panel Member Newman nominated Bremond to continue serving as Chairperson. There were no other candidates. Melita Deci then took a roll call vote on Bremond being re-elected as Chairperson. The Panel voted 4-0 in favor of Bremond's re-election.

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 (Newman). Adjourn the meeting. Seconded (Wood). Meeting adjourned at 12:35 pm.

AGENDA ITEM 3

Executive Management Report

(No Meeting Materials)

AGENDA ITEM 4

Administrative Delegations

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT
DELEGATION RESOLUTION 26-01

REGULAR PANEL MEETING
APRIL 28, 2026

SUBJECT: Proposed Delegation of Review of Appellant Requests for Extension of Deadline to File Administrative Record to Executive Director.

BACKGROUND:

Panel rule 6004, subsection (a), provides that, after filing a Notice of Appeal with the Panel,

> [T]he appellant shall have 60 days to obtain the complete underlying administrative record from the Office of Administrative Hearings . . . and submit the original hardcopy and one electronic version to the Panel at its Sacramento office. Failure to submit a complete administrative record within the time set forth in this subsection may result in dismissal of the matter pursuant to section 6011.

(Code Regs., tit. 16, § 6004(a).) However, rule 6004 also states,

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

(Code Regs., tit. 16, § 6004(d).)

ANALYSIS:

Panel rule 6004 imposes a strict 60-day deadline for the appellant to submit the complete administrative record in any pending appeal. The record must be submitted in both electronic and hardcopy. Failure to timely submit the administrative record constitutes cause for dismissal of an appeal, with prejudice—depriving the appellant of any further review of Department disciplinary action.

Acquisition of the administrative record can present a logistical and financial hurdle. In some cases, an appellant may face impediments or delays that make it impossible, or unduly onerous, to meet the 60-day deadline. This is especially true in more complex cases, where hearings often span multiple days and include dozens of exhibits, generating a multi-volume administrative record consisting of thousands of pages. In such cases, the Panel must have the capacity to expeditiously review and decide any request for an extension of the 60-day deadline, lest the appellant miss the deadline and face dismissal.

Rule 6004 explicitly permits the Panel to delegate review of these requests to the Executive Director. Such a delegation would dramatically increase the speed at which the Panel could review any request for an extension of the deadline. This would provide certainty to appellants facing logistical delays and may even protect their right to an appeal.

Staff therefore proposes the following delegations:

1. Upon appellant's motion showing good cause, and absent a stipulated agreement between the parties, the Executive Director shall have the authority to grant an extension of the 60-day deadline to submit the administrative record.
2. The Executive Director shall have the discretion to decide the length of any extension granted. There is no limit on the amount of time by which the Executive Director may extend this deadline, provided the extension is reasonable and the appellant has demonstrated good cause.
3. Upon a written stipulated agreement between the parties, the Executive Director shall grant a single extension of the deadline to submit the administrative record. The length of this extension shall reflect the agreement reached by the parties, but shall not exceed 20 days. The parties need not demonstrate good cause in support of a stipulated extension. Only one such stipulated extension shall be granted.

BUDGET AND FISCAL IMPACTS:

Adopting this delegation may result in a modest reduction in cost to Panel operations. Absent this delegation, the full Panel would be required to meet, discuss, and vote on whether the appellant has demonstrated good cause for an extension of the deadline, and to determine the appropriate amount of time by which to extend it. Because this Panel is subject to the Bagley-Keene Open Meeting Act, any such proceedings would be subject to its requirements, including notice and a quorum. The Panel would therefore face associated costs, including travel expenses for at least some Panel members. Moreover, the appellant's request would need to be reviewed as swiftly as the Act permits, potentially incurring higher costs for short-notice travel.

The financial impact for appellants is potentially much more dramatic. Per-page administrative record reproduction costs can quickly become prohibitively steep as the turnaround time shrinks. The longer the Panel takes to decide whether to grant a request for a deadline extension, the more the appellant will be expected to pay.

BENEFITS AND RISKS:

This delegation would allow the Panel to reach a swift determination on any request for an extension of the deadline to submit the administrative record. This would benefit appellants by providing certainty, by avoiding the costs associated with short-notice record reproduction, and by potentially preserving appeal rights if logistical impediments preclude timely record submission. It would also benefit the Panel by modestly reducing the costs associated with holding a full Bagley-Keene compliant meeting.

Risks are negligible and consist of entrusting judgment to the Executive Director who is appointed by the Panel.

ATTACHMENTS:

1. Proposed Delegation Resolution 26-01.

RECOMMENDATION:

Approve the Proposed Delegation Resolution.

STAFF CONTACT:

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

CANNABIS CONTROL APPEALS PANEL

DELEGATION RESOLUTION

Subject: Executive Director **Delegation No. 26-01**

Pursuant to Code of Regulations, title 16, section 6004, subsection (d), the Cannabis Control Appeals Panel hereby delegates to the Executive Director the authority to act finally with respect to the matters outlined below:

1. Upon appellant's motion showing good cause, and absent a stipulated agreement between the parties, the Executive Director shall have the authority to grant an extension of the 60-day deadline to submit the administrative record.
2. The Executive Director shall have the discretion to decide the length of any extension granted. There is no limit on the amount of time by which the Executive Director may extend this deadline, provided the extension is reasonable and the appellant has demonstrated good cause.
3. Upon a written stipulated agreement between the parties, the Executive Director shall grant a single extension of the deadline to submit the administrative record. The length of this extension shall reflect the agreement reached by the parties, but shall not exceed 20 days. The parties need not demonstrate good cause in support of a stipulated extension. Only one such stipulated extension shall be granted.

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

This delegation is effective immediately upon signature by both parties. This delegation has no effect on any prior delegation of authority.

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

Dated: ______________

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DR. DIANDRA BREMOND, PANEL CHAIR
CANNABIS CONTROL APPEALS PANEL

Dated: ______________

____
ANNE HAWLEY, EXECUTIVE DIRECTOR
CANNABIS CONTROL APPEALS PANEL

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT
DELEGATION RESOLUTION 26-02

REGULAR PANEL MEETING
APRIL 28, 2026

SUBJECT: Proposed Delegation of Review of Motions for Extension of Briefing Deadline to Executive Director.

BACKGROUND:

Panel rule 6006, subsection (e), supplies all briefing deadlines in appeals before this Panel. (See Code Regs., tit. 16, § 6006(e).) Ordinarily, the opening brief is due 30 days after submission of the administrative record; the opposition brief is due 15 days after the opening brief is filed; and any reply brief is due within seven days after the opposition brief is filed. (*Id.*)

However, the rule also provides,

> Any party to the appeal may file a motion in accordance with section 6010 to request an extension of time within which to file a brief. Motions may only be granted by the Panel upon a showing of good cause.

(Code Regs., tit. 16, § 6006(e).)

ANALYSIS:

Panel rule 6006, subsection (e), provides all briefing deadlines for appeals before the Panel. However, the same provision permits any party to file a motion for an extension of the deadlines to file any brief.

In the case of opposition and reply briefs, the standard deadline is quite short—15 days and 7 days, respectively, from the filing of the opposing party's previous brief. Panel meetings must be conducted in compliance with the Bagley-Keene Open Meeting Act, which requires at least 10 days of public notice before any Panel meeting. It would therefore be challenging to coordinate, calendar, and notice a meeting to review a motion to extend the deadline to file an opposition brief, and logistically impossible for the Panel to review any motion to extend the deadline for a reply brief.

Moreover, during the Bagley-Keene 10-day notice period, the moving party remains in a state of ambiguity, with no way of knowing if the briefing deadline will be extended or not. They must proceed as if the motion would be denied, or face losing at least ten days of preparation.

In sum, requiring the full Panel to consider any motion for extension of a briefing deadline renders the rule dysfunctional, and in some cases, fully deprives a party of any possibility of a deadline extension.

Delegation to the Executive Director, on the other hand, would permit these motions to be resolved very quickly, potentially even within one business day.

Staff therefore proposes the following delegations:

1. Upon appellant's motion showing good cause, and absent a stipulated agreement between the parties, the Executive Director shall have the authority to grant an extension of the deadline to submit any brief.
2. The Executive Director shall have the discretion to decide the length of any extension granted. There is no limit on the amount of time by which the Executive Director may extend the deadline to submit a brief, provided the Executive Director determines that the appellant has demonstrated good cause.

BUDGET AND FISCAL IMPACTS:

Adopting this delegation may result in a modest reduction in cost to Panel operations. Absent this delegation, the full Panel would be required to meet, discuss, and vote on whether the appellant has demonstrated good cause for an extension of the deadline, and to determine the appropriate amount of time by which to extend it. Because this Panel is subject to the Bagley-Keene Open Meeting Act, any such proceedings would be subject to its requirements, including notice and a quorum. The Panel would therefore face associated costs, including travel expenses for at least some Panel members. Moreover, the appellant's request would need to be reviewed as swiftly as the Act permits, potentially incurring higher costs for short-notice travel.

BENEFITS AND RISKS:

This delegation would allow the Panel to reach a swift determination on any motion for extension of a briefing deadline. The benefit in this context is dramatic because the deadlines for filing briefs—especially opposition and reply briefs—are quite short, making it difficult or even impossible to conduct a Bagley-Keene compliant Panel meeting in order to review and decide on a motion to extend briefing deadlines. Absent this delegation, the Panel would likely be unable to decide many of these motions.

Moreover, this delegation would benefit the parties by allowing for adaptability in the event of unforeseen circumstances, and by better allowing them to manage schedules and workloads by quickly resolving the ambiguity created when the opposing party files a motion for extension of briefing deadlines.

Risks are negligible and consist of entrusting judgment to the Executive Director who is appointed by the Panel.

ATTACHMENTS:

1. Proposed Delegation Resolution 26-02.

RECOMMENDATION:

Approve the Proposed Delegation Resolution.

STAFF CONTACT:

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

CANNABIS CONTROL APPEALS PANEL

DELEGATION RESOLUTION

Subject: Executive Director **Delegation No. 26-02**

Pursuant to Code of Regulations, title 16, section 6006, subsection (e), the Cannabis Control Appeals Panel hereby delegates to the Executive Director the authority to act finally with respect to the matters outlined below:

1. Upon appellant's motion showing good cause, and absent a stipulated agreement between the parties, the Executive Director shall have the authority to grant an extension of the deadline to submit any brief.
2. The Executive Director shall have the discretion to decide the length of any extension granted. There is no limit on the amount of time by which the Executive Director may extend the deadline to submit a brief, provided the Executive Director determines that the appellant has demonstrated good cause.

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

This delegation is effective immediately upon signature by both parties. This delegation has no effect on any prior delegation of authority.

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

Dated: ______________

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DR. DIANDRA BREMOND, PANEL CHAIR
CANNABIS CONTROL APPEALS PANEL

Dated: ______________

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ANNE HAWLEY, EXECUTIVE DIRECTOR
CANNABIS CONTROL APPEALS PANEL

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT
DELEGATION RESOLUTION 26-03

REGULAR PANEL MEETING
APRIL 28, 2026

SUBJECT: Proposed Delegation of Review of Motions to Waive Briefing Page Length Restrictions to Executive Director.

BACKGROUND:

Panel rule 6006, subsection (c), provides the page limits for opening, opposition, and reply briefs filed before the Panel. (See Code Regs., tit. 16, § 6006(c)(1)-(3).) However, subsection (d) provides that

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

(Code Regs., tit. 16, § 6006(d).)

ANALYSIS:

Panel rule 6006, subsection (c), provides the page limits for all briefs filed before this Panel. Subsection (e), however, permits any party to file a motion seeking waiver of these page limitations.

Rule 6006, subsection (d), provides that motions to waive page limitations shall be decided by the Panel "without hearing." The Panel, however, must comply with the Bagley-Keene Open Meeting Act; any time a majority of Panel members discuss or vote on a matter, the matter must be noticed to the public at least ten days in advance. This effectively exhausts the 10-day advance filing time for motions to waive page limitations and renders the rule dysfunctional for anything but opening briefs.

Moreover, during the Bagley-Keene 10-day notice period, the moving party remains in a state of ambiguity, with no way of knowing whether the page limit will be waived. They must proceed as if the motion would be denied, or face losing at least ten days of preparation.

Delegation to the Executive Director, on the other hand, would permit these motions to be resolved quickly, potentially even within one business day. Additionally, the motion could also be decided "without hearing," as contemplated by the rule.

Staff therefore proposes the following delegations:

1. Upon either party's motion, the Executive Director shall have the authority to waive the page length restrictions imposed on any brief under section 6006, subsection (c).
2. The Executive Director has the discretion to determine an appropriate increased page limit for any brief, including the brief described in the motion and any subsequent opposition or reply briefs.

BUDGET AND FISCAL IMPACTS:

Adopting this delegation may result in a modest reduction in cost to Panel operations. Absent this delegation, the full Panel would be required to meet, discuss, and vote on whether the appellant has demonstrated good cause for an extension of the deadline, and to determine the appropriate amount of time by which to extend it. Because this Panel is subject to the Bagley-Keene Open Meeting Act, any such proceedings would be subject to its requirements, including notice and a quorum. The Panel would therefore face associated costs, including travel expenses for at least some Panel members. Moreover, the appellant's request would need to be reviewed as swiftly as the Act permits, potentially incurring higher costs for short-notice travel.

BENEFITS AND RISKS:

This delegation would allow the Panel to reach a swift determination on any motion to waive briefing page limits. Quick resolution is especially valuable in this context since the deadlines for filing briefs—especially opposition and reply briefs—are quite short. Absent this delegation, the Panel would likely be unable to decide many of these motions.

Moreover, this delegation would permit the Panel to decide motions to waive page limits "without hearing," as contemplated by the rule, without running afoul of the Bagley-Keene Open Meeting Act.

Risks are negligible and consist of entrusting judgment to the Executive Director who is appointed by the Panel.

ATTACHMENTS:

1. Proposed Delegation Resolution 26-03.

RECOMMENDATION:

Approve the Proposed Delegation Resolution.

STAFF CONTACT:

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

CANNABIS CONTROL APPEALS PANEL

DELEGATION RESOLUTION

Subject: Executive Director **Delegation No. 26-03**

Pursuant to Code of Regulations, title 16, section 6006, subsection (d), the Cannabis Control Appeals Panel hereby delegates to the Executive Director the authority to act finally with respect to the matters outlined below:

1. Upon either party's motion, the Executive Director shall have the authority to waive the page length restrictions imposed on any brief under section 6006, subsection (c).
2. The Executive Director has the discretion to determine an appropriate increased page limit for any brief, including the brief described in the motion and any subsequent opposition or reply briefs.

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

This delegation is effective immediately upon signature by both parties. This delegation has no effect on any prior delegation of authority.

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

Dated: ______________

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DR. DIANDRA BREMOND, PANEL CHAIR
CANNABIS CONTROL APPEALS PANEL

Dated: ______________

____
ANNE HAWLEY, EXECUTIVE DIRECTOR
CANNABIS CONTROL APPEALS PANEL

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT
DELEGATION RESOLUTION 26-04

REGULAR PANEL MEETING
APRIL 28, 2026

SUBJECT: Proposed Delegation of Review of Stipulated Requests to Submit a Partial Administrative Record to Executive Director.

BACKGROUND:

Panel rule 6004, subsection (a), provides that "the appellant shall have 60 days to obtain the complete underlying administrative record" and submit it to the Panel. (Code Regs., tit. 16, § 6004(a).)

However, the rule further provides,

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

(Code Regs., tit. 16, § 6004(a)(1).

ANALYSIS:

As a general rule, an appellant before this Panel must timely file the complete administrative record, or face dismissal. However, cannabis is a developing area of law with complex governing statutes and regulations. A full administrative record may consist of numerous volumes, covering multiple days of hearings and dozens of exhibits. Where the issues raised on appeal are narrower than the issues addressed at the administrative hearing, the rule permits the parties to stipulate to the submission of a partial administrative record.

However, the Panel may not allow an appellant to file a partial record absent such a stipulation. A motion or request alone is insufficient, regardless of whether it is supported by good cause, and regardless of whether the Department has an opportunity to respond. Moreover, the stipulated agreement must be in writing. Finally, the stipulated agreement must be approved by the Panel.

The Panel's role here is limited to a simple review of the stipulated agreement before offering its approval. While no standard for approval is given in the rule, the omission of "good cause" from the language suggests that the standard is low. The Panel's review of the stipulation is likely intended only to ensure that the Panel itself is not denied the opportunity to see the full administrative record if it so desires.

Moreover, the Panel may request the full administrative record at any time during the course of the appeal, despite the parties' stipulated agreement. This ensures the Panel's ability to decide the case is protected even if the request is improvidently granted.

Delegation review of these stipulated requests to the Executive Director would allow for swift resolution, ensuring the appellant has ample time to order the partial administrative record. Additionally, it would permit a dialogue between the Panel's staff and the parties, should there be any doubt about which portions of the record are to be included. Additionally, delegating the authority to request the full administrative record despite a stipulation would allow for any one Panel member, or for members of the Panel's legal team, to seek the full administrative record at any time without the need for a full Bagley-Keene compliant meeting. This ability may prove necessary if the legal team requires additional information in order to properly advise the Panel on the facts of the case, or if any Panel member feels the partial record is insufficient to guide their individual decision-making.

Staff therefore proposes the following delegations:

1. Pursuant to a written stipulated agreement between the parties, the Executive Director has the authority to approve an appellant's request to submit a partial administrative record consisting of those portions of the record that the parties have agreed are relevant to the issues being appealed.
2. An appellant's request to submit a partial administrative record must be supported by a written stipulated agreement between the parties. The Executive Director shall not grant any request to submit a partial administrative record absent a written stipulation.
3. The Executive Director has the discretion to deny an appellant's request to submit a partial administrative record even when the parties have submitted a written stipulated agreement.
4. The Executive Director may rescind approval and require the appellant to submit the complete administrative record at any time during the course of the appeal. The Executive Director shall determine an appropriate deadline for submission of the complete administrative record, and shall notify the parties immediately.

BUDGET AND FISCAL IMPACTS:

Adopting this delegation may reduce costs to the Panel by reducing travel and other expenses associated with conducting a full Bagley-Keene compliant meeting in order to review the terms of a stipulated agreement.

BENEFITS AND RISKS:

This delegation would allow the Panel to swiftly resolve any stipulated request to file a partial administrative record, providing certainty for the appellant and expediting the course of the appeal. It would further allow the Panel to quickly request the full administrative record, should it prove necessary.

Risks are negligible and consist of entrusting judgment to the Executive Director who is appointed by the Panel.

ATTACHMENTS:

1. Proposed Delegation Resolution 26-04.

RECOMMENDATION:

Approve the Proposed Delegation Resolution.

STAFF CONTACT:

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

CANNABIS CONTROL APPEALS PANEL

DELEGATION RESOLUTION

Subject: Executive Director **Delegation No. 26-04**

Pursuant to Code of Regulations, title 16, section 6004, subsection (a)(1), the Cannabis Control Appeals Panel hereby delegates to the Executive Director the authority to act finally with respect to the matters outlined below:

1. Pursuant to a written stipulated agreement between the parties, the Executive Director has the authority to approve an appellant's request to submit a partial administrative record consisting of those portions of the record that the parties have agreed are relevant to the issues being appealed.
2. An appellant's request to submit a partial administrative record must be supported by a written stipulated agreement between the parties. The Executive Director shall not grant any request to submit a partial administrative record absent a written stipulation.
3. The Executive Director has the discretion to deny an appellant's request to submit a partial administrative record even when the parties have submitted a written stipulated agreement.
4. The Executive Director may rescind approval and require the appellant to submit the complete administrative record at any time during the course of the appeal. The Executive Director shall determine an appropriate deadline for submission of the complete administrative record, and shall notify the parties immediately.

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

This delegation is effective immediately upon signature by both parties. This delegation has no effect on any prior delegation of authority.

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

Dated: ______________

____
DR. DIANDRA BREMOND, PANEL CHAIR
CANNABIS CONTROL APPEALS PANEL

Dated: _______________

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ANNE HAWLEY, EXECUTIVE DIRECTOR
CANNABIS CONTROL APPEALS PANEL

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT
DELEGATION RESOLUTION 26-05

REGULAR PANEL MEETING
APRIL 28, 2026

SUBJECT: Proposed Delegation of Review of Requests or Motions for Hearing Continuance or Location Change to Executive Director.

BACKGROUND:

Panel rule 6007 defines the procedures for setting a hearing date and location. It states, in relevant part,

> (c) If requested by a party or directed by the Panel, a hearing date and location shall be set by the Panel's executive director and a notice shall be sent to all parties.
>
> (d) After a date and location have been set for hearing by the executive director, requests by any party for a continuance and/or location change may be granted by the Panel only upon a showing of good cause. The Panel may delegate its authority to decide requests for continuances and location changes to its executive director.
>
>> (1) A party seeking a continuance or location change shall stipulate to an alternative date or location for the hearing with all other parties to the appeal, and then coordinate with the executive director to reschedule the date or location if the Panel's schedule and docket permits. If the other party or parties will not stipulate to an alternative date or location, the requesting party can submit a motion to the Panel requesting an alternative date or location in accordance with section 6010. The other party or parties may submit an opposition to the motion to the Panel within five days of receipt of the initial motion.

(Code Regs., tit. 16, § 6007(c)-(d).)

ANALYSIS:

Panel rule 6007, subsection (c), expressly entrusts to the Panel's Executive Director the task of setting a hearing date and location after an initial request from either a party or from the Panel itself.

Subsection (d) provides that a party may request a continuance or location change. Unlike the initial request for a hearing, a request for continuance or location change must be reviewed by the Panel and supported by good cause. However, this subsection also permits the Panel to delegate review of requests for continuance or location change to its Executive Director.

In the event that the parties fail to stipulate to a new date or location, subsection (d)(1) permits the requesting party to file a motion for continuance or location change. While this subsection does not expressly permit delegation of motion review to the Executive Director, that authority is strongly implied by its subordination to subsection (d), which does permit delegation, and by the fact that the Executive Director is the individual entrusted with calendar coordination under subsection (c). Delegation to the Executive Director would entrust the task of calendaring—including review of requests and motions for continuance or location change—to the individual best positioned to perform it.

Any request or motion for a continuance or location change must be reviewed and decided as expeditiously as possible. Moreover, any such request or motion is necessarily subject to logistical limitations, including deadlines and public accessibility requirements imposed by the Bagley-Keene Open Meeting Act. Calendaring hearing dates requires coordinating with all Panel members, as well as both parties and their respective counsel. The Executive Director is in the best position to conduct a swift review of any request or motion for a continuance or location change, to discuss potential dates and locations with all parties, and to set the Panel's calendar accordingly.

Staff therefore proposes the following delegations:

1. Upon either party's motion showing good cause, and absent a stipulated agreement between the parties, the Executive Director shall have the authority to continue a hearing to another date or change its location, provided the Panel's schedule permits.
2. Upon a stipulated agreement between the parties requesting a continuance or change of location, the Executive Director shall have the authority to coordinate with the parties to continue a hearing to another date or change its location, provided the Panel's schedule permits.

BUDGET AND FISCAL IMPACTS:

This delegation may also result in modest cost savings for the parties, since a swift resolution of any request or motion for a continuance or location change could result in reduced attorney travel costs.

BENEFITS AND RISKS:

This delegation would allow the Panel to reach a swift determination on any request or motion for a continuance or location change. This delegation would benefit the Panel by fully entrusting the coordination of hearing dates to the Executive Director, who is best placed to manage such matters. Moreover, this delegation would benefit parties by granting them a quick resolution and scheduling certainty, allowing them to adjust to unforeseen circumstances without unfairly impacting their case.

Risks are negligible and consist of entrusting judgment to the Executive Director who has not been appointed by the Governor or Legislature. Additionally, there is a very small risk that a court may find the delegation of motions for continuance or location change—as opposed to requests—improper, since the Panel's regulation does not expressly allow for such a delegation. However, such a ruling is exceedingly unlikely, in part because California courts generally defer to an agency's interpretation of its own regulations.

ATTACHMENTS:

1. Proposed Delegation Resolution 26-05.

RECOMMENDATION:

Approve the Proposed Delegation Resolution.

STAFF CONTACT:

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

CANNABIS CONTROL APPEALS PANEL

DELEGATION RESOLUTION

Subject: Executive Director **Delegation No. 26-05**

Pursuant to Code of Regulations, title 16, section 6007, subsection (d)(1), the Cannabis Control Appeals Panel hereby delegates to the Executive Director the authority to act finally with respect to the matters outlined below:

1. Upon either party's motion showing good cause, and absent a stipulated agreement between the parties, the Executive Director shall have the authority to continue a hearing to another date or change its location, provided the Panel's schedule permits.
2. Upon a stipulated agreement between the parties requesting a continuance or change of location, the Executive Director shall have the authority to coordinate with the parties to continue a hearing to another date or change its location, provided the Panel's schedule permits.

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

This delegation is effective immediately upon signature by both parties. This delegation has no effect on any prior delegation of authority.

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

Dated: ______________ ____________________________________
DR. DIANDRA BREMOND, PANEL CHAIR
CANNABIS CONTROL APPEALS PANEL

Dated: ______________ ____________________________________
ANNE HAWLEY, EXECUTIVE DIRECTOR
CANNABIS CONTROL APPEALS PANEL

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT
DELEGATION RESOLUTION 26-06

REGULAR PANEL MEETING
APRIL 28, 2026

SUBJECT: Proposed Delegation of Review of Motions to Vacate Automatic Stay to Panel Chair.

BACKGROUND:

Panel rule 6014, subsection (a), provides for an automatic stay of the underlying decision, in most cases, upon filing an appeal with the Panel. (Code Regs., tit. 16, § 6014(a).)

Subsection (b), however, provides, "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."

(Code Regs., tit. 16, § 6014(b).)

ANALYSIS:

Panel rule 6014 grants an automatic stay of the underlying Department decision—along with any disciplinary action that decision imposed—upon filing an appeal before this Panel, thus preventing the appellant from suffering any undue financial loss in the event that its appeal proves successful.

However, many Department decisions are issued to remedy circumstances that pose a significant risk to California's public. Rule 6014 therefore provides a mechanism by which the Department may bring the urgency of the circumstances to light by filing a motion demonstrating that maintaining the automatic stay would present an immediate risk to public health, safety, or welfare. The appellant may oppose the motion. However, if the Panel agrees that the automatic stay would present an immediate danger, then it may vacate the automatic stay.

Where there is a genuine risk to the public as contemplated by the rule, it is important that the Panel have the ability to vacate the stay as soon as possible. Postponing resolution until a full Bagley-Keene compliant Panel meeting could put the public at risk of serious harm.

Delegating the determination to the Panel Chair would expedite decision-making, allowing the stay to be vacated as soon as the Chair has the opportunity to review the appellant's opposition to the motion, if circumstances demanded.

Moreover, a ruling to vacate stay, while not a resolution on the merits, may have a significant, even paralyzing, impact on an appellant's business operations. Unlike procedural motions such as briefing deadlines or page limits, a motion to vacate stay may thus carry consequences for both the appellant and the public. Delegating the determination to the Panel Chair leaves the ruling in the hands of at least one duly appointed Panel member, while also ensuring that the ruling can be made as quickly as practicable. A delegation of authority to the Panel Chair represents a fair and necessary balance between diligence and expedience.

Staff therefore proposes the following delegations:

1. Upon the Department's motion showing that the automatic stay of disciplinary action imposed pursuant to rule 6014, subdivision (a), would present an immediate danger to the health, safety, or welfare of the public, the Panel Chair shall have the authority to vacate the automatic stay.

BUDGET AND FISCAL IMPACTS:

Adopting this delegation may result in a modest reduction in cost to Panel operations. Absent this delegation, the full Panel would be required to meet, discuss, and vote on whether the appellant has demonstrated good cause for an extension of the deadline, and to determine the appropriate amount of time by which to extend it. Because this Panel is subject to the Bagley-Keene Open Meeting Act, any such proceedings would be subject to its requirements, including notice and a quorum. The Panel would therefore face associated costs, including travel expenses for at least some Panel members. Moreover, the appellant's request would need to be reviewed as swiftly as the Act permits, potentially resulting in a higher cost for short-notice travel.

While the outcome of a motion to vacate stay may have an impact on an appellant's business operations, it is important to note that the delegation itself will not result in any additional costs to the parties. The delegation affects only the procedures by which the motion to vacate stay is decided; it does not alter the applicable standard.

BENEFITS AND RISKS:

This delegation could have significant and meaningful benefits for the public, as it allows the Panel to vacate the automatic stay where the Department can demonstrate an immediate danger to the public health, safety, or welfare. Any delay in such cases could dramatically increase the risk of harm.

The risks consist mainly of reducing the number of decision-makers participating in review of a motion that may have significant impacts on both the public and on the appellant's business income. However, this risk is mitigated by delegating to a Panel member, rather than a member of Panel staff. Moreover, the need to protect the public from immediate danger weighs heavily in favor of resolving motions to vacate as expeditiously as possible—an end best accomplished by delegating these limited determinations to the Panel Chair.

ATTACHMENTS:

1. Proposed Delegation Resolution 26-06.

RECOMMENDATION:

Approve the Proposed Delegation Resolution.

STAFF CONTACT:

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

CANNABIS CONTROL APPEALS PANEL

DELEGATION RESOLUTION

Subject: Panel Chair **Delegation No. 26-06**

Pursuant to Code of Regulations, title 16, section 6014, subsection (b), the Cannabis Control Appeals Panel hereby delegates to the Panel Chair the authority to act finally with respect to the matters outlined below:

1. Upon the Department's motion showing that the automatic stay of disciplinary action imposed pursuant to rule 6014, subsection (a), would present an immediate danger to the health, safety, or welfare of the public, the Panel Chair shall have the authority to vacate the automatic stay.

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

This delegation is effective immediately upon signature by both parties. This delegation has no effect on any prior delegation of authority.

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

Dated: ______________

____
DR. DIANDRA BREMOND, PANEL CHAIR
CANNABIS CONTROL APPEALS PANEL

Dated: ______________

____
ANNE HAWLEY, EXECUTIVE DIRECTOR
CANNABIS CONTROL APPEALS PANEL

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT
DELEGATION RESOLUTION 26-07

REGULAR PANEL MEETING
APRIL 28, 2026

SUBJECT: Proposed Delegation of Authority to Dismiss Appeal Upon Appellant's Own Motion, or on Other Limited Procedural Grounds, to Panel Chair.

BACKGROUND:

Panel rule 6011 provides, in relevant part,

> (a) The Panel may issue an order dismissing an appeal of the decision of the licensing authority:
>
> > (1) Upon appellant submitting to the Panel a request to dismiss the appeal;
> >
> > (2) Upon motion of a party, or upon the Panel's own notice to the parties, that appellant has failed to perfect their appeal by failing to timely submit the Notice of Appeal or the administrative record to the Panel as set forth in section 6003 and 6004;
> >
> > (3) Upon certification by the licensing authority that reconsideration has been granted in the case after the Notice of Appeal has been submitted, and dismissal on this ground shall be without prejudice to the submission of a subsequent appeal in the same case.

(Code Regs., tit. 16, § 6011(a)(1)-(3).)

ANALYSIS:

Panel rule 6011(a) provides for dismissal in certain limited, non-substantive circumstances, including the appellant's own motion or the failure to perfect certain procedural requirements. These dismissals do not require the Panel to exercise its judgment, but rather, call only for a review of any documents filed to ensure that dismissal is appropriate under the rule. Delegation of this review relieves the Panel of the need to conduct a full Bagley-Keene compliant meeting solely to review documents and approve a purely procedural dismissal.

Delegation to the Panel Chair, rather than to the Executive Director, is appropriate because the stakes are potentially high; an erroneous dismissal could result in an appellant being improperly deprived of its right to an appeal. Where the Department has certified that it has granted reconsideration, the dismissal is without prejudice—meaning the appellant is free to file its appeal again if it is unsatisfied with the outcome of the reconsideration. However, where the appellant files a motion to dismiss its own appeal, or where the appellant has failed to timely file its supporting forms or the administrative record, dismissal is with prejudice, and the appellant may not file a second appeal in the case.

Delegating these procedural dismissals to the Panel Chair entrusts review to at least one duly appointed Panel member, while ensuring that these dismissal orders are executed without undue cost, and that procedurally futile appeals do not continue longer than necessary. This delegation therefore represents a fair and necessary balance between diligence and expedience.

Staff therefore proposes the following delegations:

1. Upon an appellant's submission of a request to dismiss its own appeal, the Panel Chair shall have the authority to dismiss the appeal.
2. Upon the Department's motion, or upon the Panel's own notice, showing that the appellant has failed to perfect its appeal by failing to timely submit the Notice of Appeal or the administrative record as required by rules 6003 and 6004, the Panel Chair shall have the authority to dismiss the appeal.
3. Upon the Department's certification that it has granted reconsideration of the case after the appellant submitted its Notice of Appeal before this Panel, the Panel Chair shall have the authority to dismiss the appeal without prejudice.

BUDGET AND FISCAL IMPACTS:

Adopting this delegation may result in a modest reduction in cost to Panel operations. Absent this delegation, the full Panel would be required to meet, discuss, and vote on whether to dismiss an appeal based purely on appellant's own motion, on procedural shortcomings, or in conflict with Department reconsideration. Because this Panel is subject to the Bagley-Keene Open Meeting Act, any such proceedings would be subject to its requirements, including notice and a quorum. The Panel would therefore face associated costs, including travel expenses for at least some Panel members.

The financial impact for appellants is also significant. Where an appellant has moved to dismiss its own case, this delegation will relieve them of the legal costs associated with following the ongoing course of the appeal and potentially appearing at a Panel meeting.

BENEFITS AND RISKS:

This delegation would allow the Panel to efficiently resolve dismissals that do not require an exercise of substantive judgment, including upon appellant's own motion, upon failure to timely perfect certain procedural requirements, or where the Department has granted reconsideration. This would benefit the Panel by reducing costs associated with Bagley-Keene compliant meetings. A demonstrated ability to efficiently dispose of purely procedural dismissals may also increase parties' trust in the Panel's appellate process.

Where the appellant has moved to dismiss its own appeal, this delegation would quickly bring the matter to a close as requested, and could potentially save the appellant legal costs associated with monitoring an ongoing appeal. It would similarly reduce legal costs for the Department by relieving its counsel of the need to monitor the course of an appeal.

Where the Department has granted reconsideration in the underlying case, a quick dismissal eliminates the conflict created by parallel proceedings, providing procedural clarity and reduced legal costs to the benefit of both the appellant and the Department.

Risks include the potential for an erroneous dismissal. This is not a risk where the appellant itself has moved to dismiss the case or where the Department has granted reconsideration, but may present a risk where, for example, an appellant's forms or administrative record were timely submitted, but misfiled or otherwise overlooked. This delegation would mitigate that risk by delegating authority to the duly appointed Panel Chair, rather than to the Executive Director, thereby entrusting any such dismissals to a duly appointed Panel member. Additionally, Panel legal staff would conduct an independent review of all appeal documents before submitting the matter to the Chair to ensure that dismissal is indeed appropriate.

ATTACHMENTS:

1. Proposed Delegation Resolution 26-07.

RECOMMENDATION:

Approve the Proposed Delegation Resolution.

STAFF CONTACT:

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

CANNABIS CONTROL APPEALS PANEL

DELEGATION RESOLUTION

Subject: Panel Chair **Delegation No. 26-07**

Pursuant to Code of Regulations, title 16, section 6011, subsection (a), the Cannabis Control Appeals Panel hereby delegates to the Panel Chair the authority to act finally with respect to the matters outlined below:

1. Upon an appellant's submission of a request to dismiss its own appeal, the Panel Chair shall have the authority to dismiss the appeal.
2. Upon the Department's motion, or upon the Panel's own notice, showing that the appellant has failed to perfect its appeal by failing to timely submit the Notice of Appeal or the administrative record as required by rules 6003 and 6004, the Panel Chair shall have the authority to dismiss the appeal.
3. Upon the Department's certification that it has granted reconsideration of the case after the appellant submitted its Notice of Appeal before this Panel, the Panel Chair shall have the authority to dismiss the appeal without prejudice.

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

This delegation is effective immediately upon signature by both parties. This delegation has no effect on any prior delegation of authority.

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

Dated: ______________

____
DR. DIANDRA BREMOND, PANEL CHAIR
CANNABIS CONTROL APPEALS PANEL

Dated: ______________

____
ANNE HAWLEY, EXECUTIVE DIRECTOR
CANNABIS CONTROL APPEALS PANEL

AGENDA ITEM 5

Panel Handbook Updates

CANNABIS CONTROL APPEALS PANEL

STAFF REPORT

REGULAR PANEL MEETING
April 28, 2026

SUBJECT: Member Handbook Update – Panel Subcommittee Policy

BACKGROUND:

This report introduces subcommittees, explains how they function under the Bagley-Keene Open Meeting Act (Bagley-Keene), and identifies best practices for creating subcommittees. Currently, this Panel lacks a general policy governing the creation or use of subcommittees. This report proposes that the Panel adopt a policy of its own by amending the Member Handbook.

As a matter of best practices, government boards and commissions typically adopt a board policy manual. This document is intended to guide Panel Members under specific procedural circumstances, reiterate relevant statutes and ethical standards, and ensure consistent application of general administrative policies. The current policy manual, known as the "Member Handbook," was adopted by the Panel at its first meeting on August 13, 2018. The Member Handbook was last updated on September 26, 2024.

ANALYSIS:

State Body Subcommittees – Delegated vs. Advisory

Bagley-Keene sets transparency and meeting requirements for a "state body" as defined by statute. (See Gov. Code, § 11121.) Bagley-Keene also establishes a framework around the use of a subcommittee by a state body. Lastly, it distinguishes between two types of subcommittees: (1) delegated and (2) advisory. (Gov. Code, § 11121(b)-(c).)

A delegated subcommittee exercises authority delegated to it by the state body.[1] For example, a subcommittee that rules on motions on behalf of the state body. An advisory subcommittee, however, advises the state body rather than exercise power on its behalf. For example, a subcommittee that recommends potential revisions to the Panel's regulations.

Whether, and to what extent, Bagley-Keene applies depends on the type of subcommittee. If it is a *delegated* subcommittee, it must comply with all Bagley-Keene requirements – regardless of its size. (Gov. Code, § 11121(b).) This means that even a delegated subcommittee consisting of a minority of Panel members (two members) must comply with Bagley-Keene.

[1] The legality of specific delegations of authority is beyond the scope of this report.

Under the statutory definition of a “state body,” a delegated subcommittee must have at least two members. (See Gov. Code, § 11121.) If a state body were to delegate authority to a single person, however, they would not be a “state body” for Bagley-Keene purposes. (See 75 Ops.Cal.Atty.Gen. 263 (1992).) Therefore, if the Panel needs to delegate its authority, it is recommended that delegation be made to a single person instead of a subcommittee.

In contrast, an *advisory* subcommittee is bound by Bagley-Keene only if it consists of three or more members. (Gov. Code, § 11121(c).) An advisory subcommittee of two (or fewer) members is not subject to Bagley-Keene. Moreover, Bagley-Keene does not expressly limit who may serve on an advisory subcommittee (*Ibid*.) Thus, an advisory body may consist of a state body member, a staff member, or even a member of the public.

Note that it is the number of people – not specifically *Panel members* – on the advisory subcommittee that is dispositive. Thus, a Panel subcommittee should be limited to two individuals in total (e.g., two Panel members, one Panel member and one staff member). Finally, subcommittee members must avoid discussing their work with any non-subcommittee Panel members outside of a publicly noticed meeting.

Scope of Subcommittees – Ad Hoc vs. Standing

If subcommittees can be categorized according to their purpose (see above), they can also be categorized according to their duration.

Ad Hoc Subcommittees are temporary or finite in duration. They are convened to perform a specific project. Once the task is completed, the subcommittee is dissolved. An example would be a subcommittee created to advise on specific portions of the Panel’s Strategic Plan.

In contrast, Standing Subcommittees are more regular or permanent in duration. They focus on ongoing matters and are tasked with providing recurring updates on their area of focus before the entire state body. An example would be a subcommittee focused on identifying potential opportunities for public outreach and education.

Note that there is no procedural difference in creating an ad hoc versus a standing subcommittee. There is also no difference under Bagley-Keene based solely on whether a subcommittee is ad hoc or standing.

History of Panel Subcommittees

The Panel has a limited history with subcommittees. The Panel’s Handbook provides specific guidance on forming a subcommittee for the selection of an Executive Director. (see Member Handbook, Addendum A – Executive Director Recruitment and Selection Outline). The purpose of this subcommittee is to assist in the recruitment and hiring of a qualified Executive Director.

The Addendum states that the Panel is to establish the Selection Subcommittee and identify two members to serve on the subcommittee. It does not, however, speak to the creation of subcommittees generally. Neither does the Panel's statutes or regulations.

Common Trends and Practices

1. *Statutory Authority Not Required, but Best to Adopt a Formal Policy*

State bodies have created or convened new subcommittees despite lacking express statutory authority. However, most state bodies opted to include a subcommittee policy in their bylaws, manuals, or handbooks. These policies usually assign the responsibility of forming a subcommittee and assigning membership to the state body's Chair (or equivalent).

2. *Advisory Subcommittees Constituted Clear Majority*

In most cases, state bodies opted to convene advisory subcommittees consisting of only two members. This is likely due to the Bagley-Keene restrictions as explained earlier in this report.

3. *Subcommittees Created through Formal Action of State Body*

Typically, new subcommittees are created during a regular state body meeting. "Formal action" takes the form of the Chair – pursuant to the state body's handbook or manual – announcing the creation of a subcommittee. The general practice is to make this announcement during a regular or recurring agenda item (e.g., Chair Report).

Whether the decision-making process is independent or collaborative depends on the language of the handbook or manual. Some boards permit the Chair to unilaterally form a subcommittee, define its task, and assign members without requiring any feedback or a formal vote.

Other state bodies, however, permit the Chair to create a subcommittee only with feedback and consent. The Chair will announce the new subcommittee, then open the floor for discussion. After discussion, the state body will take a formal vote on whether to approve the creation of the subcommittee.

Staff Proposal

Given the trends above, staff recommends amending the Member Handbook to adopt a policy permitting the creation of advisory subcommittees. As noted earlier, delegated subcommittees must comply with Bagley-Keene and therefore are not a viable option for the Panel. Although delegation to a single person is a possible alternative, this option is beyond the scope of the proposed subcommittee policy.

After reviewing the Member Handbook, staff has identified two necessary revisions:

- The first proposed revision is to add a new "Panel Subcommittees" policy on page 8. The Panel currently lacks any policy or guidance regarding subcommittees. The proposed revision fills this void by setting clear procedures and principles regarding the formation and management of advisory subcommittees.
- The second proposed revision is to update the "Responsibilities of the Chair" section on page 9. This section currently does not list the Chair's responsibilities regarding the creation of subcommittees. The proposed revision would accurately reflect the Chair's responsibilities in light of the new subcommittee policy.

In practice, the proposed policy would operate as follows. First, the Chair determines the subcommittee's mission and membership with staff feedback. Second, the Chair introduces the proposed subcommittee at a regular Panel meeting. Third, after Panel discussion and public comments, the Panel will vote on whether to approve the creation of the subcommittee. Once it clears these three steps, a subcommittee becomes official.

BUDGET AND FISCAL IMPACTS:

Subcommittee members are expected to collaborate remotely. Staff does not anticipate travel will be necessary in the performance of subcommittee duties. Therefore, any budgetary or fiscal impact is likely to be negligible.

BENEFITS AND RISKS:

There are no known risks with the proposed Handbook revisions. The few risks associated with convening a subcommittee are negligible or speculative. There are, however, several benefits.

Benefits

- **FOCUS & SPECIALIZATION**: Subcommittees leverage the specialized expertise of Panel members by focusing on specific subject matters.
- **EFFICIENCY & PRODUCTIVITY**: Subcommittee members can research complex issues and provide recommendations that the full Panel may lack the time or knowledge to handle. The preliminary steps and research carried out by a subcommittee can help save significant resources for the Panel.
- **SPEED & CONVENIENCE**: Subcommittee members can provide feedback on critical issues without having to convene a full Bagley-Keene meeting. For example, the two subcommittee members may speak on the phone or exchange emails with one another as often as necessary in private regarding their area of focus.
- **FLEXIBILITY & ADAPTABILITY**: Subcommittees (membership, scope of work, duration) can easily be adjusted as necessary at a full Panel meeting.
- **CONSISTENCY & CLARITY**: By adopting a written policy in the Handbook, it establishes a consistent practice moving forward.

Risks

- With only four Panel members, there may be a lack of expertise in certain subject areas.
- Panel members that are not part of the subcommittee cannot provide any feedback or commentary until the next regular Panel meeting.

Should any problems arise, the Panel can revise the Handbook or amend a subcommittee as needed at a regular meeting.

ATTACHMENT:

1. Marked-up version of Member Handbook with all proposed revisions highlighted.

RECOMMENDATION:

Approve the Proposed Revisions of the Member Handbook (Attachment 1).

STAFF CONTACT:

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

MEMBER HANDBOOK

Gavin Newsom, Governor
State of California

Tomiquia Moss, Secretary
Business, Consumer Services and Housing Agency

Cannabis Control Appeals Panel
400 R St. Ste. 320
Sacramento, CA 95811
www.ccap.ca.gov

Adopted August 13, 2018
Last Updated ~~September 26, 2024~~April 28, 2026

INTRODUCTION

Brief History

In 1996, voters approved Proposition 215, which legalized the use of Medicinal cannabis in California. After the proposition was passed, most regulation was done by local governments. In 2015, the Legislature passed, and Governor Edmund G. Brown Jr. signed into law three bills (Assembly Bills 243 and 266, and Senate Bill 643) that create a licensing and regulatory framework for Medicinal cannabis through the Medical Cannabis Regulation and Safety Act. This legislation divided the responsibility for state licensing between three state entities – the California Department of Food and Agriculture, the California Department of Public Health and the Bureau of Cannabis Control – with the Bureau of Cannabis Control designated as the lead agency in regulating the cannabis industry in California.

In 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. In addition, beginning on January 1, 2018, AUMA makes it legal to sell and distribute commercial cannabis through a regulated business. In June 2017, the California State Legislature passed a budget trailer bill, Senate Bill 94, that merged MCRSA and AUMA to create the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). Under MAUCRSA, a single regulatory system governs the medicinal and adult-use cannabis industry in California.

In 2021, Governor Gavin Newsom announced the consolidation of the three state licensing entities into a single Department of Cannabis Control (Department). After the Legislature approved the consolidation, the new Department went into operation beginning on July 1, 2021. The Department is responsible for overseeing all cannabis licensing and regulatory functions which had previously been handled separately by the three licensing entities.

Function of the Panel

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

PANEL MEMBERS

Authority

The Cannabis Control Appeals Panel was established by Business and Professions Code sections 26040-26047.

Membership

The Cannabis Control Appeals Panel shall consist of the following Members:

(A) One Member appointed by the Senate Committee on Rules.

(B) One Member appointed by the Speaker of the Assembly.

(C) Three Members appointed by the Governor and subject to confirmation by a majority vote of all members elected to the Senate.

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.

Compensation

Members of the Panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

Term

None. Each appointee serves at the pleasure of their appointing authority.

Removal

(Business and Professions Code Section 26040(b))

The Governor can remove Governor's appointees without cause, while the Legislature can remove *any* appointee for dereliction of duty, corruption, or incompetency.

Resignation

(Government Code Section 1750(b))

If it becomes necessary for a Panel Member to resign, a letter shall be sent to the appropriate appointing authority (Governor's Office, Senate Rules Committee, or the Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter shall also be sent to the Panel Chair and the Executive Director.

Conflict of Interest

(Government Code Section 87100)

No Panel Member may make, participate in making, or in any way attempt to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest.

Any Panel Member who has a financial interest shall disqualify themselves from making or attempting to use their official position to influence the decision.

Any Panel Member who feels they are entering a situation where there is a potential for a conflict of interest should immediately consult the Executive Director or the Panel's legal counsel.

Incompatible Activities

(Government Code Section 19990)

All Panel Members shall sign an incompatible activities statement. Governor's appointees will likely have already signed the Governor's incompatible activities statement and Agency's statement and will be expected to adhere to the terms therein.

Within the first several months of being hired, the Assistant Chief Counsel for the Panel, or another staff counsel, should review the two incompatibility statements already signed by the Governor's appointees, and seek to develop a specific one for the Panel, to be executed by all Members.

Social Media Presence

All Panel Members and Panel employees should become familiar with the Social Media Standard (SIMM 66B) put forth by the California Department of Technology at https://cdt.ca.gov/wp-content/uploads/2021/04/SIMM_66B.pdf. In general, Panel Members shall not speak on behalf of the Panel or state government unless otherwise authorized, and shall not share to the public or others on social media confidential or proprietary information held by the Panel or its Members or employees.

MEMBER ON-BOARDING & TRAINING

On-boarding

Panel Members must submit the following no later than 30 days after their swearing-in:

1. Oath of Office – Signed and Dated
2. Form 700 – Statement of Economic Interest
3. Sexual Harassment Prevention Policy Memo and Acknowledgement Form
4. Non-Discrimination Policy and Complaint Procedures Policy Memo and Acknowledgement Form
5. Emergency Contact Information
6. Authorization to Use Privately Owned Vehicles on State Business (STD.261)
7. Payee Data Record (STD.204)

All original forms should be remitted to:

Executive Director
Cannabis Control Appeals Panel
400 R Street, Suite 320
Sacramento, CA 95811

Required Trainings

Panel Members must complete the required training(s) within 30 days of their swearing-in:

- Bagley-Keene Open Meeting Act Training

Panel Members must complete the required training(s) within 6 months of their swearing-in:

- Ethics Training
  - The certificate of completion should be provided to the Executive Director.
  - Following the initial training, Panel Members must continue to complete this training once every two years (beginning with an odd-numbered year).
  - If a Panel Member already received equivalent training while previously employed with another state agency or the Legislature, then they are not required to repeat this training within the applicable time period.
- Sexual Harassment Prevention Training
  - To ensure compliance with Assembly Bill 1825 (Chapter 933, Statutes of 2004), Panel Members are required to complete this training every two years.

If Panel Members have any questions about these requirements, they should contact the Executive Director.

MEETING PROCEDURES

Panel Meetings

(Government Code Section 11120 et seq.)

Being a Panel Member is a serious commitment to the people of the State of California. Panel Members are expected to attend all scheduled panel meetings. If a Member is unable to attend, they must contact the Panel Chair or the Executive Director and provide a written explanation of their absence.

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act (Act). This Act governs meetings of the state regulatory bodies and meetings of committees of those bodies where committee consists of more than two members. It specifies notice of meetings, agenda requirements, and prohibits discussing or acting on matters not included on the agenda. If the agenda contains matters which are appropriate for closed session, the agenda shall cite the statutory section and subdivision authorizing the closed session.

Through training given to the Panel, and on each Panel Member's own initiative, Panel Members should become familiar with the general Bagley-Keene Act requirements. Panel Members are required by law to receive a copy of the law which will be done at the Panel's first public meeting. If Panel Members have questions about the law, they should contact the Panel's Assistant Chief Counsel for advice.

Panel Meetings – Remote Attendance Options (current as of September 2023)

(Government Code Section 11123.2)

Panel Members may travel to the Sacramento headquarters to attend meetings in person. Alternatively, they may attend meetings remotely from teleconference locations open to the public.

During the COVID-19 pandemic, Panel Members often attended meetings from remote locations closed to the public. Under current law, this is only permitted under two exceptions. Please note that these exceptions will only be in effect until January 1, 2026, and will expire as of that date.

Exception #1: If a Panel majority is physically present at the same teleconference location open to the public, then all remaining Panel Members may participate from a closed remote location.

Exception #2: Panel Members may submit a request to participate remotely due to a need related to a physical or mental disability. This request should be submitted to the Executive Director at the earliest opportunity possible, including at the beginning of a panel meeting. Due to the potentially sensitive nature of the request, Panel Members should call the Executive Director with the initial request, if possible. The Panel will vote on approving the request before the Panel meeting while establishing quorum.

If Panel Members have any questions about this policy, they should contact the Executive Director or Assistant Chief Counsel for advice.

Agenda Items

Panel Members may submit agenda items for a future meeting during the "Future Agenda Items" section of a Panel meeting or directly to the Panel Chair. To the extent possible, the Panel Chair will calendar each Panel Member's request on a future Panel meeting.

In the event of a conflict, the Panel Chair shall make the final decision. The Panel Chair will work with the Executive Director to finalize the agenda.

Notice of Meetings

(Government Code Section 11120 et seq.)

Meeting notices, including agendas, for Panel meetings will be sent to persons on the Panel's mailing list at least 10 calendar days in advance, as specified in the Bagley-Keene Open Meeting Act. The notice shall include name, work address, and work telephone number of a staff person who can provide further information prior to the meeting. Notices will also be posted online at www.ccap.ca.gov.

Record of Meetings

The business conducted in open session by the Panel can be recorded by a registered court reporter or audio recorded at the Panel's discretion.

In the alternative, minutes or a summary of the open session can be taken. They shall be prepared by Panel staff and submitted for review by Panel Members. Panel minutes or the summary will be considered and approved or disapproved at the next scheduled meeting of the Panel. When approved, the minutes shall serve as the official record of the meeting. If the Panel makes a recording of the meeting, they shall be maintained and not destroyed.

Minutes are required for closed sessions as well. These remain confidential and protected from public disclosure.

Robert's Rules of Order

The Panel will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act or other state laws or regulations), as a guide when conducting the meetings. Questions of order can be clarified by the Panel's legal counsel.

Panel Subcommittees

(Government Code Section 11121)

Bagley-Keene provides for two types of subcommittees that may be established under a state body: those that are delegated authority to act on behalf of the body (delegated subcommittees) and those purely advisory in nature (advisory subcommittees).

A delegated subcommittee must comply with all of the same Bagley-Keene requirements as the full Panel, no matter its size. An advisory subcommittee, however, must only comply with Bagley-Keene if it consists of at least three members. Thus, a subcommittee of two members, if acting only in an advisory capacity and within all other applicable restrictions, may meet and develop advice outside of noticed public meetings otherwise required by Bagley-Keene.

The Panel Chair may establish advisory subcommittees, whether standing or ad hoc, as they deem necessary. Each subcommittee is to consist of no more than two members. This may be two Panel members (including the Chair) or one Panel member along with one staff (e.g., Executive Director).

The mission and membership of each subcommittee is to be determined by the Chair. However, no subcommittee shall be created, amended, or dissolved without a majority vote of the Panel.

To ensure the Panel exercises effective and consistent oversight of CCAP business, while maintaining Bagley-Keene compliance and appropriately managing available resources, the Panel should only utilize advisory subcommittees when:

- The subject matter and tasks assigned to the subcommittee do not overlap with the work of any other existing subcommittee.
- The subcommittee can be given specific, deliverable-based assignments with clear timelines for completion.
- The Panel can benefit from the advice and guidance from a minority of Panel members on a particular subject.

The Panel should consider the above criteria when evaluating if a subcommittee should be formed, continue, or be dissolved.

SELECTION OF OFFICERS

Officers of the Panel

The Panel shall elect a Chair at the first meeting of each calendar year.

Election of Chair

Election of the Chair shall occur annually at the first meeting of each calendar year. The election can only occur with a quorum present.

A Panel Member must first announce their willingness to be Chair and then may give a short statement why they should be elected.

Each Panel Member may cast one vote for the Chair position. Votes will be made publicly. The candidate with the most votes will be elected Chair and will assume the duties of that position at the end of the public meeting.

In the event of a tie, the Secretary of the Business, Consumer Services and Housing, or their delegate, shall publicly cast a single vote to break the tie either at the meeting, or at the next publicly noticed meeting. In the latter situation, the prior Chair shall retain their duties until the tie is broken.

Responsibilities of the Chair

The responsibilities of the Chair include but are not limited to:

- Coordinate regularly with the Executive Director to be abreast of day-to-day operations.
- Manage each meeting of the Panel to ensure orderly and efficient review of each agenda item.
- Coordinate the annual review of the Executive Director.
- Represent the Panel before external entities, at the request of the Executive Director, as necessary.
- Creating subcommittees and assigning members in accordance with the “Panel Subcommittees” policy in this Handbook.

Office Vacancies

If the office of the Chair becomes vacant, the Panel shall elect a new Chair at its first meeting after the vacancy occurs, if reasonably feasible.

PANEL ADMINISTRATION

Executive Director

(Business and Professions Code Section 26041)

The Panel shall appoint an Executive Director. The Executive Director is responsible for the financial operations and integrity of the Panel and is the official custodian of records. The Executive Director is an at-will employee, who serves at the pleasure of the Panel, and may be terminated, with or without cause, in accordance with all applicable laws and certain provisions of the Bagley-Keene Open Meeting Act.

Please see Addendum A for the *Executive Director Recruitment and Selection Outline*, a guide for Panel Members in the recruitment and hiring process for a qualified Executive Director. The Addendum can be located at the end of the Handbook.

Executive Director Evaluation

On an annual basis, the Executive Director shall be evaluated by the Panel during a closed session. Panel Members provide information to the Chair on the Executive Director's performance in advance of this meeting.

Panel Staff

(Business and Professions Code Section 26041)

Employees of the Panel are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining agreements. The Executive Director hired by the Panel is an exempt position, which serves under different rules than a standard civil servant. Because of this complexity, the Panel delegates this authority and responsibility for management of the civil service staff to the Executive Director and legal counsel as an instrument of the Panel.

Panel Members may express any staff concerns to the Executive Director but shall refrain from involvement in any civil service matters. Panel Members shall not become involved in the personnel issues of any state employee.

REPRESENTATION ON BEHALF OF CCAP

General Rules of Conduct

All Panel Members shall act in accordance with their oath of office, and shall conduct themselves in a courteous, professional, and ethical manner at all times. The Panel serves at the pleasure of the Governor and the Legislature, and shall conduct their business in an open manner, so that the public shall be both informed and involved, consistent with the provisions of the Bagley-Keene Open Meeting Act and all other governmental and civil codes applicable to similar boards within the State of California.

- Panel Members shall comply with all provisions of the Bagley-Keene Open Meeting Act.
- Panel Members shall not speak or act for the Panel without proper authorization. For further guidance, please refer to CCAP's written policies on "Media Relations" and "Statement of Incompatible Activities."
- Panel Members shall not privately or publicly lobby for, publicly endorse, or otherwise engage in any personal efforts that would tend to promote their own personal or political views or goals, when those are in direct opposition to an official position adopted by the Panel.
- Panel Members shall not discuss personnel or Panel business matters outside their official capacity or outside a properly noticed and agendized meeting.
- Panel Members shall never accept gifts from appellants, commercial cannabis licensees, or related members of the cannabis industry while serving on the Panel.
- Panel Members shall not disclose confidential documents and information related to Panel business.
- Panel Member shall comply with all applicable incompatible activities statements they serve under.
- Panel Members shall recognize the equal role and responsibilities of all Panel Members.
- Panel Members shall act fairly, be nonpartisan, impartial, and unbiased in their roles of protecting the public and enforcing MAUCRSA.
- Panel Members shall treat all individuals in a fair, professional, courteous, and impartial manner.
- Panel Members' actions shall serve to uphold the principle that the Panel's primary mission is to protect the public.
- Panel Members shall not use their positions on the Panel for personal, familial, or financial gain.

Panel Member Written Correspondence and Mailings

All correspondence, press releases, articles, memoranda, or any other communication written by any Panel Member in their official capacity regarding matters under the jurisdiction or responsibility of the Panel must be provided to the Executive Director in advance of publication. The Executive Director will retain a copy in a chronological file.

Contact with Licensees and Appellants

Panel Members shall not intervene on behalf of a licensee or applicant for licensure for any reason. They should forward all inquiries to the Executive Director.

Communications with Other Organizations, Individuals, and Media

All communications relating to any Panel action or policy to any individual, organization or media shall be made only by the Panel Chair, the Chair's designee, or the Executive Director.

Any Panel Member who is contacted by any of the above should inform the Panel Chair or Executive Director immediately.

All correspondence shall be issued on the Panel's standard letterhead and will be disseminated by the Executive Director.

Business Cards

Business cards will be provided to each Panel Member with the Panel's name, address, telephone numbers, and website address.

OTHER POLICIES & PROCEDURES

Ex Parte Communication

(Government Code Section 11430.10 et seq.)

The Government Code contains provisions prohibiting ex parte communications. An "ex parte" communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

> "While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication."

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Panel Members. If the communication is written, the Panel Member should read only far enough to determine the nature of the communication. Once they realize it is from a person against whom an action is pending, they should reseal the communication and send them to the Executive Director.

If a Panel Member receives a telephone call from an applicant under any circumstances or a licensee against whom an action is pending, they should immediately tell the person they cannot speak to them about the matter and inform the Executive Director and the Panel's legal counsel.

If the person insists on discussing the case, they should be told that the Panel Member will be required to recuse themselves from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Panel Member believes that they have received an unlawful ex parte communication, they should contact the Executive Director and the Panel's legal counsel.

Service of Legal Documents

If a Panel Member is personally served as a party in any legal proceeding related to their capacity as Panel Member, they must contact the Executive Director immediately.

Honoraria Prohibition

(Government Code Sections 89501-89502 and FPPC Regulations, Title 2, Division 6)

Panel Members may not accept honoraria from any source. Since Panel Members are required to report all income, and Panel Members are precluded from accepting an honorarium from any source if the income is required to be reported, no honoraria is permitted.

Honorarium means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or a similar gathering. Potential situations may include, but are not limited to, professional association conferences and meetings.

There are limited exceptions to the honoraria prohibition. The acceptance of an honorarium is not prohibited under the following circumstances:

(1) An honorarium is returned to the donor (unused) within 30 days;
(2) An honorarium is delivered to the State Controller within 30 days for donation to the General Fund (for which a tax deduction is not claimed); and
(3) An honorarium is not delivered to the Panel Member, but is donated directly to a bona fide charitable, educational, civic, religious, or a similar tax exempt, non-profit organization.

Considering this prohibition, Members should report all offers of honoraria to the Panel Chair so that they, in consultation with the Executive Director and staff counsel, may determine whether the potential for conflict of interest exists.

Addendum A

TASKS & TIMELINE FOR EXECUTIVE DIRECTOR RECRUITMENT & HIRING

Step	Tasks	Responsible Party	Timeline
1	Review and approve ED duty statement at publicly announced meeting.	Panel Members	Day 1
2	Designate a two-person Selection Committee	Panel Members	Day 1
3	Confirm statement of qualification questions for job posting (5 days)	Selection Committee	Day 2
4	Gather all required documents and submit Request for Personnel Action (RPA) package. (2 days)	Employee Resource Liaison (ERL)/CCAP Administrative and Business Services Coordinator (AGPA)	Day 7
5	Complete review of RPA package (7 days)	DGS C&P Analyst	Day 9
6	Review and final approval of RPA package & submit for advertising (2 days)	DGS C&P Manager	Day 16
7	Job is posted and advertised on CalHR website and other recruitment platforms. Length of job posting can range from one to two weeks or longer. (2 weeks)	DGS OHR	Day 18
8	Gathers and organizes all application documents for screening by the Selection Committee. (5 days)	CCAP/ERL	Day 32
9	Paper screen and score all applications (1 weeks)	Selection Committee	Day 37
10	Selection Committee interviews 5 to 6 candidates who scored highest in paper screening. (1 week)	Selection Committee	Day 44
11	Submit candidates to DGS HR Examinations Unit for final eligibility review (2 days)	Selection Committee with assistance from CCAP/ERL	Day 51
12	C&P Analyst Final Review (1 day)	DGS C&P Analyst	Day 53
13	C&P Manager Final Review (1 day)	DGS C&P Manager	Day 54
14	Final eligibility and candidate pool determined. 2 to 3 candidates (1 day)	Selection Committee	Day 55
15	Check references of final candidate pool (1 day)	Selection Committee	Day 56
16	Schedule interviews (2 days)	Employee Resource Liaison (ERL)/CCAP Administrative and Business Services Coordinator (AGPA)	Day 57
17	Final 2-3 candidates are interviewed in publicly noticed, closed session meeting. Panel members discuss, score, and vote on top candidate in closed session. Determine the salary to be offered. (1 day)	All Panel Members	Day 59
18	Panel's Chairperson shall return to open session to generally announce that the Panel has made a selection. No name is mentioned.	Selection Committee	Day 60
19	Contact the selected candidate and offer the position. Candidate accepts offer. (1 day)	Chairperson	Day 60
20	Announce the new ED after unsuccessful candidates have been notified.	Chairperson or CCAP Staff	Day 61

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

BEFORE THE CANNABIS CONTROL APPEALS PANEL
OF THE STATE OF CALIFORNIA

Case No. 2025-08-DCC-0003
License: C11-0001780-LLC
Department Decision: DCC23-0002236-INV

SANTA ANA MAIN DISTRO, LLC
dba O'Mina Distribution, Inc.
1836 South Grand Ave
Santa Ana, CA 92705
Appellant/Licensee,

v.

DEPARTMENT OF CANNABIS CONTROL,
Respondent.

Appeals Panel Hearing: March 10, 2026

OPINION

FACTS AND PROCEDURAL HISTORY

Santa Ana Main Distro, LLC ("appellant") has held an annual Cannabis – Distributor license since January 3, 2024. Appellant's license was set to expire on January 3, 2026.

In late October of 2024, the Department of Cannabis Control ("the Department") received a complaint about appellant's business. In December of 2024, the Department opened an investigation and assigned it to Department Special Investigator Emily Gutierrez.

On April 14, 2025, the Department filed a Petition for Interim Suspension Order (ISO) against appellant's license under section 494(a) of the Business and Professions Code. The Petition alleged violations of several sections of title 4 of the California Code of Regulations, including: that appellant "distributes cannabis to unlicensed persons" in violation of rule 15000.1(b); that appellant used credentials belonging to an individual no longer associated with the business "to log over 1,000 commercial cannabis transactions in 2024" in the California Cannabis Track and Trace system (CCTT), in violation of rule 15048(c); and that "the dates and times on [appellant]'s delivery manifests do not always match the dates and times of actual deliveries," in violation of rules 15047.2(b) through (c) and rule 15049.2(b). (Petition for Interim Suspension Order, at pp. 7-8; see also Code Regs., tit. 4, §§ 15000.1(b), 15047.2(b)-(c), 15048(c), and 15049.2(b).) The Petition was supported by the declaration of Special Investigator Gutierrez (the "Guterriez Declaration") regarding the results of her investigation. The Department delegated the hearing on the Petition to an administrative law judge (ALJ).

On May 2, 2025, ALJ Thomas Heller conducted a hearing on the Department's ISO Petition. Pursuant to section 494(d), the evidentiary scope of this hearing was limited to "affidavits and other documentary evidence." (See Bus. & Prof. Code, § 494(d).) Appellant nevertheless filed a Motion for Clarification and Request to Accept Witness Declaration seeking admission of a "Declaration of Orang Haghighi as an offer of proof regarding the testimony that would have been presented had witness testimony been permitted during the hearing." (Order Imposing License Restrictions, at p. 2, quoting Motion for Clarification and Request to Accept Witness Declaration, at p. 2.) Both the Department's ISO Petition and appellant's Motion were taken under submission following hearing. (Order Imposing License Restrictions, at p. 2.)

On May 9, 2025, ALJ Heller issued an Order Imposing License Restrictions. As part of the Order, ALJ Heller denied appellant's Motion for Clarification and Request to Accept Witness Declaration, noting that "a licentiate does not have the right to present witness testimony at a hearing on a petition under Business and Professions Code section 494." (*Id.* at p. 2.)

ALJ Heller made findings of fact and ultimately concluded that appellant had violated rule 15000.1(b) by doing business with "people who don't have licenses"; had improperly logged "over 1,000 CCTT transactions" using login credentials belonging to an individual who "was not the user and was no longer associated with" appellant's business, in violation of rule 15048(c); and had recorded dates and times on delivery manifests that "do not always match the dates and times of actual deliveries," in violation of rules 15047.2(b) through (c) and 15049.2(b). (*Id.* at pp. 8-9, citing Code Regs., tit. 4, §§ 15000.1(b), 15047.2(b)-(c), 15048(c), and 15049.2(b), and quoting Gutierrez Decl.) ALJ Heller found that these violations "are not just 'procedural or administrative,'' as appellant had argued in its opposition, but that "the dangers of a cannabis distributor working with unlicensed persons and generating inaccurate and misleading records of cannabis transactions are self-evident." (Order Imposing License Restrictions, at p. 10.) He concluded that "[a]ny repeat or continuation of respondent's violations would endanger the public health, safety, or welfare." (*Ibid.*)

ALJ Heller's Order, however, declined to suspend appellant's license and instead found that, "[c]onsidering the evidence, an order imposing license restrictions is warranted." (*Id.* at p. 3.) ALJ Heller reasoned that "[a]n interim suspension of respondent's license would close the business entirely, and respondent has proposed interim compliance measures with respect to the identified violations. Respondent's proposal suggests a willingness to change its deficient practices immediately, which weighs in favor of imposing interim license restrictions rather than an interim suspension." (*Id.* at pp. 10-11.)

The Order imposed the following restrictions:

> 1. Respondent shall limit its distribution activities to licensed businesses that are preapproved in writing by the Department.
>
> 2. Respondent's distribution activities and CCTT entries shall be monitored by a third-party compliance monitor, whom respondent shall identify and retain at its own expense. The compliance monitor shall provide information and compliance reports as directed by the Department.

(*Id.* at p. 11.)

Finally, the Order required the Department to file an accusation within 15 days, pursuant to section 494(f) of the Business and Professions Code. (*Id.* at p. 12.)

On May 11—two days after issuance of ALJ Heller's Order—the Department filed a timely Accusation against appellant's license alleging violations of rules 15000.1(b); 15047.2(b); 15048(c) and 15048.1(a)(1)-(3); and 15049.2 under title 4 of the California Code of Regulations, each meriting disciplinary action under Business and Professions Code section 26030. (Accusation, at pp. 7-8.) The underlying conduct was the same as that alleged in proceedings leading to issuance of the Order Imposing License Restrictions. (See generally Accusation; Petition for Interim Suspension Order; Order Imposing License Restrictions.) Additionally, the Accusation requested cost recovery pursuant to section 26031.1 of the Business and Professions Code. (Accusation, at pp. 5-6.)

On June 18 and 19, 2025, ALJ Deena R. Ghaly conducted hearings on the Department's Accusation. Both the Department and appellant presented evidence. Special Investigators Emily Gutierrez, Daniel Torres, and Denis Rakitskiy testified on behalf of the Department. (See RT, vol. I, at pp. 36-164; RT, vol. II, at pp. 115-127.) Appellant's owner, Orang Haghighi, its new manager, Sylvia Cano Rosales, and its driver, Jonathan Gallo, testified on behalf of appellant. (RT, vol. I, at pp. 174-246; RT, vol. II, at pp. 8-110.)

On July 2, 2025, ALJ Ghaly issued a Proposed Decision in which she made extensive findings of fact. (Proposed Decision, at pp. 2-8.) The relevant findings are summarized here.

ALJ Ghaly found that Haghighi told Special Investigator Gutierrez that he "charged a flat fee of $1,000 per month to store, move, or distribute cannabis and does not question the license status of his customers." (*Id.* at p. 4.) Gutierrez also "observed boxes labelled Life Cannabis, which, according to Gutierrez, Haghighi explained respondent was storing for the Life Cannabis company," although "Life Cannabis is not a Department Licensee." (*Ibid.*)

According to Haghighi, his comment about "doing business with unlicensed entities" was "taken out of context" and "that he was referencing agreements he had with branding companies, including Life Cannabis, who wished to come to agreements with retailers to sell cannabis products under the branding companies' names." (*Id.* at p. 6.) Haghighi asserted that these companies did not "need licenses to add their particular part in the cannabis supply chain." (*Ibid.*) However, Haghighi "did not produce any contracts or other written documents reflecting agreements or scope of work between respondent and branding companies." (*Ibid.*) Instead, Haghighi claimed "all work orders and agreements were memorialized through discussions over the phone." (*Ibid.*)

Department investigators also reviewed appellant's CCTT data, and found entries "made under the initials S.S., the initials of respondent's previous owner, Samantha Solmor," who had relinquished her credentials effective October 1, 2023, after separating from the company. (*Id.* at p. 4.) Nevertheless, Solmor's credentials "continued to be listed in respondent's CCTT data throughout 2024, long after she was no longer affiliated with respondent." (*Ibid.*) According to Gutierrez, Haghighi claimed "all CCTT entries had been input by a respondent employee identified only as Tatiana." (*Ibid.*) However, "Gutierrez did not find a Tatiana listed among the users in respondent's CCTT account." (*Ibid.*) Gutierrez later "requested Tatiana's last name, but Haghighi did not provide it." (*Ibid.*)

Haghighi testified that "the use of S.S.'s credentials was a simple clerical error" since "[t]he email address associated with S.S.'s log in information was respondent's general email and Haghighi was hesitant to cease using it as that might mean losing important correspondence." (*Id.* at pp. 6-7.) Haghighi "also reiterated that any mistakes were the fault of Tatiana, including sharing credentials for accessing the CCTT system," and "maintained he discharged Tatiana from her position once he came to understand the many mistakes she had made." (*Id.* at p. 7.)

Sylvia Cano Rosales, appellant's new manager, testified that "she now uses proper credentialing for all of respondent's CCTT's [sic] entries" and that "all respondent [sic] employees now have their own credentials." (*Ibid.*)

Department Investigators further discovered that appellant's "shipping manifests showed multiple consecutive day deliveries made to the same defunct licensee, El Dorado Extracts," in Oakland, California. (*Id.* at p. 4.) Investigators reviewed appellant's records and

> found manifests for three consecutive day deliveries between October 22 through 24, 2024; five consecutive day deliveries from November 5 through 9, 2024, three consecutive days from November 12 through 14, 2024, five

consecutive days [sic] deliveries from December 3 through 7, 2024, and four consecutive days [sic] deliveries from December 10 through 13, 2024.

(*Id.* at p. 5.) "Haghighi told the investigators that Tatiana had prepared all the manifests and that they were not always followed by his driver." (*Ibid.*) Haghighi further stated that "personnel from El Dorado, a regular client, would call to place its orders over the phone and therefore there were no written orders." (*Ibid.*)

Additionally, according to Gutierrez, the manifests she "saw at respondent's facility were electronic, not the paper versions the driver would carry and upon which a wet signature could be expected to be found." (*Ibid.*) When Gutierrez asked to see the paper records, "Haghighi pulled out individuated folders bearing various entities [sic] names but could not locate the one for El Dorado, noting Tatiana was responsible for filing and must have misplaced it." (*Ibid.*)

Haghighi testified that "Tatiana also was responsible for creating the manifests and did not always void out ones that were not used" and attributed it to her "incompetence." (*Id.* at p. 7.) "He stated that the driver did not always follow the manifests but had made multiple deliveries to El Dorado, always dropping off cannabis products per its orders." (*Ibid.*)

At hearing, Haghighi produced "one paper manifest counter to the electronic manifests Gutierrez reviewed." (*Ibid.*) This manifest was "dated October 17, 2024 with October 18, 2024 as 'date of departure/arrival.'" (*Id.* at p. 7; see also Exh. C.) "The signature of the receiver, Tarif Page[1]. is dated October 19, 2024." (Proposed Decision, at p. 7; see also Exh. C.)

Appellant's driver, Jonathan Gallo, "testified he made many deliveries to the El Dorado facility during the October through December, 2024 period, among other times," with the final delivery taking place sometime in December 2024. (Proposed Decision, at p. 7.) Until this final delivery, Gallo claimed "there was always someone to take delivery," although "he stated that the hand-off always took place outside El Dorado's facility and he never entered the premises." (*Ibid.*) Gallo testified "that, due to the sensitive nature of his cargo, he drives directly to Oakland and, because he returns with cash payments, directly back to respondent's facility, stopping only for gas and rest breaks." (*Ibid.*)

ALJ Ghaly also found that Special Investigator Denis Rakitskiy had investigated El Dorado Extracts in order "to determine whether large transfers of cannabis purportedly going to El Dorada [sic] were in fact arriving there. (*Id.* at p. 5.) Rakitskiy "attempted to contact individuals associated with El Dorado, including an owner of record, Tarik Page, but Page did not return Rakitskiy's messages." (*Id.* at p. 6.) "Rakitskiy also visited El Dorado's premises twice in the

[1] Tarif Page is referred to as both Tarif and Tarik in the record.

summer of 2024 and tried, without success, to gain access," leading Rakitskiy to conclude that "the premises was vacated at the time of his visits." (*Ibid.*)

Rakitskiy did make contact with the building's property manager, however, who "confirmed in an email communication to Rakitskiy that El Dorado had not renewed its lease for 1080 23rd Avenue, which ended on July 31, 2024." (*Id.*; see also Exh. 25.) "On September 26, 2024, the property manager let Rakitskiy into El Dorado's suite where Rakitskiy found the place entirely empty." (Proposed Decision, at p. 6.) Rakitskiy "took photographs showing the empty space." (*Id.*; see also Exh. 26.)

ALJ Ghaly ultimately concluded that appellant's "own evidence is not credible and only supports a finding that respondent did do business with unlicensed entities." (Proposed Decision, at p. 9.)

Based on these findings, ALJ Ghaly found the Department had carried its burden of proving the allegations contained in the Accusation and had established grounds for discipline under section 26030. (*Id.* at p. 11; see also Bus. & Prof. Code, § 26030.)

With regard to the first cause of action, based on conducting cannabis activities with unlicensed entities in violation of rule 15000.1, ALJ Ghaly acknowledged that the Department's "evidence establishing respondent did business with unlicensed entities is circumstantial." ALJ Ghaly observed, however, that "[c]ircumstantial evidence may carry the burden of establishing a claim and may be as persuasive and convincing as direct evidence." (Proposed Decision, at p. 9, ¶ 16, citing *People v. Comstock, Inc.* (2017) 12 Cal.App.5th 1064, 1086.) She noted, however, that "[t]here are limitations," and that "[c]ircumstantial evidence's inferences must be the logical extension of the evidence" and cannot be supported by "speculation and conjecture alone." (Proposed Decision, at p. 9, ¶ 16, citing *Feduniak v. Cal. Coastal Com.* (2007) 148 Cal.App.4th 1346, 1360.) Based on these findings of fact, ALJ Ghaly concluded that "the logical and direct inference to be drawn from [the Department]'s evidence as well as Haghighi's uncredited statements is that respondent did cannabis-related business with unlicensed entities." (Proposed Decision, at p. 9, ¶ 16.) This inference was sufficient to establish the violation alleged. (*Id.* at p. 12, ¶ 8.)

ALJ Ghaly found that the second and third causes of action—based, respectively, on the failure to accurately record cannabis activity in violation of rule 15047.2(b) and the improper use and sharing of CCTT credentials in violation of rules 15048(c) and 15048.1(a)(1) through (3)—were established by Haghighi's admission. (*Id.* at pp. 13-14.)

Finally, ALJ Ghaly found that the fourth cause of action, based on inaccurate distribution manifests in violation of rule 15049.2(b)(1) through (2), was proven because "the evidence established the manifests investigators found reflecting deliveries to El Dorado during the

October through December, 2024 period could not have been correct because at that time, El Dorado's business was defunct and it had vacated the premises to which respondent's driver purportedly delivered cannabis product." (*Id.* at p. 15.)

ALJ Ghaly reviewed the Department's disciplinary guidelines and determined that conducting cannabis business with non-licensees in violation of rule 15000.1 constituted a Tier 3 violation, calling for a "recommended minimum penalty" of "stayed revocation with a 45-day suspension, a fine or a combination of suspension and a fine" and a "maximum recommended penalty" of "license revocation." (*Id.* at p. 15, ¶ 19.) All other violations fell under Tier 2, with a "recommended minimum penalty" of "stayed revocation with a 15 to 30-day suspension, a fine or a combination of suspension and a fine," and a "maximum recommended penalty" of "license revocation." (*Id.* at pp. 15-16, ¶ 19.) While acknowledging that the guidelines allow both aggravating and mitigating factors, ALJ Ghaly concluded that "nothing in the record supports a basis for leniency" and that "[u]nder these circumstances, license revocation is warranted and necessary for the public safety." (*Id.* at p. 17, ¶¶ 20-21.)

Finally, ALJ Ghaly awarded costs to the Department totaling $15,865.33 pursuant to section 26031.1(a) of the Business and Professions Code, finding no grounds to reduce the amount. (*Id.* at pp. 17-18, ¶¶ 22-24, applying criteria in *Zuckerman v. State Bd. of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45.)

On July 8, 2025, the Department adopted the Proposed Decision as its Final Decision without modification. (Final Decision, at p. 1.) The Final Decision went into effect the same day. (*Ibid.*)

On August 4, 2025, appellant filed a timely Form 6003 (Notice of Appeal) with this Panel. (App. Notice of Appeal (Aug. 4, 2025), at p. 1.) Pursuant to Panel rule 6014, the filing of the Notice of Appeal automatically stayed the effect of the Department decision pending the final order of this Panel. (Code Regs., tit. 16, § 6014.) However, on August 12, 2025, the Department filed a Motion to Dismiss or, in the Alternative, to Vacate Stay. (Dept. Motion to Dismiss or Vacate Stay (Aug. 12, 2025).) On August 26, 2025, following briefing on the Motion, this Panel denied the Department's Motion to Dismiss, but granted its Motion to Vacate Stay. (Panel Order Vacating Stay (Aug. 26, 2025).)

On appeal, appellant raises numerous objections to the Department's decision, including: (1) that intellectual property (IP) licensing is not "commercial cannabis activity" within the meaning of Business and Professions Code section 26001(n) (App.Br., at pp. 7-8); (2) that the Department violated appellant's due process right by implementing the interim Order Imposing license restrictions as a "de facto suspension" (*id.* at p. 8); (3) that substantial evidence is lacking (*id.* at pp. 10-14); (4) that the Department failed to provide reasoned decision-making (*id.* at p. 14); (5) that the penalty is disproportionate under both Business and Professions Code section 26011.5 and the Department's own Penalty Guidelines (*id.* at pp. 14-16); (6) that the decision misapplies Department rule 15049.2 by equating any recordkeeping inconsistencies with "falsification" (*id.* at p. 16); (7) that the public is sufficiently protected by "targeted conditions" (*id.* at p. 17); and (8) that the decision "creates regulatory uncertainty and chills legitimate business operations" (*id.* at p. 18).

Appellant's second and seventh arguments will be addressed together.

JURISDICTION AND STANDARD OF REVIEW

This Panel is limited in both its jurisdiction and scope of review. Generally, the Panel may hear appeals only under a limited set of circumstances.

> After proceedings pursuant to Section 26031, 26031.5, or 26058 or Chapter 2 (commencing with Section 480) or Chapter 3 (commencing with Section 490) of Division 1.5 [of the Business and Professions Code], any person aggrieved by the decision of the department denying the person's application for any license, denying the person's renewal of any license, placing any license on probation, imposing any condition on any license, imposing any fine on any license or licensee, assessing any penalty on any license, or canceling, suspending, revoking, or otherwise disciplining any license as provided for under this division, may appeal the department's written decision to the panel.

(Bus. & Prof. Code, § 26043(a).)

Where the Panel does have jurisdiction, its scope of review is constrained. "The panel shall review the decision subject to such limitations as may be imposed by the Legislature." (§ 26043(b).) Moreover, the Panel "shall not receive evidence in addition to that considered by the department." (*Ibid.*) Finally,

> (c) Review by the panel of a decision of the department shall be limited to the following questions:
>
> > (1) Whether the department has proceeded without or in excess of its jurisdiction.
> >
> > (2) Whether the department has proceeded in the manner required by law.
> >
> > (3) Whether the decision is supported by the findings.
> >
> > (4) Whether the findings are supported by substantial evidence in light of the whole record.

(§ 26043(c).)

Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion. (*County of San Diego v. Assessment Appeals Bd. No. 2* (1983) 148 Cal.App.3d 548, 555, quoting *Hosford v. State Personnel Bd.* (1977) 74 Cal.App.3d 302, 307.) It is evidence of "ponderable legal significance . . . reasonable in nature, credible, and of solid value." (*County of San Diego*, *supra*, at p. 555, quoting *Ofsevit v. Trustees of the Cal. State Univ. & Colleges* (1978) 23 Cal.3d 773, fn. 9.) This Panel's review of the evidence, however, is strictly limited: "The findings and conclusions of the department on question of fact are conclusive and final and are not subject to review. Those questions of fact shall include ultimate facts and the findings and conclusions of the department." (Bus. & Prof. Code, § 26047.) This Panel may not reweigh conflicting evidence but instead will consider whether the Department's findings are supported by such evidence in light of the whole record. (*Kirby v. Alcoholic Bev. Control Appeals Bd.* (1970) 7 Cal.App.3d 126, 129; *Reimel v. Alcoholic Bev. Control Appeals Bd.* (1967) 255 Cal.App.2d 40, 43.)

The Panel also considers whether any procedural error or evidentiary ruling prejudiced the appellant. Reversal is not warranted unless the appellant affirmatively demonstrates that an error resulted in prejudice. (Cal. Const., art. VI, § 13; Code Civ. Proc., § 475; *Reimel v. House* (1969) 268 Cal.App.2d 780, 787; *Citizens for Open Govt. v. City of Lodi* (2012) 205 Cal.App.4th 296, 308.) The burden is on the party seeking reversal to show that it is reasonably probable a more favorable result would have been reached absent the alleged error. (*City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal.App.4th 29, 51-52; *Thornbrough v. Western Placer Unified School Dist.* (2013) 223 Cal.App.4th 169, 200.)

This standard imposes a high threshold. This Panel will not overturn a decision simply because different inferences could be drawn from the evidence. The question is not whether the Panel would have reached the same result, but whether the Department's findings are supported by substantial evidence.

Finally, "the penalty imposed by an administrative agency is a matter vested in the discretion of such agency," which "will not be disturbed unless there has been a clear abuse of discretion." (*Martin v. Alcoholic Bev. Control Appeals Bd. of Cal.* (1959) 52 Cal.2d 287, 291.) An abuse of discretion occurs only when the penalty is so disproportionate to the offense that it shocks the conscience and suggests an absence of honest judgment. (*Deegan v. City of Mountain View* (1999) 72 Cal.App.4th 37, 46.)

ANALYSIS

I. Decision on Review

Appellant appeals the Department's Final Decision and the underlying Proposed Decision, but raises two separate arguments implicating the terms and enforcement of the earlier Order Imposing License Restrictions. Appellant's first argument, aimed at the Department's enforcement of the terms of the interim Order Imposing License Restrictions, will be addressed here. (See App.Br., at pp. 8-10.) Appellant's argument that the license restrictions imposed pursuant to the interim Order were sufficient to protect the public will be included in penalty discussions in Part VI, *infra*.

Appellant claims the Department's implementation of the interim Order Imposing License Restrictions "transformed these protective restrictions into an unlawful de facto suspension." (*Id.* at p. 8.) Appellant objects, for example, to the Department's approach to enforcing the provision requiring preapproval of business partners: "[t]he Department initially approved only 18 of 58 proposed license counterparts—a 35% approval rate—without providing any reasons for the 40 denials." (*Ibid.*; see also Order Imposing License Restrictions, at p. 11, ¶ 1.) This purportedly "caused counterparties to place orders with other distributors, resulting in operational disruption and financial loss." (App.Br., at p. 9.)

The Department responds that "a petition for interim suspension order, and an accusation hearing, are two separate and different proceedings." (Dept.Br., at p. 15.) It argues that "ALJ Heller and ALJ Ghaly did not consider the same exact evidence," and as one example, notes that "ALJ Heller did not hear live witness testimony, and thereby did not assess the credibility of witnesses, since it is not allowed in petitions for interim suspension order hearings." (*Ibid.*)

As discussed above, the full course of disciplinary action against appellant's license entailed two proceedings. The first proceeding, heard by ALJ Heller, commenced following the Department's Petition for Interim Suspension Order and resulted in the Order Imposing License Restrictions, issued pursuant to section 494 of the Business and Professions Code. (See generally Order Imposing License Restrictions.) The resulting license restrictions were twofold: first, that appellant "shall limit its distribution activities to licensed businesses that are preapproved in writing by the Department," and second, that appellant's "distribution activities and CCTT entries shall be monitored by a third-party compliance monitor, whom [appellant] shall identify and retain at its own expense," and who "shall provide information and compliance reports as directed by the Department." (*Id.* at p. 11, ¶¶ 1-2.)

The second proceeding, heard by ALJ Ghaly, commenced after the Department filed its Accusation. It resulted in the Proposed Decision, which revoked appellant's license. (Proposed

Decision, at p. 18, ¶ 1.) The Department duly adopted the Proposed Decision, including the penalty, as its Final Decision pursuant to section 26031 of the Business and Professions Code. (See generally *ibid.*)

There is no question that this Panel has jurisdiction to review both the Proposed Decision and the Final Decision adopting it. (See Bus. & Prof. Code, § 26043(a).) That jurisdiction, however, does not extend to the Order Imposing License Restrictions issued pursuant to section 494. (See Order Imposing License Restrictions; Bus. & Prof. Code, § 494.)

As described above, this Panel is authorized to hear appeals from "any person aggrieved by a decision of the department" imposing one of the enumerated forms of discipline. (Bus. & Prof. Code, § 26043(a).) Appeal before this Panel is available only "[a]fter proceedings pursuant to . . . Chapter 3 (commencing with section 490) of Division 1.5." (*Ibid.*)

Section 494, the provision governing interim orders, is a provision of Division 1.5 of the Business and Professions Code, suggesting it falls within that language. However, section 26043(b) states that "The panel shall review the decision subject to such limitations as may be imposed by the Legislature." (§ 26043(b).)

Section 494 includes an express limitation on review of interim orders: "Interim orders shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and shall be heard only in the superior court in and for the Counties of Sacramento, San Francisco, Los Angeles, or San Diego." (Bus. & Prof. Code § 494(g).) This language represents a limitation imposed by the Legislature and precludes appeal from an interim order before this Panel.

As a matter of law, this Panel therefore lacks jurisdiction to review either the Order Imposing License Restrictions or the implementation of its terms. Whether the Department's approval of appellant's proposed business partners amounted to a "unlawful de facto suspension" is not a question that may properly be reviewed by this Panel. (See App.Br., at p. 8.)

II. Interpretation of "commercial cannabis activity" under Department rule 15000.1

Appellant contends that the Department failed to prove a violation of rule 15000.1, which provides that "commercial cannabis activity shall only be conducted between licensees." (Code Regs., tit. 4, § 15000.1.) According to appellant, the definition of "commercial cannabis activity" under section 26001(n) of the Business and Professions Code "regulates plant-touching operations and does not encompass non-plant touching brand/IP licensing." (App.Br., at p. 7.) Appellant does not cite a statute, regulation, or other law explicitly excluding intellectual property from the definition of "commercial cannabis activity," but instead contends that "[s]ection 26001(n) requires licensure only for activities involving the actual handling, processing, or transfer of cannabis and cannabis products—the 'plant-touching' operations, and that "[i]ntellectual property licensing, by definition, involves intangible rights and contractual agreements that never touch cannabis products." (*Ibid.*)

Based on its proposed definition, appellant claims that the Department's conclusion that "[a]ppellant 'did business with unlicensed entities' rests entirely on a mischaracterization of statements made during Inspector Gutierrez's inspection." (*Ibid.*) It argues that Gutierrez "did not ask Mr. Haghighi to clarify the 'people who don't have licenses' remark and did not obtain any names or identify any instance in which an unlicensed person physically handled cannabis." (*Id.* at p. 8.) It further claims that Gutierrez "conceded that an IP/brand-owning company 'would not necessarily need to have a commercial cannabis license itself' if it does not handle cannabis." (*Ibid.*)

According to appellant, the Department's misinterpretation of the definition of "commercial cannabis activity" constitutes "legal error subject to de novo review" by this Panel. (*Id.* at p. 7.)

In response, the Department argues that its "decision did not find that branding arrangements *per se* do, or do not, constitute commercial cannabis activity such that both parties must be licensed. Rather . . . the Department found that Appellant's story about branding agreements was not credible." (Dept.Br., at p. 18.) According to the Department, "[t]hat finding, and not a broad holding about the legality of branding agreements, is what is before this Panel." (*Ibid.*) It urges this Panel to "decline to issue a pronouncement regarding the legality of branding arrangements." (*Ibid.*)

This Panel's scope of review indeed includes "whether the Department has proceeded in the manner required by law." (Bus. & Prof. Code, 26043(c)(2).) "It is well settled that the interpretation and application of a statutory scheme to an undisputed set of facts is question of law . . . which is subject to de novo review on appeal." (*Rudd v. Cal. Casualty Gen. Ins. Co.* (1990) 219 Cal.App.3d 948, 951-952.) Where properly raised, this Panel may review questions of law de novo.

However, where the dispute turns instead on findings of fact, this Panel may only review "[w]hether the decision is supported by the findings" and "[w]hether the findings are supported by substantial evidence in light of the whole record." (Bus. & Prof. Code, § 26043(c)(3)-(4).)

In conducting such a review, however, the Panel must defer to the findings below. "The findings and conclusion of the department on questions of fact are conclusive and final and are not subject to review." (§ 26047.) This deference extends to the credibility of witnesses:

> The trier of the facts is the sole judge of the credibility of witnesses [citation], and is free to disbelieve them even though they are uncontradicted, if he has any rational ground for doing so . . . . In most cases he is free to disbelieve testimony

> contradicting inferential evidence and may accept the result of the inference as true. [Citations.] Among the many things the trier of fact is entitled to consider in passing on the credibility of witnesses are their motives and interest in the result of the case, [citations], and the inherent improbability of their testimony.

(*De Martini v. Industrial Acc. Com.* (1949) 90 Cal.App.2d 139.) "The law is clear that the credibility of a witness is always an issue for the trier of fact to decide and the trier of fact 'may consider in determining the credibility of a witness any matter that has any tendency in reason to prove or disprove the truthfulness of his testimony at hearing.'" (*Argueta v. Worldwide Flight Services* (2023) 97 Cal.App.5th 822, 835, citing Evid. Code, § 780.) This deference is based on the longstanding premise that "the opportunity to observe witnesses 'upon the stand and the manner in which they gave their testimony . . . in no small degree aid[s] in the determination of the truth and correctness of testimony.'" (*Rycz v. Superior Ct. of San Francisco County* (2022) 81 Cal.App.5th 824, 841, quoting *Pac. Coast Title Ins. Co. v. Land Title Ins. Co.* (1950) 97 Cal.App.2d 829, 834.)

In the present case the Proposed Decision contains no interpretation of section 26001(n), nor does it offer a legal definition of the phrase "commercial cannabis activity." (See generally Proposed Decision.) Instead, the conclusion that appellant did business with unlicensed entities turned largely on findings of fact related appellant's inaccurate manifests and the deliveries it made to vacated premises previously occupied by El Dorado Extracts. (See *id.* at p. 8, ¶¶ 14-15.) Additionally, ALJ Ghaly expressly rejected Haghighi's claim that he was referring to intellectual property agreements when he alluded to "people who don't have licenses" during his conversation with Investigator Gutierrez. (See *id.* at p. 4, ¶ 5 [finding Haghighi told investigators that appellant "works with both licensed and unlicensed entities"]; see also RT, vol. I, at p. 53, ll. 20-21 [Investigator Gutierrez testifying that Haghighi "stated that he works with licensed and unlicensed entities"]; RT, vol. I, at p. 185, ll. 9-13 [Haghighi testifying that IP contracts were "an extensive part of the conversation" with Investigator Gutierrez, and that he was "surprised and shocked that she was inferring I was doing something illegal by working with . . . some unlicensed operators"]; Investigative Report, Exh. 7, at p. 2; Declaration of Orang Gaghighi [sic], Exh. B, at p. 2, ¶ 8 ["When I referred to working with 'people who don't have licenses,' I was specifically referring to intellectual property holding companies"].) ALJ Ghaly provided detailed reasons for discrediting Haghighi's testimony:

> Haghighi's testimony about his comments to Gutierrez being taken out of context and that his only reference to unlicensed businesses was about branding companies is not credible. For one, why reference businesses ancillary to cannabis production and sale as "unlicensed"? If such businesses do not fall within the ambit of the Department's regulatory control, they have no status vis-

> à-vis the Department. Denoting them as unlicensed can only be understood as Haghighi's attempt to backpedal from his more candid statements to Gutierrez in an unguarded moment.

(Proposed Decision, at p. 9, ¶ 15.)

This Panel is bound to accept credibility findings made by the trier of fact. ALJ Ghaly did not interpret the phrase "commercial cannabis activity" under section 26001(n) because the cause for disciplinary action alleged in the Accusation did not turn on that definition, and because appellant did not present evidence or credible testimony sufficient to call the meaning of that provision into question. (See generally Proposed Decision; Accusation.) As such, there are no grounds for this Panel to interpret the provision, either.

The conclusion that appellant did business with unlicensed entities in violation of rule 15001.1 was based on findings of fact—including the credibility of witnesses—and not on an interpretation of the applicable law.

III. Interpretation of Department rule 15049.2

Appellant contends that Department rule 15049.2, implicated in the fourth cause for discipline, "addresses administrative inaccuracy in the seed-to-sale tracking system" and "does not criminalize or equate with 'falsification' every instance" of inconsistency. (App.Br., at p. 16.) Appellant argues that, in this case, the rule's "tracking purpose was fully served despite timing variances in manifest creation versus execution." (*Id.* at p. 17.) It claims that "the undisputed evidence shows Appellant's former Metrc manager followed a common industry practice of entering estimated delivery dates early in the week for logistical planning purposes," an action it insists "does not constitute falsification." (*Ibid.*)

The Department responds that it was "Appellant's sole responsibility to accurately report each of its transfers." (Dept.Br., at p. 15.) It points out that "investigator Gutierrez *did* ask Mr. Haghighi for the paper versions of the manifests, after noticing that they were not in Appellant's files," but that "Mr. Haghighi replied that he 'had no idea' where they were, and subsequently never sent them to the Department." (*Ibid.*, emphasis in original.) Moreover, "Appellant sought to blame any wrongdoing on its employee 'Tatiana,' yet Appellant failed to produce 'Tatiana' or fully identify her." (*Ibid.*) According to the department this is "consistent with [appellant's] refusal to take accountability." (*Ibid.*)

Department rule 15049.2 states, in relevant part,

> (b) The distributor who transports the cannabis or cannabis product shall record the following additional information on the shipping manifest:

(1) The actual date and time of departure from the licensed premises; and

(2) The actual date and time of arrival at each licensed premises.

(Code Regs., tit. 4, § 15049.2(b).)

As observed in Part II, *supra*, this Panel's scope of review includes "whether the Department has proceeded in the manner required by law." (Bus. & Prof. Code, 26043(c)(2).) Where the facts are undisputed, the Panel may properly review the interpretation and application of the law. (See *Rudd*, *supra*, at pp. 951-952.)

Appellant does not contend that its delivery manifests were, in fact, accurate. (See generally App.Br.) Instead, appellant argues that "[t]he record shows administrative timing variances and planning manifests, not falsification designed to conceal activity." (*Id.* at p. 17.) Appellant itself characterizes the evidence on this point as "undisputed." (*Ibid.*)

Rule 15049.2(b), however, does not differentiate between a deliberate "falsification" and an unintentional inaccuracy. (See Code Regs., tit. 4, § 15049.2(b); see also App.Br., at p. 17.) Nor does it offer an exception for what appellant characterizes as "an administrative timing variance" reflecting "a common industry practice." (App.Br., at p. 17.) Indeed, the rule does not address the intent behind inconsistencies at all. Instead, the plain language of rule 15049.2 mandates that a distributor "shall" record the "*actual* date and time of departure" and the "*actual* date and time of arrival" on its manifests. (Code Regs., tit. 4, § 15049.2, emphases added.)

This Panel need not interpret language surrounding intent when no such language appears in the rule. It is undisputed that "estimated times" recorded on appellant's manifests did not reflect "actual delivery times." (App.Br. at p. 16.) That is sufficient to establish a violation of rule 15049.2.

IV. Substantial evidence

Appellant contends that substantial evidence is lacking to support disciplinary action in this case. It argues that "[s]peculation and conjecture cannot constitute substantial evidence, nor can inferences unsupported by the record." (*Id.* at p. 10.)

In particular, appellant objects to the Department's purported reliance on hearsay evidence, arguing that "[a]dministrative findings require reliable, non-hearsay evidence; while hearsay may be used to supplement or explain, it cannot alone support critical findings unless admissible over objection." (*Ibid.*) It claims that "[t]he Department's entire case for unlicensed activity rests on Inspector Gutierrez's interpretation of a conversation" with Haghighi, and that these "out-of-court statements attributed to Haghighi constitute classic hearsay offered to prove the truth of the matter asserted"—namely, "that Appellant conducted business with unlicensed entities." (*Id.* at p. 11.)

Moreover, appellant claims that "[t]he Department's assertion that multiple delivery manifests to El Dorado Extracts evidences [sic] wrongdoing is speculative" and is better explained by "[s]tandard logistics." (*Id.* at p. 13.) Appellant claims that "[m]anifests are commonly created in advance for planning, grouped by brand for intake verification, and consolidated into fewer physical trips when exact timing within a week is uncertain." (*Ibid.*) It insists that "[n]othing about this practice suggests diversion, falsification, or a regulatory violation." (*Ibid.*) Appellant explains its "Metrc manager sometimes prepared manifests earlier in the week and did not always update the date when deliveries were consolidated, resulting in" what it characterizes as "slight timing variances." (*Ibid.*) This, according to appellant, is insufficient to constitute "evidence of diversion or falsification." (*Ibid.*)

Finally, appellant contends that ALJ Ghaly improperly inferred unlicensed transfers based on El Dorado Extracts' vacant premises. (*Ibid.*) Appellant argues that all transfers were made while El Dorado Extracts' license was still active. (*Ibid.*) It writes, "The Department did not develop evidence that deliveries were made to an address other than El Dorado's licensed address, nor did it identify any instance of a transfer to a non-licensee." (*Ibid.*) It characterizes "reliance on premises vacancy to imply unlicensed recipients" as "conjectural." (*Ibid.*)

The Department counters that "Appellant does not dispute that it committed three of the four charged violations." (Dept.Br., at p. 11.) It writes,

> On cross-examination, Mr. Haghighi admitted that Appellant had used the CCTT account login credentials of Appellant's former owner for over a year after she disassociated from Appellant. (2 RT 29-30; AR 511). Appellant also admitted that an employee named "Tatiana", who did not have her own CCTT account credentials, handled and logged all of Appellant's CCTT activity. (1 RT 71; 1 RT 102.) Mr. Haghighi also admitted that Appellant's delivery driver did not always follow the dates and times on the transfer manifests. (1 RT 110; AR 502.) Similarly, [appellant's] Opening Brief concedes that there were "timing discrepancies" between manifests and actual deliveries. (Opening Brief, 13.) These admissions establish that Appellant committed the second, third, and fourth charged causes for discipline.

(*Ibid.*) With regard to the first count, doing business with unlicensed entities, the Department directs this Panel to portions of Haghighi's testimony, as well as appellant's manifests showing delivery to El Dorado Extracts' vacated premises. (*Id.* at pp. 11-12.) It also points out that ALJ

Ghaly found Haghighi's "post hoc explanation" regarding unlicensed entities and IP contracts to be not credible. (*Id.* at p. 12.)

With regard to appellant's unsupported hearsay claim, the Department responds that appellant failed to object to the questions at hearing, thereby waiving any hearsay objection and foreclosing the issue on appeal. (*Id.* at p. 13.) The Department further argues that these hearsay statements constitute party admissions. (*Ibid.*)

The Department bears the burden of proof. (See Evid. Code, § 500.) The statutory scheme in question, however, does not specifically identify what burden the Department is required to meet in a disciplinary proceeding. (See generally Bus. & Prof. Code, § 26000 *et seq.*) The burden of proof is therefore preponderance of the evidence. (Evid. Code, § 115; see also *Conservatorship of Wendland* (2001) 26 Cal.4th 519, 546 ["The default standard of proof in civil cases is the preponderance of the evidence."]; *Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916 [affirming preponderance of the evidence standard in disciplinary actions against nonprofessional licenses].)

The preponderance of the evidence standard "simply requires the trier of fact to believe that the existence of a fact is more probable than its nonexistence." (*In re Angelia P.* (1981) 28 Cal.3d 908, 918.) "In other words, the term refers to 'evidence that has more convincing force than that opposed to it.'" (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567, citing Cal. Civ. Jury Instructions, No. 2.60 (Spring 2021 Com. Rev.).)

"Substantial evidence is evidence that is of ponderable legal significance, reasonable in nature, credible, and of solid value, and substantial proof of the essentials [that] the law requires in a particular case." (*LaMarr v. Regents of Univ. of Cal.* (2024) 101 Cal.App.5th 671, 675-676, internal quotations omitted, citing *Conservatorship of O.B.* (2020) 9 Cal.5th 989, 1006.)

"No evidence is admissible except relevant evidence." (Evid. Code, § 350.) "'Relevant evidence' means evidence, including evidence relevant to the credibility of a witness or hearsay declarant, having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." (§ 210.) Under this provision, "'relevant evidence' includes not only evidence of the ultimate facts actually in dispute but also evidence of other facts from which such ultimate facts may be presumed or inferred." (§ 210, Law Rev. Com. comm.)

Circumstantial evidence may be both relevant and probative. "Relevant evidence includes circumstantial evidence that tends to establish a fact from which the existence or nonexistence of the fact can be inferred. [Citation.] The modifier 'circumstantial' is used to emphasize the need to draw inferences from the evidence." (*Phillips v. Honeywell Internat., Inc.* (2017) 9 Cal.App.5th 1061, 1079.) "An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts found or otherwise established in the action." (Evid. Code, § 600(b).) "[C]ircumstantial evidence and any reasonable inferences drawn from that evidence may constitute substantial evidence." (*LaMarr*, *supra*, at p. 676, quoting *People v. Grant* (2020) 57 Cal.App.5th 323, 331.) Moreover, "Proof of knowledge, like any other fact, can be circumstantial." (*People v. Overstock.com, Inc.* (2017) 12 Cal.App.5th 1064, 1086.) Indeed, "the law generally makes no distinction between circumstantial and direct evidence absent some affirmative indication in a statute." (*Harris v. City of Santa Monica* (2013) 56 Cal.4th 203, 232, agreeing with *Desert Palace, Inc. v. Costa* (2003) 539 U.S. 90, 99-100.)

Hearsay is defined as "evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated." (Evid. Code, § 1200(a).) "Except as provided by law, hearsay evidence is inadmissible." (§ 1200(b).)

Exceptions to the hearsay rule, however, are numerous. (See generally §§ 1220-1390.) For example, "Evidence of a statement is not made inadmissible by the hearsay rule when offered against the declarant in an action to which he is a party in either his individual or representative capacity, regardless of whether the statement was made in his individual or representative capacity." (§ 1220.) "An admission is a statement made by a party to a proceeding suggesting an inference as to any fact in dispute or relevant to any such fact and to be admissible must tend to prove or have a material bearing on the issues in the case." (*Legg v. United Ben. Life Ins. Co*. (1951) 103 Cal.App.2d 228, 229.) "Admissions of a party . . . are received to prove the truth of the assertions; i.e., they constitute affirmative or substantive evidence that the jury or court may believe as against other evidence, including the party's own contrary testimony on the stand." (*Jayazeri v. Mao* (2009) 174 Cal.App.4th 301, 325.) Such admissions "may be oral or written." (*Ibid.*) Even in the criminal context, where the burden of proof is substantially higher than in a non-professional licensing matter, "a defendant's own hearsay statements are admissible against him, as long as they satisfy the test of relevance." (*People v. Brown* (2014) 59 Cal.4th 86, 103.)

In administrative proceedings, evidentiary rules—including the hearsay rule—are relaxed:

> The hearing need not be conducted according to technical rules relating to evidence and witnesses . . . . Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

(Gov. Code, § 11513(c).) “Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil cases.” (§ 11513(d).) Additionally, a hearsay objection “is timely if made before submission of the case or on reconsideration.” (*Ibid.*)

Generally, where the adverse party fails to object, inadmissible hearsay becomes competent evidence, and the trier of fact may consider it. (See, e.g., *Burke v. Bloom* (1960) 187 Cal.App.2d 155,163-165; *Smith v. Smith* (1955) 135 Cal.App.2d 100, 105; *Dorfer v. Delucchi* (1943) 61 Cal.App.2d 63, 66.) In the context of administrative proceedings, however, “[t]here are two competing lines of cases concerning the issue of whether an objection to hearsay evidence is necessary during an administrative hearing to preserve the issue on review.” (*McNary v. Dept. of Motor Vehicles* (1996) 45 Cal.App.4th 688, 696, comparing *Borror v. Dept. of Investment* (1971) 15 Cal.App.3d 531, 544-547 [holding objection can be waived], with *Martin v. State Personnel Bd.* (1972) 26 Cal.App.3d 573 [holding that absence of objection cannot convert hearsay evidence into competent evidence sufficient to independently support a finding].)

Appellant faced four causes for discipline under the Department’s Accusation. The first cause for discipline alleged a violation of rule 15000.1(b), which states, in relevant part, “Commercial cannabis activity shall only be conducted between licensees.” (Code Regs., tit. 4, § 15000.1(b).)

At the commencement of administrative proceedings, appellant raised an objection to the admission of Investigator Gutierrez’s investigative report into evidence—in which she described Haghighi’s alleged admission that he worked with “people who don’t have licenses”—on several grounds, including that it contained "statements by non-parties as hearsay.” (See RT, vol. I, at p. 87, ll. 7-22; see also Exh. 7, at p. 3.) The court observed that “hearsay is admissible in these types of administrative adjudications,” and therefore overruled the objection. (RT, vol. I, at p. 87, ll. 23-24 and p. 88, ll. 14-15.)

Both Investigator Gutierrez and Haghighi testified about the alleged exchange described in Gutierrez’s investigative report. Gutierrez testified that during her investigation, Haghighi

> had made a comment that he received a phone call from someone from the El Dorado Extracts license asking him if he wanted to conduct business with them. I asked him if that was a common occurrence. He stated that yes, that people get his phone number off a website that shows that he has a DCC license, and people will call him and ask him to work with them, and I asked him if they are all licensed people, and he said that he works with licensed and unlicensed people.

(RT, vol. I, at p. 96, ll. 4-12; see also RT, vol. I, at p. 97, ll. 23-24.) Appellant’s subsequent cross-examination regarding this alleged statement focused on whether Gutierrez asked Haghighi for clarification. (See generally RT, vol. I, at pp. 92-102.) Gutierrez later testified that Haghighi had not mentioned either branding agreements or intellectual property. (RT, vol. II, at p. 124, ll. 7-22.)

During the second day of proceedings, Department Special Investigator Torres testified that he accompanied Investigator Gutierrez to appellant's premises. (RT, vol. II, at p. 117, ll. 5-7.) Torres testified that he was present for Gutierrez's conversation with Haghighi, and that he "heard Mr. Haghighi state that he worked with licensed, unlicensed, or pretty much anybody that was willing to work with him." (RT, vol. II, at p. 118, ll. 46-25, and p. 119, ll. 1-2; see also RT, vol. II, at p. 120, ll. 5-16.) He also testified that he did not recall Haghighi mentioning branding agreements. (RT, vol. II, at p. 119, ll. 3-8.)

Haghighi's testimony extended over both days of administrative proceedings. (See RT, vol. I, at pp. 174-246; RT, vol. II, at pp. 7-84.) On direct examination, Haghighi stated that Gutierrez took his comments out of context. (RT, vol. I, p. 187, ll. 2-5.) He described his conversation with Inspector Gutierrez as follows:

> [Counsel for Appellant]: So when you had your discussion with the investigator about unlicensed entities, were talking just about entities that never actually touch the cannabis product?
>
> [Haghighi]: Yes, never touch cannabis product, but I never even mentioned anything about unlicensed—working with unlicensed entities out of my own words. That was a question she posed, and I immediately said no, I don't work with any unlicensed entities, and went into explaining brand, the brand and IPs.

(RT, vol. II, at p. 199, ll. 22-25, and p. 200, ll. 1-6.) Haghighi testified, "I was surprised and shocked that [Inspector Gutierrez] was inferring that I was doing something illegal by working with Life Cannabis and some unlicensed operators." (RT, vol. I, at p. 185, ll. 10-13.) He stated,

> So her inspection, we also went in to spot-check the inventory, and one of it was Life Cannabis, and the whole conversation about an unlicensed operator came up with her question, and I gave her the background of the brand Life Cannabis being in the retail market, and her question to me was, "Is this owner licensed?" And I told her, the owner is not licensed, but he has an agreement with me as a distributor as well as a manufacturer, as an IP, intellectual property, licenses out the brand, and that's how the industry works.

(RT, vol. I, at p. 184, ll. 23-25, and p. 185, ll. 1-8.)

Following the administrative proceedings, ALJ Ghaly made the following findings of fact:

14. Aside from Haghighi's alleged admission, which Haghighi has disavowed, complainant's evidence establishing respondent did business with unlicensed entities is circumstantial: the manifests indicating deliveries to a defunct licensee who had vacated his facility at the address to which respondent was ostensibly delivering cannabis products; the fact that the manifests reflected an unusual number of deliveries to El Dorado within compressed time periods and Haghighi's admission that the manifests did not reflect the actual dates of deliveries further support a finding that whatever deliveries were made were not made when or to where the manifests reflect. The only reasonable inference from this evidence is that respondent was trying to conceal the actual recipient of its deliveries and the only reasonable inference for why that would be the case is because the recipient is unlicensed.

15. In addition to complainant's evidence, respondent's own evidence is not credible and only further supports a finding that respondent did do business with unlicensed entities. Haghighi's testimony about his comments to Gutierrez being taken out of context and that his only reference to unlicensed businesses was about branding companies is not credible. For one, why reference businesses ancillary to cannabis production and sale as "unlicensed"? If such businesses do not fall within the ambit of the Department's regulatory control, they have no status vis-à-vis the Department. Denoting them as unlicensed can only be understood as Haghighi's attempt to backpedal from his more candid statements to Guitierrez [sic] in an unguarded moment. Additionally, Haghighi's testimony about the manifests exhibiting only minor clerical errors is belied by the strong evidence that El Dorado was defunct at times the manifests reflect deliveries to its facilities. Gallo's testimony that he made his deliveries and returned without lengthy stops coupled with the only manifesto [sic] bearing a wet signature showing receipt of respondent's product one day after the date of delivery also support a finding that the hard copy manifest is falsified.

16. Circumstantial evidence may carry the burden of establishing a claim and may be as persuasive and convincing as direct evidence. (*People v. Overstock, Inc.* (2017) 12 Cal.App.5th 1064, 1086). There are limitations, however. Circumstantial evidence's inferences must be the logical extension of the evidence. "Speculation and conjecture alone is not substantial evidence." (*Feduniak v. California Coastal Commission* (2007) 148 Cal.App.4th 1346, 1360.) Here, the logical and direct inference to be drawn from complainant's evidence as well as Haghighi's uncredited statements is that respondent did cannabis-related business with unlicensed entities.

(Proposed Decision, at p. 9, ¶¶ 14-16.) Based on these findings, ALJ Ghaly reached the following conclusion of law regarding the first cause for discipline under rule 15000.1:

> 7. As a first cause of discipline, the Department alleged respondent, through the actions of Haghighi, violated Regulation section 15000.1. Specifically, complainant alleged respondent falsified manifestos [sic] to reflect he was making deliveries to another Department licensee when, in fact, that licensee, El Dorado, had vacated its premises for at least several months during the period respondent was ostensibly making deliveries to it.
>
> 8. As set out in Factual Finding 14 through 16, complainant established respondent did business with unlicensed entities.

(*Id.* at p. 12, ¶¶ 7-8.)

Appellant would have this Panel conclude that the Department's offer of proof under rule 15000.1 consisted of a solitary hearsay statement contained in Inspector Gutierrez's investigative report. In fact, both Gutierrez and Investigator Torres appeared and testified about the conversation, as did Haghighi himself. All three were subject to cross-examination. Ultimately, ALJ Ghaly found Haghighi's testimony to be not credible.

It is true that Haghighi's statements about "people who don't have licenses" described in the investigative report and in the testimony offered by Investigators Gutierrez and Torres might constitute hearsay. If so, it is nevertheless admissible, for several reasons. First, Haghighi's statement constitutes a party admission. (See Evid. Code, § 1220.) Second, the statement is offered as hearsay in an administrative proceeding, meaning that it "may be used for the purpose of supplementing or explaining other evidence." (See Gov. Code, § 11513(d).) As described in the findings of fact, Haghighi's admission supplemented additional, non-hearsay evidence that appellant's manifests were inaccurate and that it delivered cannabis product to El Dorado Extracts' vacated premises.

Additionally, it is not clear that appellant objected to Haghighi's statement as hearsay. It did object to the admission of Gutierrez's report on hearsay grounds, but because it included "statements by non-parties as hearsay." (RT, vol. I, at p. 87, ll. 19-22; see also Exh. 7.) As appellant's owner, Haghighi is, of course, a party—indicating that the objection did not apply to his statement. Regardless, ALJ Ghaly overruled the objection, noting that hearsay is admissible in administrative proceedings. (RT, vol. I, at p. 87, ll. 23-25, and p. 88, ll. 14-15.) Appellant does not argue that this evidentiary ruling was incorrect, but instead insists Haghighi's hearsay statements in the report "cannot constitute substantial evidence on critical issues" under Government Code section 11513(d) due to the existence of contrary evidence. (See App.Br., at

p. 11.) Appellant misstates the law. The presence of contrary evidence has no effect on the admissibility of hearsay evidence in administrative proceedings. (See Gov. Code, § 11513(d).)

ALJ Ghaly's ruling turned on multiple facts and credibility assessments. Haghighi's hearsay statement to Inspector Gutierrez was properly admitted for the purpose of supplementing or explaining other evidence. Taken together, this evidence supports ALJ Ghaly's findings of fact, including reasonable inferences based on circumstantial evidence. Substantial evidence therefore exists to establish that appellant violated rule 15000.1.

The second cause for discipline alleged failure to accurately record cannabis activity in violation of rules 15047.2, subdivisions (b) and (c). Those provisions state:

> (b) All commercial cannabis activity shall be accurately recorded in the track and trace system.
>
> (c) A licensee is responsible for the accuracy and completeness of all data and information entered into the track and trace system. The licensee is responsible for all actions taken by the designated account manager or other account users while performing track and trace activities.

(Code Regs., tit. 4, § 15047.2(b)-(c).)

The third cause for discipline implicates related facts. It alleged improper use and sharing of CCTT credentials, in violation of rule 15048(c) and 15048.1(a)(1) through (3). Rule 15048 states, in relevant part,

> (c) The account manager and each user shall utilize a unique login, consisting of a username and password. The account manager and each user shall only access the track and trace system under their assigned login. No account manager or user shall share their login, username, or password, with any other individual for any reason.

(§ 15048(c).) Rule 15048.1 states, in relevant part:

> (a) A licensee and their designated account manager(s) shall:
>
>> (1) Designate track and trace system users, as needed, and require the system users to be trained in the proper and lawful use of the track and trace system before the users are permitted to access the track and trace system;
>>
>> (2) Maintain an accurate and complete list of all of the licensee's track and trace system users, including full names and usernames, and update the list immediately when changes occur;

> (3) Remove a user from the licensee's track and trace system account when that individual is no longer authorized to represent the licensee.

(§ 15048.1(a)(1)-(3).)

ALJ Ghaly made the following findings of fact relevant to the second and third causes for discipline:

> 9. Haghighi maintained the use of S.S.'s credentials was a simple clerical error. The email address associated with S.S.'s log in information was respondent's general email and Haghighi was hesitant to cease using it as that might mean losing important correspondence. He also reiterated any mistakes were the fault of Tatiana, including sharing credentials for accessing the CCTT system. Haghighi maintained he discharged Tatiana from her position once he came to understand the many mistakes she had made. Sylvia Cano Rosales (Cano), respondent's new manager, testified at the hearing and stated she now uses proper credentialing for all of respondent's CCTT's [sic] entries into Metrc. Cano also stated all respondent employees now have their own credentials for inputting information into Metrc.
>
> 10. Haghighi stated Tatiana also was responsible for creating the manifests and did not always void out ones that were not used, another instance of her incompetence. He stated the driver did not always follow the manifests but had made multiple deliveries to El Dorado, always dropping off cannabis products per its orders.

(Proposed Decision, at pp. 6-7.) Based on these findings, ALJ Ghaly found that appellant had admitted to the violations alleged in the second and third causes of action.

On appeal, appellant does not contend otherwise. In fact, appellant does not address the improper sharing of credentials at all in its brief before this Panel, except to characterize it as an "administrative error[]" and to discuss its remedial measures. (App.Br., at pp. 5-6.)

The second and third causes for discipline are therefore supported by substantial evidence—namely, appellant's own admission.

The fourth and final cause for discipline alleged inaccurate distribution manifests, in violation of rule 15049.2(b)(1) through (2). (Code Regs., tit. 4, § 15049.2(b)(1)-(2).) The language and proper interpretation of this rule are addressed in more detail in Part III, *supra*. Additionally, the findings of fact relevant to this cause for discipline overlap with the facts supporting the first cause for discipline, discussed above. (See Proposed Decision, at pp. 8-9, ¶¶ 14-15.)

Based on these findings, ALJ Ghaly reached the following conclusion of law:

> As a fourth cause for discipline, the Department alleged respondent violation regulation section 15049.2 by distributing cannabis on dates and times which did not match those on the associated delivery manifests. As set out in Factual Findings 14 through 16, the evidence established the manifests investigators found reflecting deliveries to El Dorado during the October through December, 2024 period could not have been correct because at that time, El Dorado's business was defunct and it had vacated the premises to which respondent's driver purportedly delivered cannabis product.

(*Id.* at p. 15, ¶ 16.)

As above, appellant alleges the erroneous manifests reflect logistics. (App.Br., at p. 13.) It argues that the "timing variances" on its manifests reflected "administrative logistics" and not "evidence of falsification or diversion." (*Ibid.*) However, as discussed in Part III, *supra*, the Department need not prove falsification, diversion, or other criminal activity in order to establish a violation of rule 15047.2; inaccurate record-keeping alone is sufficient. Additionally, appellant contends "Inspector Gutierrez did not verify which trips physically occurred . . . or obtain signed paper counterparts before concluding the manifests were 'inaccurate.'" (*Ibid.*)

However, Haghighi's testimony indicates that he was well aware that the delivery manifests were chronically inaccurate, and simply blamed the inaccuracies on his former employee, Tatiana. (RT, vol. II, at pp. 71-72.) Under the rule, however, the responsibility is placed on "the distributor" to ensure that the manifests reflect the "actual date and time" of arrival and departure. (Code Regs., tit. 4, § 15049.2(b)(1)-(2).) Appellant cannot evade responsibility by blaming a former employee. Substantial evidence therefore supports ALJ Ghaly's finding that, by Haghighi's own admission, "the manifests did not reflect the actual dates of deliveries." (Proposed Decision, at p. 8, ¶ 14.) Finally, appellant's driver, Jonathan Gallo, testified that he obtains a signature from a company representative upon delivery of any product. (RT, vol. II, at p. 105, ll. 11-22.) If appellant believed that the paper counterparts to its manifests provided a defense to the Department's allegations under rule 15049.2, then it fell on appellant to produce those documents. Ultimately, it produced only one—a manifest for El Dorado Extracts dated October 17, 2024, with a departure/arrival date of October 18, 2024, and a wet signature dated October 19, 2024. (Proposed Decision, at p. 7, ¶ 12; see also Exh. C.) The one paper manifest appellant did produce only reinforces the conclusion that its recordkeeping violated rule 15049.2. (See Code Regs., tit. 4, § 15049.2(b)(1)-(2).)

Substantial evidence therefore supports all four causes for discipline.

V. Sufficiency of Findings

Appellant directs this Panel to the California Supreme Court's decision in *Topanga*, which held, in relevant part, "that implicit in section 1094.5 [of the Code of Civil Procedure] is a requirement that the agency which renders the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order." (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.) According to appellant, the Final Decision fails to meet the standards set by *Topanga* for three reasons:

> (1) it contains no analysis explaining why the Department's own CCTT/Metrc data—showing exclusively licensee-to-licensee transfers—should be disregarded in favor of Inspector Gutierrez's uncorroborated interpretation of an ambiguous conversation; (2) no findings address Appellant's substantial remedial measures and compliance monitoring instituted under the Interim Order [citation]; and (3) the Department's implementation of the Interim Order through unexplained 65% denial rates and escalated demands undermined ALJ Heller's express finding that targeted restrictions were sufficient.

(App.Br., at p. 14.) According to appellant, these "failures to address contrary evidence and explain reasoning require reversal under *Topanga*." (*Ibid.*)

Subsequent courts have clarified the *Topanga* holding. For example, "In [*Topanga*], the granting of a variance by the County of Los Angeles was invalidated on the ground that no findings were made showing the existence of circumstances authorizing a variance under the provisions" of the applicable statute. (*Jacobson v. County of Los Angeles* (1977) 69 Cal.App.3d 374, 389.) "The holding of *Topanga* was, thus, that *in the total absence of findings in any form* on the issues supporting the existence of conditions justifying a variance, the granting of such variance could not be sustained." (*Id.* at p. 389, emphasis added; see also *No-Slo Transit, Inc. v. City of Long Beach* (1987) 197 Cal.App.3d 241, 258-259.) The court continued, "Among other functions, a findings requirement serves to conduce the administrative body to draw legally relevant sub-conclusions supportive of its ultimate decision; the intended effect is to facilitate orderly analysis and minimize the likelihood that the agency will randomly leap from evidence to conclusions." (*Jacobson*, *supra*, at pp. 389-390.)

In fact, in a later case on similar facts—aptly bearing the same party names—the court of appeal refined the original *Topanga* holding. It first held, like the earlier case, that "[t]he findings of an administrative agency must be sufficient to enable the parties to determine whether and upon what basis they should seek review and to allow a reviewing court to determine the basis for the agency's action." (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1989) 214 Cal.App.3d 1348, 1356, citing *Topanga Assn. for a Scenic Community*, *supra*, 11 Cal.3d at p. 514.) The court added, "However, great specificity is not required. It is enough if the findings form an analytic bridge between the evidence and the agency's decision." (*Topanga Assn. for a Scenic Community*, *supra*, 214 Cal.App.3d at p. 1356, citing *Topanga Assn. for a Scenic Community*, *supra*, 11 Cal.3d at p. 515.)

More importantly, the later *Topanga* court wrote,

> In addition, findings are to be liberally construed to support rather than defeat the decision under review. [Citation.] "[W]here reference to the administrative record informs the parties and reviewing courts of the theory upon which an agency has arrived at its ultimate finding and decision it has long been recognized that the decision should be upheld if the agency 'in truth found those facts which as a matter of law are essential to sustain its . . . [decision].'"

(*Topanga Assn. for a Scenic Community*, *supra*, 214 Cal.App.3d at p. 1356, quoting *McMillan v. Am. Gen. Fin. Corp.* (1976) 60 Cal.App.3d 175, 184.)

In this case, none of appellant's contentions merit reversal under the original *Topanga* holding. With regard to appellant's first point, a review of the Proposed Decision shows that ALJ Ghaly made detailed factual findings providing "circumstantial" evidence that appellant "did business with unlicensed entities." (Proposed Decision, at pp. 8-9, ¶¶ 14-16.) Based on these findings, ALJ Ghaly reached the legal conclusion that appellant had violated rule 15000.1. (*Id.* at p. 12, ¶¶ 6-8.) The sufficiency of circumstantial evidence is addressed in Part IV, *supra*. That aside, these findings are sufficient to "bridge the analytic gap between the raw evidence and" the ultimate conclusions of law.

Appellant's second point is simply inaccurate. Appellant's compliance with the terms of the interim Order Imposing License Restrictions does not constitute evidence either establishing or disproving the violations alleged in the Department's Accusation. However, appellant's compliance with its terms could be—and was—considered in selecting the penalty. ALJ Ghaly ultimately rejected it as a mitigating factor:

> Evidence of Mitigation and Rehabilitation. Respondent presented evidence of mitigation and rehabilitation, particularly with respect to improving compliance by hiring competent staff and arranging for the services of a compliance officer. However, in light of Haghighi's improbable statements and lack of accountability, these improvements to business systems ring hollow and provide little guarantees [sic] that, should respondent be allowed to remain in business, it would adhere to the legal requirements.

(*Id.* at p. 17, ¶ 20.) Because appellant's compliance with the earlier Order was not relevant to proof of the violations alleged, ALJ Ghaly was not required to make findings on it. Nevertheless, appellant's compliance is acknowledged in the penalty section of the decision, undermining appellant's contention that "no findings address" it. (*Ibid.*; App.Br., at p. 14.)

Finally, as discussed in Part I, *supra*, this Panel reviews only the Final Decision, not the interim Order Imposing License Restrictions or its implementation.

VI. Penalty

Appellant raises two related arguments aimed at the penalty imposed.

First, appellant contends that a penalty of revocation is a "disproportionate punishment untethered to actual risk" and "may be imposed only when lesser sanctions are insufficient to protect the public." (App.Br., at p. 14.) Appellant claims "the record shows first-time administrative issues, no prior citations or discipline, and no public harm," and that "[t]he Department bypassed its own progressive [disciplinary] framework entirely, seeking revocation for first-time recordkeeping errors without giving Appellant any opportunity to remedy deficiencies." (*Id.* at p. 15.) It insists that "[t]he absence of any actual or imminent public harm makes revocation arbitrary." (*Ibid.*)

Second, appellant argues that the Order Imposing License Restrictions itself supplies proof that revocation is an excessive penalty. It writes,

> The Department cannot simultaneously maintain that (a) restrictions were sufficient to protect the public, thereby justifying revocation; while (b) restrictions were sufficient to protect the public pending adjudication, as ALJ Heller found. The Department had the same evidence in May 2025 that it presented in June 2025. Its shifting position on what protections are "sufficient" appears result-driven rather than risk-based.

(*Id.* at pp. 9-10.) Appellant contends that ALJ Heller's "rejection of suspension in favor of restrictions was a reasoned determination that lesser measures would adequately protect the public," a finding it claims is "entitled to substantial weight." (*Id.* at p. 15.)

In response, the Department argues that appellant has three Tier 2 violations, indicating that the Department "was well within its discretion to revoke Appellant's license without even considering Appellant's transactions with unlicensed entities." (Dept.Br., at p. 14.) The Department further notes that "[c]onducting commercial cannabis transactions with unlicensed entities is a Tier 3 violation, the most serious category under the Department's Disciplinary Guidelines, and on its own warrants the revocation of a license." (*Ibid.*)

Additionally, the Department points out that the revocation penalty imposed by the Final Decision was based on a separate proceeding which entailed the presentation of evidence, including live testimony requiring credibility assessments, which was unavailable at the interim proceeding by operation of law. (*Id.* at p. 15; see also Bus. & Prof. Code, § 494.)

This Panel's scope of review includes "[w]hether the department has proceeded without or in excess of its jurisdiction" and "[w]hether the department has proceeded in the manner required by law." (Bus. & Prof. Code, § 26043(c)(1)-(2).) In assigning a penalty, the Department is therefore "bound to exercise legal discretion, which is, in the circumstances, judicial discretion." (*Martin v. Alcoholic Bev. Control Appeals Bd.* (1965) 55 Cal.2d 867, 875.) Judicial discretion "is not a capricious or arbitrary discretion, but an impartial discretion, guided and controlled in its exercise by fixed legal principles." (*Bailey v. Taaffe* (1866) 29 Cal. 422, 424.)

The standard of review for a penalty is therefore abuse of discretion. (*Landau v. Med. Bd.* (1998) 81 Cal.App.4th 191, 217-218; see also *Skelly v. State Personnel Bd.*(1975) 15 Cal.3d 194, 217.) "[I]t is well settled that in reviewing the penalty imposed by an administrative body, neither a trial court nor an appellate court is free to substitute its own discretion as to the matter." (*Nightingale v. State Personnel Bd.* (1972) 7 Cal.3d 507, citing *MacFarlane v. Dept. of Alcoholic Bev. Control* (1958) 51 Cal.2d 84, 91.) Moreover, a reviewing court may not "substitute its own discretion" in order to "interfere with the imposition of a penalty by an administrative tribunal because in the court's own evaluation of the circumstances the penalty appears to be too harsh." (*Lake v. Civ. Service Com.* (1975) 47 Cal.App.3d 224, 228; see also *Collins v. Bd. of Med. Examiners* (1972) 29 Cal.App.3d 439, 446.) "If reasonable minds might differ as to the propriety of the penalty imposed, this fact serves to fortify the conclusion that the administrative body acted within the area of its discretion." (*Harris v. Alcoholic Bev. Control Appeals Bd.* (1965) 62 Cal.2d 589, 594; *Marino v. City of Los Angeles* (1973) 34 Cal.App.3d 461, 464.)

This Panel may therefore only review whether the penalty of revocation represented a valid exercise of the Department's discretion under the law. It may not substitute an alternative penalty.

Rule 17814 states, "In reaching a decision on a disciplinary action . . . the Department shall consider the disciplinary guidelines . . . which are hereby incorporated by reference." (Code Regs., tit. 4, § 17814.) The rule allows for deviation "where the Department in its sole discretion determines that the facts of the particular case warrant such a deviation (e.g., the presence of mitigating factors, the age of the case, or evidentiary problems)." (*Ibid.*)

The Department's Disciplinary Guidelines are divided into tiers depending on the severity of the violation. Each tier is then assigned a recommended maximum and minimum penalty. According to the Disciplinary Guidelines,

Tier 2 discipline is recommended for

- Violations with a serious potential for harm
- Violations which involve greater risk and disregard of public safety

(Dept. Disciplinary Guidelines (Jul. 2022) ("Disciplinary Guidelines"), at p. 8.) The minimum penalty for a Tier 2 violation is "Revocation stayed, 15 to 30-day suspension, a fine . . . , or a combination of a suspension and fine." (*Ibid.*) The maximum penalty for a Tier 2 violation is "Revocation." (*Ibid.*)

Tier 2 violations established in this case include all violations described in the second through fourth causes for discipline described in the Final Decision, including violations of rule 15047.2(b) and (c) (first cause for discipline); rules 15048(c) and 15048.1(a)(1) through (3) (second cause for discipline); and rule 15049.2 (third cause for discipline). (*Ibid.*; see also Proposed Decision, at pp. 12-15, ¶¶ 9-16.)

Tier 3 violations, on the other hand, represent an elevated risk of harm. According to the Disciplinary Guidelines,

> Tier 3 discipline is recommended for:
>
> - Knowing or willfully violating laws or regulations pertaining to commercial cannabis activity.
> - Fraudulent acts relating to the licensee's commercial cannabis business.

(Disciplinary Guidelines, at p. 11.) The minimum penalty for a Tier 3 violation is "Revocation stayed, 45-day suspension, a fine . . . , or a combination of a suspension and fine." (*Ibid.*) The maximum penalty for a Tier 3 violation is "Revocation." (*Ibid.*)

The first cause for discipline established in this case—a violation of rule 15000.1—constitutes a Tier 3 violation. (*Id.* at p. 12; see also Proposed Decision, at p. 12, ¶¶ 6-8.)

ALJ Ghaly reviewed these Penalty Guidelines in addition to several factors she deemed relevant to the penalty determination:

> Nature and gravity of the act(s), violations, or crime(s) under consideration. [Appellant]'s acts, involving essentially circumventing the regulatory requirements for tracking cannabis transport and ensuring cannabis transactions occur only with other licensees, are very serious.
>
> Actual or potential harm to the public or consumers. Because [appellant] sent out cannabis product into the cannabis supply chain without essential safeguards to track and maintain control over the product, whether there is danger to the public or consumers cannot be determined; however, its actions create potential harm for both.

> Prior disciplinary and/or administrative record. [Appellant] has no history of prior discipline though its relatively short tenure under its current owner gives this factor little weight.
>
> Number and/or variety of current violations. As alleged, [appellant]'s transgressions encompassed violations of multiple regulations.
>
> Evidence of Mitigation and Rehabilitation. [Appellant] presented evidence of mitigation and rehabilitation, particularly with respect to improving compliance by hiring competent staff and arranging for the services of a compliance officer. However, in light of Haghighi's improbable statements and lack of accountability, these improvements to business systems ring hollow and provide little guarantees [sic] that, should [appellant] be allowed to remain in business, it would adhere to the legal requirements.

(Proposed Decision, at pp. 16-17, ¶ 20.) ALJ Ghaly concluded, "Considering the Guidelines' recommended penalties and factors for disposition, nothing in the record supports a basis for leniency." (*Id.* at p. 17, ¶ 21.) License revocation, she determined, was "warranted and necessary for the public safety." (*Ibid.*)

A penalty of revocation falls well within the Department's Disciplinary Guidelines for any one of the violations at issue. Moreover, ALJ Ghaly reviewed both aggravating and mitigating factors and determined that revocation was necessary to protect the public. Because a penalty of revocation is clearly within the Department's discretion for any one of the multiple violations at issue in this case, this Panel cannot find that the Department abused its discretion when it revoked appellant's license.

Appellant's contention that the Order Imposing License Restrictions was sufficient to protect public health and safety also fails.

An interim order is issued pursuant to a limited, expedited proceeding. In order to initiate the proceeding, the complainant agency need not file a complete accusation; it must only present "affidavits that demonstrate," by a preponderance of the evidence, that the licensee "engaged in acts or omissions constituting a violation of [the Business and Professions] code or has been convicted of a crime substantially related to the licensed activity," and that allowing the licensee "to continue to engage in the licensed activity," or "continue in the licensed activity without restrictions, would endanger the public health, safety, or welfare." (Bus. & Prof. Code, § 494(a)(1)-(2), (e).)

During these proceedings, the licensee may "[b]e represented by counsel," "[p]resent affidavits and other documentary evidence," and "[p]resent oral argument." (§ 494(d)(1), (3)-(4).) However, neither the licensee nor the licensing agency is allowed the opportunity to present or cross-examine witnesses. The truncated and incomplete nature of the proceeding is implicitly acknowledged by the requirement that the complainant agency “shall file an accusation within 15 days of the issuance of an interim order.” (§ 494(f).)

Finally, the discipline pursuant to an interim order is limited to license suspension or conditions. (§ 494(a).) Revocation is not an available remedy under section 494 regardless of the nature or severity of the violations alleged. (See *ibid.*) In fact, it would make little sense for revocation to be an available remedy in an interim proceeding, where the prosecuting agency has yet to present a complete case, and the defending licensee has not yet had the opportunity to gather and present a full defense.

In other words, an interim order functions as an expedited public protection measure pending accusation and full evidentiary hearing. It cannot serve as a substitute for a full and fair hearing on the merits. In this case, after a complete, two-day hearing that included the presentation of evidence and the examination of witnesses, the trier of fact imposed a penalty of revocation. (See generally Proposed Decision.) As discussed above, the penalty complies with the Penalty Guidelines and does not represent an abuse of discretion. The fact that a lesser, alternative penalty was imposed as part of limited interim order proceedings carries no weight in this Panel’s review.

VII. Public Policy

Appellant claims that the outcome of this case “sets a dangerous precedent for California’s cannabis industry.” (App.Br., at p. 18.) Appellant argues that the decision creates “regulatory uncertainty” that “deters potential operators from building a stable and compliant business in California” and further “destabilizes compliant supply chains without demonstrable safety benefit.” (*Id.* at pp. 18-19.)

The Department of Cannabis Control, overseen by its Director, holds “the power, duty, purpose, responsibility, and jurisdiction to regulate commercial cannabis activity as provided” by applicable laws. (Bus. & Prof. Code, § 26010.5(d).) It holds the authority to “make and prescribe reasonable rules and regulations as may be necessary to implement, administer, and enforce its duties under this division.” (§ 26013(a).) California’s rulemaking process provides substantial opportunity for stakeholders—both cannabis licensees and the public at large—to participate in the rulemaking process and thereby shape the trajectory of the state’s cannabis industry. (See, e.g., Gov. Code, §§ 11346.2 [requiring public notice of all proposed regulations, including the purpose and rationale for each proposed rule], 11346.3 [requiring economic impact assessments as part of regulatory process], and 11346.45 [“In order to increase public participation and improve the quality of regulations, state agencies proposing to adopt regulations shall . . . involve parties who would be subject to the proposed regulation in public discussions"].)

However, the Department's policy priorities are ultimately prescribed, in part, by statute: "The protection of the public shall be the highest priority for the department in exercising licensing, regulatory, and disciplinary functions under this division. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (Bus. & Prof. Code, § 26011.5.) In other words, where the protection of the public conflicts with the promotion and growth of the cannabis industry, the Department is required to protect the public.

On the other hand, this Panel's jurisdiction and scope of review are strictly limited. (See § 26043.) This Panel exists solely to hear appeals from Department disciplinary actions. (*Ibid.*) Its regulatory authority is limited to "adopt[ing] procedures for appeals." (§ 26042.) The Panel is not a policymaking body, and its authorizing statutes do not permit it to evaluate the impact of an individual Department decision on the broader cannabis industry. (See generally §§ 26040-26047.)

The Department—not this Panel—is the agency tasked with overseeing cannabis policy and its implementation within the state of California.

ORDER

For the foregoing reasons, the Panel finds appellant's arguments unpersuasive. The Panel declines to review the terms or implementation of the Order Imposing License Restrictions and affirms the Department's decision on all four causes for discipline[2].

DR. DIANDRA BREMOND, CHAIR
JOSH NEWMAN, MEMBER
JIM WOOD, MEMBER
CATHRYN RIVERA, MEMBER
CANNABIS CONTROL APPEALS PANEL

[2] This final order is filed in compliance with Business and Professions Code section 26044(b), and it shall become effective 30 days following the date of the filing of this order as provided by section 26045(e).

Any party, before this final order becomes effective, may apply to the appropriate court of appeal, or the California Supreme Court, for a writ of review of this final order in accordance with Business and Professions Code section 26045 et seq. Service on the Panel pursuant to California Rules of Court (Rule 8.25) should be directed to: 400 R Street, Suite 320, Sacramento, CA 95811 and/or electronically to: appeals@ccap.ca.gov.

BEFORE THE CANNABIS CONTROL APPEALS PANEL
OF THE STATE OF CALIFORNIA

Case No. 2025-08-DCC-0003
License: C11-0001780-LLC
Department Decision: DCC23-0002236-INV

SANTA ANA MAIN DISTRO, LLC
dba O'Mina Distribution, Inc.
1836 South Grand Ave
Santa Ana, CA 92705
Appellant/Licensee,

v.

DEPARTMENT OF CANNABIS CONTROL,
Respondent.

Appeals Panel Hearing: March 10, 2026

CONCURRING OPINION

I concur with my Panel colleagues that the Department has supplied substantial evidence to establish the violations alleged, and that disciplinary action is merited. I write separately, however, because Administrative Law Judge (ALJ) Ghaly concluded that revocation was warranted, yet the decision does not clearly explain why the most severe sanction available under the Department's Disciplinary Guidelines (See Disciplinary Guidelines, at pp. 11-15.) was appropriate in this case. Revocation may well have been justified, but the reasoning provided gives limited weight to mitigating evidence in the record and does not sufficiently articulate why lesser remedial measures would have been inadequate.

As we have noted above, ALJ Ghaly did include some reasoning regarding the penalty. (Proposed Decision, at p. 16, ¶ 20.) However, she chose to give "little weight" to clear mitigating factors. (*Ibid.*) She noted, for example, that appellant had "no history of prior discipline," but nevertheless discounted that history as "relatively short." (*Ibid.*) She acknowledged that appellant "improv[ed] compliance by hiring competent staff and arranging for the services of a compliance officer," but then stated these efforts "ring hollow" and did not guarantee appellant would comply in the future. (*Ibid.*) Ultimately, she concluded that "nothing in the record supports a basis for leniency" despite having acknowledged and dismissed appellant's evidence of mitigation. (*Id.* at p. 17, ¶ 21.) Throughout ALJ Ghaly's reasoning, the justification for revocation appears to rest largely on the potential for harm arising from appellant's conduct, rather than on an evaluation of the actual harm caused by the errors at issue or a fuller assessment of whether appellant demonstrated the intent and capacity to comply with regulatory requirements in the future. (See *id.* at p. 16, ¶ 20.)

California's cannabis industry continues to operate within a relatively new regulatory framework. Proposition 64 passed less than a decade ago and MAUCRSA went into effect in 2018. Since then, both the industry and the state agencies regulating it have been working to implement and refine a comprehensive regulatory system. As the number of licenses issued by the Department has increased in recent years, a growing number of businesses must navigate and comply with this developing regulatory framework. (See Bus. & Prof. Code, § 26050.5.). As the Department notes, "DCC is consistently working on additional changes to streamline and strengthen the regulatory framework." (Dept. of Cannabis Control, DCC Regulations, https://www.cannabis.ca.gov/cannabis-laws/dcc-regulations/.)

As licensees navigate these evolving regulatory conditions, it is possible that licensees operating in good faith may struggle with compliance. I do not suggest that such circumstances are present here, as I agree with ALJ Ghaly's conclusions regarding the violations. However, when any penalty is imposed, especially one that requires a business to cease operation, the reasoning supporting that outcome should be sufficiently clear from the record so that the parties and other licensees can understand the basis for the sanction.

Public health and safety is and should remain of paramount concern. At the same time, that mandate must coexist with the continued development and stability of the state's legal cannabis sector. Licensees benefit from clear guidance on what constitutes compliance and the consequences of noncompliance. Decisions that adequately explain the basis for significant enforcement actions can serve an important role in providing that guidance to the regulated community.

If this Panel had the authority to do so, I would remand the matter for reconsideration of the penalty imposed, so that the record more clearly reflects the basis for the penalty.

CATHRYN RIVERA, MEMBER
CANNABIS CONTROL APPEALS PANEL

BEFORE THE
DEPARTMENT OF CANNABIS CONTROL
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SANTA ANA MAIN DISTRO, LLC DBA O'MINA DISTRIBUTION,

INC.; ORANG HAGHIGHI, OWNER,

Respondent.

Agency Case No. DCC23-0002236-INV

OAH No. 2025060102

FINAL DECISION

Pursuant to Government Code section 11517, subdivision (c)(A), the attached Proposed Decision of Administrative Law Judge Deena R. Ghaly is hereby adopted in its entirety by the Department of Cannabis Control as its Final Decision in the above-entitled matter.

This Decision shall become effective on July 8, 2025.

IT IS SO ORDERED this 8th day of July 2025.

Douglas Smurr
Assistant General Counsel
FOR THE DEPARTMENT OF
CANNABIS CONTROL

BEFORE THE
DEPARTMENT OF CANNABIS CONTROL
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ANTA ANA MAIN DISTRO, LLC DBA O'MINA DISTRIBUTION,

INC.; ORANG HAGHIGHI, OWNER,

Respondent.

Agency Case No. DCC23-0002236-INV

OAH No. 2025060102

PROPOSED DECISION

Administrative Law Judge Deena R. Ghaly, Office of Administrative Hearings (OAH), State of California, heard this matter on June 18 and 19, 2025, by videoconference.

Deputy Attorney General Matthew S. Beasley represented complainant Evelyn Schaeffer, acting in her official capacity as Deputy Director of the Compliance Division of the Department of Cannabis Control (Department). J. Raza Lawrence, Esq., Zuber Lawler LLP, represented Santa Ana Main Distro, LLC, doing business as O'Mina Distribution, Inc.

Documentary evidence and testimony were received. The record closed and the matter was submitted for decision on the second hearing day.

SUMMARY

Complainant seeks to discipline respondent's license based on allegations respondent committed several violations of the Department's regulations. Complainant also seeks to recoup its investigation and prosecution costs. A preponderance of the evidence established the violations alleged. Due to the severity of the violations and statements respondent's owner, Haghighi, made in his defense that are not credible, license revocation is the appropriate disciplinary response. Respondent will also pay cost awards consistent with complainant's request.

FACTUAL FINDINGS

Jurisdiction

1. On January 3, 2023, the Department issued Cannabis – Distributor License C11-0011780-LIC to Santa Ana Main Distro LLC (respondent) with Oran Haghighi as Owner (Haghighi). Respondent's license was in full force and effect at all times relevant to this matter and will expire on January 3, 2026.

2. On May 11, 2025, complainant issued an accusation against respondent alleging four violations of Department regulations: (i) conducting cannabis activity with unlicensed entities; (ii) failing to accurately record commercial cannabis activity; (iii) sharing credentials for accessing the Department's cannabis activity tracking

software; and (iv) recording inaccurate and erroneous information in shipping manifests. Respondent timely filed a Notice of Defense and this matter ensued.

Statutory/Regulatory Scheme

3. Commercial sales of cannabis in California are governed by the Medicinal and Adult Use Cannabis Regulation and Safety Act. (Bus. & Prof. Code, § 26000 et seq.) (the Act.) (Further statutory citations are to the Business and Professions Code unless otherwise designated.) The business is also governed by the Act's implementing regulations (Cal. Code. Regs., tit. 3 (Regulation or Reg.), §8000 et seq.) The Act charges the Department with licensing and regulating commercial cannabis (§ 26010.5, subd. (d)) as well as issuing licenses and disciplining licensees (§ 26012, subd. (a)), among other duties.

4. The Act requires the Department to establish a system to track and trace cannabis from cultivation through the supply chain "from seed to sale." To satisfy this obligation, the Department established the California Cannabis Track-and-Trace System (CCTT) using Metrc software (Metrc). Under the CCTT, licensees and their designees are required to log in to Metrc with a unique identifier and to timely and accurately report required data.

The Department's Investigation

5. On January 14, 2025, Department special investigators Emily Gutierrez (Gutierrez) and Daniel Torres (Torres) inspected respondent's premises. Gutierrez, the lead on the matter, prepared a report and both investigators testified at the hearing. Their findings are as follows:

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- Haghighi spoke to the investigators during the inspection and stated respondent works with both licensed and unlicensed entities. According to Gutierrez, Haghighi stated he charged a flat fee of $1,000 per month to store, move, or distribute cannabis and does not question the license status of his customers.

- Gutierrez observed boxes labelled Life Cannabis, which, according to Gutierrez, Haghighi explained respondent was storing for the Life Cannabis company. Life Cannabis is not a Department licensee.

- The investigators' inspection included reviewing CCTT data, which reflected data entries made under the initials S.S., the initials of respondent's previous owner, Samantha Solmor. Ms. Solmor continued working with respondent for a few months after Haghighi bought the company but, effective October 1, 2023, relinquished her credentials. The user, S.S., however, continued to be listed in respondent's CCTT data throughout 2024, long after she was no longer affiliated with respondent. Haghighi told Gutierrez all CCTT entries had been input by a respondent employee identified only as Tatiana. Gutierrez did not find a Tatiana listed among the users in respondent's CCTT account.

- In subsequent communications to Haghighi, Gutierrez requested Tatiana's last name but Haghighi did not provide it.

- Respondent's shipping manifests showed multiple consecutive day deliveries made to the same defunct licensee, El Dorado Extracts (El Dorado), at 1080 23rd Avenue, Oakland, California. Gutierrez stated such manifests "raise red flags." Drivers transporting cannabis products must carry paper versions of the manifests, which are essentially records of cannabis movement, on their person when making deliveries. In the event they are delivering cannabis products to unlicensed entities, carrying fraudulent ones would be essential in case they are stopped enroute.

- The inspectors' review found manifests for three consecutive day deliveries between October 22 through 24, 2024; five consecutive day deliveries from November 5 through 9, 2024; three consecutive days from November 12 through 14, 2024; five consecutive days deliveries from December 3 through 7, 2024; and four consecutive days deliveries from December 10 through 13, 2024. Haghighi told the investigators that Tatiana had prepared all the manifests and that they were not always followed by his driver. Haghighi stated personnel from El Dorado, a regular client, would call to place its order over the phone and therefore there were no written orders.

- The manifests Guttierrez saw at respondent's facility were electronic, not the paper versions the driver would carry and upon which a wet signature could be expected to be found. During the inspection of respondent's facility, Guttierez asked Haghighi to see the paper versions. Haghighi pulled out individuated folders bearing various entities names but could not locate the one for El Dorado, noting Tatiana was responsible for filing and must have misplaced it.

6. Denis Rakitskiy is a Department special investigator. Rakitskiy investigated El Dorado and testified at the hearing about his findings. The objective of Rakitskiy's investigation was to determine whether large transfers of cannabis purportedly going to El Dorada were in fact arriving there.

7. During his investigation, Rakitskiy attempted to contact individuals associated with El Dorado, including an owner of record, Tarik Page, but Page did not return Rakitskiy's messages. Rakitskiy also visited El Dorado's premises twice in the summer of 2024 and tried, without success, to gain access. Rakitskiy believes the premises was vacated at the time of his visits. The building's property manager confirmed in an email communication to Rakitskiy that El Dorado had not renewed its lease for 1080 23rd Avenue, which ended on July 31, 2024. (Exh. 25.) On September 26, 2024, the property manager let Rakitskiy into El Dorado's suite where Rakitskiy found the place entirely empty. He took photographs showing the empty space. (Exh. 26.)

Respondent's Evidence

8. In written declarations and in his testimony at the hearing, Haghighi provided explanations for the investigators' findings. Regarding his statement about doing business with unlicensed entities, Haghighi stated the quote was taken out of context, that he was referencing agreements he had with branding companies, including Life Cannabis, who wished to come to agreements with retailers to sell cannabis products under the branding companies' names. According to Haghighi, branding companies do not need licenses to add their particular part in the cannabis supply chain. Haghighi did not produce any contracts or other written documents reflecting agreements or scope of work between respondent and branding companies, stating all work orders and agreements were memorialized through discussions over the phone.

9. Haghighi maintained the use of S.S.'s credentials was a simple clerical error. The email address associated with S.S.'s log in information was respondent's general email and Haghighi was hesitant to cease using it as that might mean losing

important correspondence. He also reiterated any mistakes made were the fault of Tatiana, including sharing credentials for accessing the CCTT system. Haghighi maintained he discharged Tatiana from her position once he came to understand the many mistakes she had made. Sylvia Cano Rosales (Cano), respondent's new manager, testified at the hearing and stated she now uses proper credentialing for all of respondent's CCTT's entries into Metrc. Cano also stated all respondent employees now have their own credentials for inputting information into Metrc.

10. Haghighi stated Tatiana also was responsible for creating the manifests and did not always void out ones that were not used, another instance of her incompetence. He stated the driver did not always follow the manifests but had made multiple deliveries to El Dorado, always dropping off cannabis products per its orders.

11. Respondent's driver, Jonathan Gallo, testified he made many deliveries to the El Dorado facility during the October through December, 2024 period, among other times. According to Gallo, until the last delivery sometime in December 2024, there was always someone to take delivery though he stated the hand-off always took place outside El Dorado's facility and he never entered the premises. Gallo further testified that, due to the sensitive nature of his cargo, he drives directly to Oakland and, because he returns with cash payments, directly back to respondent's facility, stopping only for gas and rest breaks.

12. Haghighi produced one paper manifest counterpart to the electronic manifests Gutierrez reviewed reflecting multiple deliveries to El Dorado between October and December 2024. The paper manifest is dated October 17, 2024 with October 18, 2024 as "date of departure/arrival." The signature of the receiver, Tarif Page, is dated October 19, 2024. (Exh. C, p. B195.)

13. To the extent, respondent violated Department regulations, Haghighi argued that there are several factors militating away from revoking respondent's license or otherwise harshly disciplining it. Haghighi noted respondent had no disciplinary history before the current case, and that, except for failing to provide Tatiana's full name to Guttierez, he cooperated fully with the Department's investigation on respondent's behalf. Haghighi also pointed out he replaced Tatiana with more competent and scrupulous staff, and he has hired a compliance officer, Jenna Rompel (Rompel), to assist him in complying with all relevant laws and regulations. Haghighi offered respondent's contract with Rompel to corroborate his testimony about hiring a compliance officer. (Exh. L.) Haghighi also argued there was no evidence indicating respondent's transgressions had resulted in any health or safety concerns.

Analysis

14. Aside from Haghighi's alleged admission, which Haghighi has disavowed, complainant's evidence establishing respondent did business with unlicensed entities is circumstantial: the manifests indicating deliveries to a defunct licensee who had vacated his facility at the address to which respondent was ostensibly delivering cannabis products; the fact that the manifests reflected an unusual number of deliveries to El Dorado within compressed time periods and Haghighi's admission that the manifests did not reflect the actual dates of deliveries further support a finding that whatever deliveries were made were not made when or to where the manifests reflect. The only reasonable inference from this evidence is that respondent was trying to conceal the actual recipient of its deliveries and the only reasonable inference for why that would be the case is because the recipient is unlicensed.

15. In addition to complainant's evidence, respondent's own evidence is not credible and only further supports a finding that respondent did do business with unlicensed entities. Haghighi's testimony about his comments to Gutierrez being taken out of context and that his only reference to unlicensed businesses was about branding companies is not credible. For one, why reference businesses ancillary to cannabis production and sale as "unlicensed"? If such businesses do not fall within the ambit of the Department's regulatory control, they have no status vis-à-vis the Department. Denoting them as unlicensed can only be understood as Haghighi's attempt to backpedal from his more candid statements to Guitierrez in an unguarded moment. Additionally, Haghighi's testimony about the manifests exhibiting only minor clerical errors is belied by the strong evidence that El Dorado was defunct at times the manifests reflect deliveries to its facilities. Gallo's testimony that he made his deliveries and returned without lengthy stops coupled with the only manifesto bearing a wet signature showing receipt of respondent's product one day after the date of delivery also support a finding that the hard copy manifest is falsified.

16. Circumstantial evidence may carry the burden of establishing a claim and may be as persuasive and convincing as direct evidence. (*People v. Overstock, Inc.* (2017) 12 Cal.App.5th 1064, 1086). There are limitations, however. Circumstantial evidence's inferences must be the logical extension of the evidence. "Speculation and conjecture alone is not substantial evidence." (*Feduniak v. California Coastal Commission* (2007) 148 Cal.App.4th 1346, 1360.) Here, the logical and direct inference to be drawn from complainant's evidence as well as Haghighi's uncredited statements is that respondent did cannabis-related business with unlicensed entities.

17. Respondent's evidence of mitigation and rehabilitation is not strong. While this is respondent's first disciplinary action since licensure under its current

ownership, respondent had only been licensed since January 2023 when Department investigators detected unlawful activity, including misuse and sharing of credentials for inputting information into the CCTT, transactions which are not in dispute. This is a relatively short time and insufficient to establish a reputation as a trustworthy business. Regarding respondent's representation that it was cooperative with the Department's investigation, Haghighi's failure to produce or even fully identify the employee, Tatiana, belies a finding that respondent was truly cooperative. Haghighi initially laid the blame for any wrongdoing on Tatiana. Failing to fully identify her during the Department's investigation raises the possibility that he was using her as a smokescreen rather than providing the transparency a legitimate business dealing with its regulatory agency is expected to show.

18. Finally, respondent's argument that the alleged transgressions do not pose health and safety risks is without merit. Respondent's unreliable and possibly fabricated manifests pose serious health and safety risks as they represent multiple deliveries of cannabis product the Department cannot track. It is this tracking capacity that allows the Department to ensure cannabis products are not delivered to the wrong hands and can be recalled if any reason to do so arises.

Costs

19. The Department seeks an award of $6,372.58 for investigative costs and $9,492.75 for enforcement costs, a total of $15,865.33. These costs are deemed reasonable given the size and scope of the matter.

20. Respondent did not present any evidence regarding its financial status or ability to pay these costs.

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LEGAL CONCLUSIONS

1. Section 26011.5 states: "The protection of the public shall be the highest priority for all licensing authorities in exercising licensing, regulatory, and disciplinary functions under this division. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

2. Pursuant to section 26031, subdivision (a), the Department may revoke or discipline licenses it issued "if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action." Under section 26031, subdivision (c), the Department may take disciplinary action against a licensee for any violation of the Act "when the violation was committed by the licensee's officers, directors, owners, agents or employees while acting on behalf of the license or engaged in commercial cannabis activity."

3. The burden of proof in a licensing disciplinary action is on the party filing the charges in the accusation, in this case, complainant. (Evid. Code, § 500.) Because no other standard of proof is identified in the statutory scheme and the disciplinary action does not involve the discipline of a professional license, the standard of proof is preponderance of the evidence. (Evid. Code, § 115; *Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-918.) The preponderance standard requires "evidence that has more convincing force than that opposed to it." (*People ex. rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

4. Pursuant to section 26030, grounds for discipline include violations of the Act and its regulations.

5. Pursuant to regulation section 15024.1, subdivision (a), the cannabis or cannabis product owned by a licensee whose license has been terminated may be destroyed.

Causes for Discipline

First Cause for Discipline – Conducting Cannabis Activities with Unlicensed Entities

6. Under Regulation section 15000.1, "commercial cannabis activity shall only be conducted between licensees."

7. As a first cause of discipline, the Department alleged respondent, through the actions of Haghighi, violated Regulation section 15000.1. Specifically, complainant alleged respondent falsified manifestos to reflect he was making deliveries to another Department licensee when, in fact, that licensee, El Dorado, had vacated its premises for at least several months during the period respondent was ostensibly making deliveries to it.

8. As set out in Factual Finding 14 through 16, complainant established respondent did business with unlicensed entities.

Second Cause for Discipline – Failure to Accurately Record Cannabis Activity

9. Under Regulation section 15047.2, subdivision (b), "All commercial cannabis activity shall be accurately recorded in the [CCTT]." Under Regulation section 15047.2, subdivision (c), "A licensee is responsible for the accuracy and completeness of all data and information entered into the [CCTT]. The licensee is responsible for all

actions taken by the designated account manager or other account users while performing track and trace activities.

10. As a second cause for discipline, the Department alleged respondent violated Regulation section 15047.2, subdivision (c) by failing to accurately record cannabis activity in the CCTT when it used a former employee's credentials to log in to the tracking system. As set out in Factual Finding 9, Haghighi admitted to this transaction and therefore this cause for discipline was established.

THIRD CAUSE FOR DISCIPLINE – IMPROPER USE AND SHARING OF CCTT CREDENTIALS

11. Under Regulation section 15048, subdivision (c):

> The account manager and each user shall utilize a unique login, consisting of a username and password. The account manager and each user shall only access the [CCTT] under their assigned login. No account manager or user shall share their login, username, or password, with an other individual for any reason.

12. Under Regulation section 15048.1:

> A licensee and their designated account manager(s) shall:
>
> Designate track and trace system users, as needed, and require the system users to be trained in the proper and lawful use of the [CCTT] before the users are permitted to access the [CCTT].

> Maintain an accurate and complete list of all of the licensee's [CCTT] system users, including full names and usernames, and update the list immediately when changes occur.
>
> Remove a user from the licensee's [CCTT] account when that individual is no longer authorized to represent the licensee.

13. As a third cause for discipline, the Department alleged violations of Regulations sections 15048, subdivision (c) and 15048.1, subdivision (a)(1) through (3) by allowing a single user, an employee identified only as Tatiana, to input information into the CCTT under the name of respondent's former owner and after that individual was no longer affiliated with respondent.

14. As set out in Factual Finding 9, Haghighi admitted to this transgressions therefore the third cause for discipline was established.

FOURTH CAUSE FOR DISCIPLINE – INACCURATE DISTRIBUTION MANIFEST

15. Regulation section 15049.2 provides in part:

[¶] . . . [¶]

(b) The distributor who transports the cannabis or cannabis product shall record the following additional information on the shipping manifest:

(1) The actual date and time of departure from the licensed premises; and

(2) The actual date and time of arrival of each licensed premises.

16. As a fourth cause for discipline, the Department alleged respondent violated regulation section 15049.2 by distributing cannabis on dates and times which did not match those on the associated delivery manifests. As set out in Factual Findings 14 through 16, the evidence established the manifests investigators found reflecting deliveries to El Dorado during the October through December, 2024 period could not have been correct because at that time, El Dorado's business was defunct and it had vacated the premises to which respondent's driver purportedly delivered cannabis product.

Disciplinary Guidelines

17. The Department promulgated the Disciplinary Guidelines for all Commercial Cannabis Licenses (Guidelines), amended July 2022, to promote consistency in disciplinary orders for similar offenses. (See Exh. 6.) Deviation from the Guidelines is appropriate where the facts of the particular case warrant deviation such as where there are mitigating facts. (Reg., § 17814.)

18. The Guidelines categorize violations as Tier 1, 2, or 3, Tier 3 being the most serious. Conducting cannabis activity with non-licensees in violation of Regulation § 15000.1 is a Tier 3 violation. Failure to record all cannabis activity in the CCTT in violation of Regulation § 15047.2, improper use and sharing of CCTT credentials in violation of Regulation sections 15048, subd. (c) and 15048.1, subd. (a)(1)-(3) and distributing cannabis on dates and times different from their associated manifests in violation of Regulation section 15049.2 are Tier 2 violations.

19. The recommended minimum penalty for a Tier 3 violation is stayed revocation with a 45-day suspension, a fine or a combination of suspension and a fine. The maximum recommended penalty is license revocation. The recommended

minimum penalty for a Tier 2 violation is stayed revocation with a 15 to 30-day suspension, a fine or a combination of suspension and a fine. As with Tier 3 violations, the maximum recommended penalty is license revocation.

20. The Guidelines also list the factors to be considered in determining the degree of license disciple. The relevant factors and their application to this case are as follows:

> Nature and gravity of the act(s), violations, offenses, or crime(s) under consideration. Respondent's acts, involving essentially circumventing the regulatory requirements for tracking cannabis transport and ensuring cannabis transactions occur only with other licensees, are very serious.
>
> Actual or potential harm to the public or consumers. Because respondent sent out cannabis product into the cannabis supply chain without essential safeguards to track and maintain control over the product, whether there is danger to the public or consumers cannot be determined; however, its actions create potential harm for both.
>
> Prior disciplinary and/or administrative record. Respondent has no history of prior discipline though its relatively short tenure under its current owner gives this factor little weight.
>
> Number and/or variety of current violations. As alleged, respondent's transgressions encompassed violations of multiple regulations.

> Evidence of Mitigation and Rehabilitation. Respondent presented evidence of mitigation and rehabilitation, particularly with respect to improving compliance by hiring competent staff and arranging for the services of a compliance officer. However, in light of Haghighi's improbable statements and lack of accountability, these improvements to business systems ring hollow and provide little guarantees that, should respondent be allowed to remain in business, it would adhere to the legal requirements.

(Exhibit 6, pp. A55-A56.)

21. Considering the Guidelines' recommended penalties and the factors for disposition, nothing in the record supports a basis for leniency. Under these circumstances, license revocation is warranted and necessary for the public safety.

Costs

22. Pursuant to section 26031.1, subdivision (a), the ALJ may require a licensee found to have committed a violation to pay the reasonable costs of the case's investigation and prosecution. Pursuant to section 26031.1, subdivision (b), certified cost records "shall be prima facie evidence of reasonable costs of investigation and prosecution of the case."

23. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 (Zuckerman), the California Supreme Court examined a similar statute authorizing cost awards in license disciplinary matters. The Court set out factors to be considered in determining the reasonableness of the costs sought" (i) the licensee's success in

getting the charges dismissed or reducing the severity of the discipline; (ii) the licensee's good faith belief in the merit of its position; (iii) whether the licensee raised a colorable challenge to the proposed discipline; (iv) the licensee's ability to pay; and (v) whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Zuckerman*, *supra*, 29 Cal.4th at p. 45.)

24. As set out in Factual Finding 19, Complainant requests reimbursement of $15,865.33 in investigation and enforcement costs. Applying the *Zuckerman* criteria, there is no basis to reduce these cost and thus the full amount is awarded.

ORDER

1. Cannabis – Distributor License Number C11-0001780-LLC issued to respondent Santa Ana Main Distro, LLC, Orang, Haghighi as Owner, is revoked.

2. Respondent is ordered to pay $15,865.33 in costs under terms and conditions to be determined by the Department.

3. Respondent is ordered to destroy any cannabis and cannabis goods in respondent's possession.

DATE: 07/02/2025

Deena R. Ghaly

Deena R. Ghaly (Jul 2, 2025 11:35 PDT)

DEENA R. GHALY

Administrative Law Judge

Office of Administrative Hearings

AGENDA ITEM 9

Adjournment

(No Meeting Materials)