



Open Session Meeting Minutes

Wednesday, May 5, 2021
10:00 am – 11:20 am

Cannabis Control Appeals Panel
400 R Street
Sacramento, CA 95811

Members present via teleconference:

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

Staff present via teleconference:

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

Public present via teleconference:

- Kelly Hayes

Others present via teleconference:

- Branden Silva, California Victim Compensation Board
- Nicole Le, Department of Consumer Affairs

Summary:

1. Call to Order and Establishment of Quorum.

Chairperson Diandra Bremond called the teleconference meeting to order at 10:03 am.

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

2. Approval of Friday, February 26, 2021 Meeting Minutes.



Chairperson Bremond asked the Panel if there were any additions or corrections to the minutes of the February 26, 2021 meeting. There were no additions or corrections. No comments from the public.

Motion (Moore): Approve the minutes of the February 26, 2021 meeting as submitted. Seconded (Calderon). Motion passed 3-0.

3. Executive Management Report.

Executive Director Anne Hawley presented the Executive Staff Report.

Hawley will provide an update on CCAP's upcoming strategic planning process as well as its telework policy as related to COVID-19 and the future of telework for state agencies, including CCAP, generally.

Hawley's report began with a brief history of CCAP's strategic planning process. The process began in summer of 2019. Representatives from the Department of Consumer Affairs (DCA) helped facilitate a missions, visions, and values workshop with CCAP staff. Through that workshop, CCAP staff developed draft concepts for CCAP's strategic plan. Unfortunately, the strategic planning encountered delays due to a lack of quorum and then the onset of the COVID-19 pandemic.

The draft mission statement as developed by CCAP staff is for the Panel to provide fair, accessible, and timely quasi-judicial resolution of appeals from cannabis licensing decisions. The draft vision statement is to cultivate a transparent and respectful forum for cannabis businesses within all California communities. The draft statement of core values includes efficiency, fairness, professionalism, respect, and transparency. As emphasized earlier, these are just early draft ideas that Panel members will review and provide feedback on.

Hawley's report then shifted to the draft statement of strategic goals. The first strategic goal is decision making – ensuring that appeals of decisions from licensing agencies are resolved in a timely and fair manner. The second goal is outreach and education – to provide transparency and education on the appeals process to cannabis stakeholders. Hopefully, as travel restrictions lift, there will be opportunities to engage in in-person outreach and education efforts. In the meanwhile, there are instructive materials available on CCAP's website such as: a guide to filing an appeal, an FAQ section, and a lengthy glossary. These materials are aimed at helping and communicating with a non-legal audience. Finally, the third strategic goal is organizational effectiveness – developing a collaborative and supportive work environment while maximizing resources.

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Hawley then outlined a tentative schedule for the strategic planning process and stated she will work with Panel members to make sure there are no scheduling conflicts. It is a goal to have a publicly noticed meeting sometime between June 8 and June 10, 2021. The Panel would review and provide feedback, as well as approve the draft statements as previously shared. The second date to note is the July 12 to July 16 timeframe. During this week, DCA will schedule one-on-one Zoom interviews with CCAP staff and Panel members to conduct an environmental scan to discuss strengths, weaknesses, opportunities, and threats. The third date to note is the July 30 to August 6 timeframe. DCA will compile and analyze data from the environmental scan and will create a document for Panel members and staff to use during the strategic planning process.

The second half of the proposed schedule begins between August 19 to August 20, 2021. DCA will facilitate a strategic planning session for Panel members. This will be a publicly noticed meeting. After this, during the September to October timeframe, the final strategic plan will be reviewed, edited, and adopted by Panel members in another publicly noticed meeting. Later in October, DCA will facilitate a meeting with Panel members and staff to create an action plan to complete the strategic objectives as set forth in the plan. This will serve as a blueprint for CCAP's work moving forward.

Hawley then transitioned to discuss telework. Hawley remarked that CCAP staff has performed at a very high level during the transition period into telework. Hawley noted that CCAP staff's work product has been consistently excellent and that staff members have responded to deadlines quickly and professionally. She praised CCAP staff for doing a great job of transitioning to telework during a difficult time.

Hawley noted there are many benefits to remote work, such as flexibility and reducing real estate footprint. CCAP cannot get out its lease until June 30, 2023, however. Reducing carbon emissions is another benefit of working remotely. As CCAP's staff grows and CCAP starts receiving cases in the future, a wider net can be thrown if telework has been more fully integrated into CCAP's work culture.

Hawley then discussed the state's position on telework policy. Health and safety concerns remain at the forefront. The administration continues to support telework as a long-term strategy to decrease office space, allow more employee flexibility, and provide organizational resiliency in case of emergency. The administration and the California Department of Human Resources (CalHR) have asked each department, including CCAP, to assess its appropriate level of telework and how it will be maintained moving forward. Government Operations Agency, CalHR, and the Department of General Services have formed a working group to develop recommendations on what changes will be needed to sustain a flexible, hybrid telework model for the long term. The administration is in process of negotiating with the state's bargaining units which will likely be ongoing until late spring to early summer.



Hawley discussed potential next steps for CCAP. One suggestion is to provide a brief survey to gauge how CCAP staff feels about telework. Potential questions may include asking staff what they believe are the benefits of teleworking, what are the biggest challenges, and whether they feel more productive. Hawley will work with staff to identify key questions to provide feedback on this topic. CalHR has launched good training opportunities relating to telework. Hawley will look to see if any training opportunities arise that may be worth looking into. Hawley concluded the report by emphasizing the importance on what kind of work culture to establish at CCAP. She underscored that one size does not fit all, especially with COVID-19 likely to persist into the future. There are a lot of moving pieces, but it is important to continue to find ways to help staff and offer flexibility during challenging times.

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

4. Pending Legislation Informational Presentation: Senate Bill 59.

CCAP's legal staff provided an update on pending legislation.

Chief Counsel Christopher Phillips opened by stating this agenda item is informational only. No action will be taken. He explained that one thing that staff does on a regular basis is to keep up with pending legislation. This will be a regular agenda item for any relevant, pending legislation. Phillips then introduced Staff Attorney Brian Hwang to give the presentation.

Staff Attorney Hwang introduced himself and began his presentation. In 2017, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) established a single regulatory system to govern both medical and adult-use cannabis. MAUCRSA initially authorized the three cannabis licensing authorities to issue or extend temporary licenses until December 31, 2018.

Temporary licensure was intended as a brief measure while the state, local jurisdictions, and the industry came into compliance with the new regulatory framework. It became apparent, however, that many local jurisdictions could not sufficiently process annual license applications prior to December 31, 2018. Temporary licenses were set to expire while the annual licensing process ran into multiple difficulties, such as local jurisdictions struggling to carry out the California Environmental Quality Act (CEQA) review process.

With this potential disruption to the industry looming, the legislature passed Senate Bill 1459 in 2018. It created a path for licensees to move from expiring temporary licenses to provisional licenses. SB 1459 provided additional time to applicants, local jurisdictions, and the state by allowing licensing authorities to issue provisional licenses until January 1, 2020. In 2019, the legislature passed AB 97 to extend this deadline by two years, to January 1, 2022.

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SB 59 was introduced by Senator Caballero. Before diving into the bill's details, Staff Attorney Hwang stated that there are new updates and corrections to the original staff report which will be highlighted during his presentation.

Under SB 59, the repeal date of the provisional license program would be extended by six more years, until 2028. SB 59 would require that, beginning on July 1, 2022, provisional licenses be issued only to qualified equity applicants. As an update and correction to the staff report, SB 59 would authorize provisional licenses to be issued to any non-equity applicant for an additional six months until July 1, 2022. The report had previously specified the sunset date as January 1, 2022. SB 59 would also provide that a licensing authority may reinstate a provisional license issued prior to July 1, 2022, at its discretion. The staff report indicated that SB 59 would extend the local exemption from CEQA compliance which is set to expire on July 1, 2021. As an update to the report, SB 59 was recently amended to remove this extension.

Currently, SB 59 is working its way through various senate committees. It began in the Business, Professions, and Economic Development, which voted 12-0 to pass the bill and refer it to Environmental Quality Committee. The Environmental Quality Committee voted 6-0 to pass the bill, as currently amended, and refer it to the Appropriations Committee. The Appropriations Committee is set to hear SB 59 on Monday, May 10.

According to the bill's author, SB 59 is necessary because without it, over 8,000 provisional licensees would be forced to close when the program expires by the end of 2021. The bill resolves this issue by extending the provisional license program until 2028. This would give applicants, local jurisdictions, and the state more time to reach CEQA compliance and process annual license applications.

That said, the recent amendments to SB 59 would alter the scope of the provisional license program. Beginning on July 1, 2022, provisional licenses will be issued only to qualified equity applicants. The licensing authorities, however, would have the discretion to reinstate provisional licenses that were issued before July 1, 2022.

Overall, there is strong support for SB 59 across the cannabis industry. Over 80 organizations and businesses expressed support for SB 59. Support for the bill comes from organizations such as the California Cannabis Industry Association, International Cannabis Farmers Association, and California State Association of Counties.

SB 59 would produce no direct fiscal impact on CCAP. As CCAP cannot accept appeals regarding provisional licenses, the extension of the provisional license program would continue to limit the number of potential appeals filed with CCAP. However, a reduced caseload may result in cost and resource savings. For example, if there are fewer hearings to travel to, it could result in savings to CCAP's budget.

The primary risk of SB 59 is the persisting long-term uncertainty regarding annual licenses. As discussed earlier, SB 1459 and AB 97 were intended as stopgap measures. Yet, SB 59 provides



another extension to the provisional license program. Based on these factors, CCAP's caseload will likely remain low into the foreseeable future. In addition, the unpredictability of its future caseload may complicate CCAP's efforts to engage in long-term planning. However, as mentioned previously, one potential benefit of the low caseload is cost and resource savings to CCAP's budget.

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

5. Cannabis Control Appeals Panel Member Handbook Revision.

Chief Counsel Phillips introduced a proposal to make several revisions to the Panel Handbook. He explained this agenda item is an action item, and CCAP staff will recommend a vote be taken. This agenda item represents more of a wholistic, annual review of the Handbook. This agenda item arose after staff identified various provisions that need an update.

Phillips then introduced Senior Staff Attorney Sarah Smith to give the presentation. She will discuss four recommended revisions and begin with the only one with legal substance.

In 2020, the legislature amended Section 26040 of the Business and Professions Code to change the means by which Panel members are appointed. CCAP staff recommends the Handbook be revised accordingly to reflect this update. The benefit to this is to make it easy for Panel members to know by looking at the Handbook what the appointment process is without having to review the actual law.

There are two additional, material changes. The first of these revisions is to add a "last updated" date to the bottom of the cover page. This would allow any Panel member reviewing the Handbook to know, at a glance, what version of the Handbook they are looking at and to ensure they are in possession of the most recent version. The second of these revisions is to update CCAP's physical address. CCAP recently moved to 400 R Street, but the Handbook does not currently reflect this new address. In order to make sure that Panel members can forward their materials in a timely fashion to CCAP's physical offices, the address needs to be updated in the Handbook.

The final recommended change is neither substantive nor material but is nonetheless important. Staff recommends the Handbook be revised to replace the gendered pronouns she/her/hers and he/him/his with the gender-neutral singular they/them/their. There are two main benefits to this. The first benefit is that this acknowledges that there are increasingly more people who identify outside the gender binary and that one's gender is irrelevant to whether one is litigating before the Panel or not. Finally, this is far simpler language than using he/she, for example.



Panel Member Moore stated she had other suggested edits in mind but wanted to know if this was the appropriate time and place to discuss them. Senior Staff Attorney Smith stated she would answer if she can, but warned that if the question is off topic, then we may need shift to another agenda item. Chairperson Bremond stepped in to ask Chief Counsel Phillips to weigh in because, per Bagley-Keene, this publicly noticed meeting must follow the posted agenda. If Moore's question falls off course, then it may need to be put on the agenda for a future meeting.

Phillips advised Moore that asking the question is a judgment call. If the questions are related enough to the agenda item, then they may be asked. If not, these questions might be more appropriate for a future agenda item. Alternatively, Moore may send questions to staff directly which would not require a quorum or group discussion. Moore answered that she will send her suggested edits to the staff directly, and this can be something to discuss at the next Panel meeting.

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

Motion (Moore): Approve the proposed revisions to the Member Handbook. Seconded (Calderon). Melita Deci took a roll call vote on the motion. Motion passed 3-0.

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.

Panel Member Moore again raised the topic of new, additional edits to the Member Handbook to be discussed at the next Panel meeting. No other comments from the Panel. No comments from the public.

8. Closed Session.

Open session suspended at 10:43 am for the Annual Review of the Executive Director in closed session, under the authority of Government Code section 11126(a)(1). Open session resumed at 11:19 am.

9. Adjournment.

Motion (Calderon). Adjourn the meeting. Seconded (Moore). Meeting adjourned at 11:20 am.