



Open Session Meeting Minutes

Thursday, September 26, 2024
1:04 pm – 1:44 pm

Cannabis Control Appeals Panel
400 R Street
Sacramento, CA 95811

Members present:

- Dr. Diandra Bremond, Chairperson (in Los Angeles County – Teleconference)
- Sharon-Frances Moore, J.D. (in Sacramento County – In Person)
- Majority Leader Ian Calderon (in Orange County – Teleconference)
- Cathryn Rivera, J.D. (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

Others present:

- Ruben Garza, Alcoholic Beverage Control Appeals Board (in Sacramento – In Person)

Summary:

1. Call to Order and Establishment of Quorum.

Chairperson Diandra Bremond called the teleconference meeting to order at 1:04 pm.

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

2. Welcome – Panel Member Cathryn Rivera.

Chairperson Bremond next introduced and welcomed Cathryn Rivera, the newest appointee to the Panel. Panel Member Rivera was appointed to the Panel by Governor Newsom at the end of August.

Prior to joining the Panel, Rivera served as Governor Newsom's Appointments Secretary from 2019 to 2024. Before that, she served as a Member of the California Agricultural Labor Relations Board for 17 years. She also served as Chief Deputy Cabinet Secretary for Governor Gray Davis from 1999 to 2002. She holds a Juris Doctorate from UC Berkeley, School of Law. There, she was co-editor-in-chief of the La Raza Law Journal. She also holds a bachelor's degree in business administration from Arizona State University.

Rivera thanked Bremond for the warm introduction. Rivera expressed excitement about being a part of CCAP and looks forward to working with everyone.

3. Approval of the Minutes.

Chairperson Bremond asked the Panel if there were any additions or corrections to the minutes of the February 28, 2024 meeting. There were no additions or corrections. No comments from the public.

Motion (Moore): Approve the minutes of the February 28, 2024 meeting as submitted. Seconded (Calderon). Melita Deci took a roll call vote on the motion. Panel Member Rivera abstained. Motion passed 3-0.

4. Executive Management Report.

Executive Director Anne Hawley began her report by first welcoming Panel Member Rivera to CCAP. Hawley then welcomed the newest member of CCAP staff, Ruben Garza. He will serve in the office technician position and will officially start at CCAP in October. He currently works at the Alcoholic Beverage Control Appeals Board (ABCAB) and is, in fact, moderating this Zoom meeting and managing the AV equipment.

Hawley's report will cover the following topics: the Panel's budget-to-actual financials, CCAP staff operations, and the Panel's strategic plan.

First, Hawley provided an update on Control Section 4.05 and the 2024 Budget Act. Section 4.05 in the Budget Act allows the Department of Finance to cut budgets by up to 7.95% for Fiscal Year 2024-25. This budget drill aims to save over \$2.1 billion. By January 10, 2025, Finance must report to the Legislature. This report, part of the 2025-26 Governor's Budget, will detail the savings from the budget cuts.

State agencies were allowed to identify exclusions to this budget drill related to mission-critical items (e.g., public benefit, Proposition 98 resources, public safety, or 24-hour care). CCAP's exclusions included all mission-critical positions and operating expenses. On September 9th,

Hawley submitted a request for exclusions and is awaiting Finance's approval. Further updates will be provided at a future meeting.

Hawley then discussed the Panel's expenditures and budget from July to September for the first quarter. The budget is divided into two big categories – salaries/benefits and operating expenditures. CCAP was budgeted \$2,547,000 for salaries/benefits and has spent roughly \$323,000 in the first quarter.

General expenses include categories such as office supplies, subscriptions, bar dues, and conference fees. CCAP has \$15,000 budgeted for this category. For subscriptions this includes: MailChimp (stakeholder outreach); Law 360 (legal news service for attorneys); WestLaw (essential legal research tool); and Zoom (meeting platform used by CCAP since 2020).

For Printing, CCAP has budgeted \$3,000. Expenditures will be updated and reflected later in the fiscal year.

For Communications, the cell phone category includes the monthly cost for cell phone service and CALNET, which is charged by the Department of Technology. The budget for this category is \$14,000 and the first quarter expenditures were \$4,190.

For Postage, CCAP has a budget of \$300. This is a lean budget since CCAP has adopted a mostly paperless approach. When CCAP starts receiving cases, there may be expenditures to report.

For Travel, CCAP has a budget of \$6,000 to cover Panel Members traveling for meetings and staff traveling for outreach and education.

For Training, the budget of \$3,000 includes mandated trainings (which are not free), Panel Member trainings, and professional development for staff. The first quarter expenditures were \$355.

For Facility Operations, CCAP's rent is roughly \$246,000 annually. However, CCAP will be reimbursed \$55,000 from ABCAB for the rent this fiscal year.

For Consulting and Professional Services, CCAP's budget covers contracts with other state entities for various services. \$59,000 has been budgeted for HR services from the Department of General Services (DGS). \$104,000 has been budgeted for administrative services from the Business, Consumer Services and Housing Agency (BCSH). \$1,000 has been budgeted for purchasing services from DGS. \$3,000 has been budgeted for the statewide surcharge that is assessed by the DGS Office of Financial Services. Roughly \$14,000 has been budgeted for the security circuit provided by the Department of Technology. \$15,300 has been budgeted for interpreter services for CCAP's website and hearings. \$3,000 has been budgeted for auditing fees owed to control agencies (e.g., DGS, the California Military Department, and State Personnel Board), who conduct compliance audits on CCAP's procurement authority and hiring practices.

For Information Technology, CCAP has budgeted \$95,000. This covers the cost of CCAP's interagency agreement with the Department of Consumer Affairs (DCA) – who provides IT services and support for CCAP.

For CCAP's case management system, the budget is \$60,000.

For Panel Meetings, CCAP has \$2,000 budgeted for security provided by the California Highway Patrol once CCAP begins receiving and hearing cases.

Altogether, the Panel's total budget – including operating expenditures and salaries/benefits – is \$3,255,000. CCAP's first quarter expenditures were \$395,000 with a remaining balance of \$2,860,000.

After completing this update on finances, Hawley handed the floor for Chief Counsel Christopher Phillips to report on CCAP Legal Team's recent projects. With the lack of viable appeals filed with CCAP, the Legal Team has been – as bandwidth allows – assisting sister entities on various projects. Due to the confidential nature of these interagency agreements, the Legal Team cannot discuss these projects in too much detail.

Phillips shared that the Legal Team recently completed three legal memoranda for the Civil Rights Department. They also have another round of projects starting with the California Privacy Protection Agency. The California Commission on Asian & Pacific Islander American Affairs currently does not have an attorney on staff. Therefore, Phillips has been working as Counsel helping them with day-to-day matters. Despite the lack of appeals, CCAP's Legal Team remains busy and active with a variety of projects.

Phillips then spoke on outreach efforts. The goal is to reach as many stakeholders in the cannabis space as possible. In these outreach events, CCAP has been providing a roadmap presentation about due process, procedural requirements, and then navigating CCAP's appeals process. Senior Staff Attorney Sarah Smith has been giving these presentations at various bar association groups such as the Sacramento Bar Association, California Lawyers Association, and Alameda County Bar Association. The Legal Team has another presentation scheduled in October with the Department of Cannabis Control's (DCC) Local Jurisdiction Task Force Meeting.

Panel Member Rivera provided a comment. She expressed gratitude for CCAP's outreach to other entities. It is important and critical work. Rivera also asked about the upcoming presentation before the DCC's Local Jurisdiction Task Force. Hawley stated this meeting is mandated under legislation from 2021. These meetings involve parties ranging from the local sheriff's department to the Department of Fish and Wildlife. The upcoming meeting is the last meeting mandated by legislation, and CCAP was invited to be a part of this meeting.

Phillips finished his update and Hawley resumed her report. The educational content on CCAP's website has recently been updated. The 'Appeals Process' chart and 'Your Appeals Rights' flyer

were re-translated into 12 languages to add information about the automatic stay. Furthermore, the entire website was reviewed to ensure accuracy regarding the automatic stay, update broken links, etc.

Hawley then reported on CCAP's goals for continuing to educate cannabis stakeholders on the appeals process and their right to an appeal. This includes reaching out to reliable messengers (e.g., local community organizations, local or federal representatives) and ensuring their staff are aware of their constituents' rights in the cannabis space and know whether to refer their constituent to the DCC or CCAP.

Lastly, Hawley proposed adding an agenda item for the next meeting to review the Panel's strategic planning accomplishments since 2021 and identify any new action items for 2025 (and beyond). Hawley suggested January or February 2025 as the next meeting date. She will reach out to each Panel Member to confirm the exact date.

Before opening for questions, Hawley thanked CCAP staff for their dedication and professionalism. She expressed gratitude for their willingness to take on different tasks with positive attitudes.

Hawley concluded her report and handed the floor back to Bremond. Bremond opened the floor for any questions or comments.

For the strategic planning discussion, Bremond asked if the Panel will be working with the same facilitators from prior workshops. According to Hawley, the Panel had previously worked with DCA facilitators in 2021 but, currently, there is no space in CCAP's budget for their services. However, this is something CCAP staff can review if the Panel desires working with these facilitators again. Bremond expressed agreement with this sentiment.

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

5. Panel Handbook Update.

Chief Counsel Phillips introduced a proposal to make several revisions to the Panel Handbook. This agenda item is an action item, and CCAP staff will recommend a vote be taken. This agenda item arose after CCAP staff identified five necessary updates.

The Handbook's last update was just over three years ago. The Handbook is a helpful guide and resource for Panel Members in becoming familiar with their duties and obligations. With the passage of time, however, things change. For example, there may be new training requirements, personnel appointments, or recent legislation. The Handbook must be regularly updated to account for such changes. Today is such an occasion.

Most of the proposed changes are technical and non-substantive. The staff report provided to each Panel Member describes all the changes. These materials also include two versions of the

Handbook. The first is a marked-up version with all the proposed changes highlighted. The second is a clean version with all the changes integrated. If the Panel votes to approve, the clean version will be the new version of the Handbook until the next update.

Phillips briefly summarized the technical, non-substantive changes. First, the Handbook's cover page will be updated to show that the current Secretary of BCSH is Secretary Tomiquia Moss. Second, the link to the California Department of Technology's 'Social Media Policy' in the Handbook will be updated to the correct webpage. Third, the Handbook will be corrected to accurately reflect what trainings Panel Members must complete after being sworn in, as well as the correct deadlines. Lastly, all remaining revisions fall under the umbrella of minor, technical, and/or stylistic changes. Overall, there are no risks with these proposed revisions, and the main benefits are clarity and consistency.

The last, and most important, update is regarding the Bagley-Keene Act. Phillips then introduced Senior Staff Attorney Brian Hwang to give a presentation regarding this update.

Hwang began his presentation by reminding those present how the Governor issued numerous executive orders during the pandemic relaxing certain Bagley-Keene requirements. Under these orders, Panel Members generally participated in panel meetings remotely from private locations closed to the public. Last September, however, the Bagley-Keene Act was amended so that remote attendance from a private location is now limited to two narrow instances. The current draft of the Handbook, however, does not include these changes. CCAP staff thus recommends that the Handbook be updated to account for these recent amendments to the law.

There are two main benefits to this update. First, Panel Members will be aligned in their understanding of current law. Since the recent amendments are a departure from the relaxed approach during the pandemic, it is important that Panel Members are all on notice regarding the current requirements under Bagley-Keene.

The second benefit is that Panel Members will receive clear guidance about how to exercise their rights. Under the recent amendments, Panel Members may request remote attendance from a private location due to a physical or mental disability related need. The Handbook update will implement a uniform procedure explaining how a request may be submitted as to minimize any confusion or delay.

Looking ahead, if any Panel Member wishes to request remote attendance at a future meeting, please review the guidance and procedure as outlined in pages six to seven of the Handbook. Hwang then ended his presentation and opened the floor for any questions from the Panel Members.

Rivera provided a few comments on the Handbook revisions.

First, Rivera pointed to one of the general rules of conduct on page 10 of the Handbook. The provision in question had previously read as “Panel Members shall maintain the confidentiality of confidential documents and information related to Panel business.” The proposed revision would delete “confidential” and replace it with “sensitive”, but Rivera asked the reason for this change. Hwang explained it is a stylistic change because it would be redundant to use “confidential” right after “confidentiality”.

Rivera’s concern centered on Public Records Act (PRA) requests. Specifically, there may be a problem if the Handbook’s rule of conduct included documents that are otherwise subject to PRA requests. Phillips clarified there is a clear hierarchy of authority. The Handbook is specific to the Panel. To the extent there is any conflict with state or federal law, CCAP would follow that law over the Handbook. In the case of a PRA request, any proper request relating to documents that CCAP may possess would override any internal Handbook policy.

Rivera further explained that “sensitive” is very subjective, while “confidential” carries more of a clear, legal definition. Accordingly, Rivera proposed re-wording the provision on page 10 to read as follows: “Panel Members shall not disclose confidential documents and information related to Panel business.”

Phillips responded that they can craft the agenda item motion to include Rivera’s proposed revision even though this change is not currently reflected in the Handbook agenda item materials already provided to Panel Members.

Rivera’s other comment centered on the “Communications with Other Organizations...” section on page 11 of the Handbook. Rivera wanted to clarify that if these communications do *not* relate to Panel business, then Panel Members can speak with outside parties or entities. Phillips confirmed that it would be permissible to do so in those instances.

Bremont thanked Phillips for his comments and Hwang for his presentation.

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

Motion (Moore): Approve the proposed revisions to the Handbook, including Panel Member Rivera’s proposed change as specified above. Seconded (Rivera). Melita Deci took a roll call vote on the motion. Motion passed 4-0.

6. Public Comments on Items Not on the Agenda.

Chairperson Bremont 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.

Here, Bremond referenced Hawley's earlier proposal regarding the Panel's strategic planning. Hawley confirmed it will be on the agenda for the next meeting.

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

8. Adjournment.

Motion (Moore). Adjourn the meeting. Seconded (Calderon). Meeting adjourned at 1:44 pm.