

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS

DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 1. GENERAL

6000. Definitions.

For purposes of this division:

(a) “Appellant” means any person who files an appeal with the Panel.

(b) “Days” means calendar days, unless otherwise stated.

(c) “Executive Director” means the executive director of the Panel.

(d) “Licensing authority” means a state agency responsible for the issuance, renewal, or reinstatement of a license, or a state agency authorized to take disciplinary action against a licensee, as defined in Business and Professions Code section 26001(aa).

(e) “Panel” means the Cannabis Control Appeals Panel of California.

(1) Any reference to the Panel’s “Sacramento office” means 801 Capitol Mall, Suite 601, Sacramento, CA 95814.

(f) “Party” means the licensing authority, the appellant, and any person, other than an officer or an employee of the licensing authority in his official capacity, who has been allowed to appear in the proceeding before the licensing authority.

(g) Unless otherwise stated, the words “appellant” or “party” include the attorney of such person.

Note: Authority cited: Section 26042, Business and Professions Code.

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

6001. Time and Date Calculations.

(a) The time provided by this division within which any act must be performed shall be computed by excluding the first day and including the last day, unless it is a Saturday, Sunday, or holiday, in which case the last day shall also be excluded.

Note: Authority cited: Section 26042, Business and Professions Code.

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

6002. Notices to Authorized Agents.

(a) Whenever the Notice of Appeal indicates that a party is represented by an attorney or other authorized agent, such attorney or agent shall be entitled to a copy of all notices and decisions to which the party would be entitled.

Note: Authority cited: Section 26042, Business and Professions Code.

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

ARTICLE 2. FILING OF APPEAL

6003. Timing and Contents of Notice of Appeal.

(a) Any person aggrieved by the decision of a licensing authority as described in Business and Professions Code section 26043(a) may appeal the licensing authority's written decision to the Panel as follows:

(1) The appellant shall complete and submit the CCAP Form 6003, Notice of Appeal (New 04/18), which is hereby incorporated by reference, to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov.

(2) The Notice of Appeal must be received by the Panel within 30 days after the last day on which reconsideration of the underlying decision of the licensing authority can be requested pursuant to Government Code section 11521.

(A) Failure to submit the Notice of Appeal to the Panel within the time set forth in this subsection may result in dismissal of the appeal pursuant to section 6011.

(3) The appellant shall also serve a copy of the completed Notice of Appeal upon all parties to the proceeding. Such service shall be made by delivering or mailing a copy of the Notice of Appeal to each party, and proof of service shall be submitted to the Panel at the same time the Notice of Appeal is submitted pursuant to subsection (a)(1). The parties may stipulate in writing to provide service to one another via electronic mail, and such service shall be indicated on the proof of service.

Note: Authority cited: Section 26042, Business and Professions Code.

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

ARTICLE 3. RECORD ON APPEAL

6004. Submitting the Record.

(a) From the date the Notice of Appeal is submitted to the Panel, the appellant shall have 60 days to obtain the complete underlying administrative record from the Office of Administrative Hearings, pursuant to title 1, CCR, section 1038, or if an informal or emergency hearing was conducted by the licensing agency pursuant to Government Code section 11445.10, obtain the complete underlying administrative record from the licensing agency, 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.

(1) 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.

(b) If the underlying administrative hearing was recorded by means other than transcription, the appellant shall arrange to have a certified copy transcribed prior to submission of the administrative record to the Panel. The complete transcript shall be included with the administrative record at the time of submission to the Panel in accordance with subsection (a).

(c) The appellant shall also serve a copy of the complete administrative record upon all parties to the proceeding. Such service shall be made by delivering or mailing a copy of the administrative record to each party or by electronic service in accordance

with section 6005, and proof of service shall be submitted to the Panel at the same time the administrative record is submitted pursuant to subsection (a).

(d) 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.

Note: Authority cited: Section 26042, Business and Professions Code.

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

ARTICLE 4. FILING BRIEFS

6005. Service and Filing by Electronic Mail.

(a) Upon submission of a Notice of Appeal to the Panel, the appellant shall also submit a completed CCAP Form 6005, Certification of Email Address (New 04/18), which is hereby incorporated by reference, to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov.

(b) Within 30 days after receipt of service of the Notice of Appeal, all other parties to the appeal shall complete and submit CCAP Form 6005, Certification of Email Address (New 04/18), to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov. At the same time, each party shall also serve a copy of their completed CCAP Form 6005, Certification of Email Address (New 04/18), on all other parties to the appeal, including the appellant.

(c) Once all parties to the appeal have submitted their CCAP Form 6005, Certification of Email Address (New 04/18), to the Panel, they may use each party's official email address, if one is provided, for service of correspondence, notices, pleadings, or any other documentation in connection with the appeal, unless a stipulation to the contrary is agreed to.

(d) The Panel and its executive director may use each party's official email address, if one is provided, to send documents, notices, decisions, or any other correspondence to the party.

(e) Any party to an appeal that has submitted its CCAP Form 6005, Certification of Email Address (New 04/18), in accordance with subsection (a) or (b) may subsequently submit notices, pleadings, or any other documentation in connection with the

appeal by electronic mail to the Panel at appeals@ccap.ca.gov unless instructed otherwise
by the Panel or its executive director.

Note: Authority cited: Section 26042, Business and Professions Code.

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

6006. Filing of Briefs by Parties.

(a) The appellant may file an opening brief, the respondent may file an opposition brief, and the appellant may thereafter file a reply brief.

(b) All briefs shall be typewritten or printed upon paper 8½ x 11 inches in size, and all copies must be legible. Only one side of the paper shall be used, and the margins shall be at least one inch on all sides of the page. The lines shall be double spaced. Headings shall be capitalized. An original of each brief shall contain a certification that copies have been served upon or mailed to each party or their attorney or agent. Parties may serve one another by electronic mail in compliance with section 6005.

(c) Briefs shall comply with the following length restrictions; however, the page limitations set forth in this subsection do not include exhibits, appendices, tables of contents, or cover or title pages:

(1) Opening briefs shall be no more than 20 pages in length.

(2) Opposition briefs shall be no more than 20 pages in length.

(3) Reply briefs shall be no more than 10 pages in length.

(d) 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.

(e) The opening brief shall be submitted to the Panel and served on all parties to the appeal within 30 days of the date the administrative record is served on the Panel and other

parties pursuant to section 6004. Any opposition brief shall be submitted to the Panel and served on all parties within 15 days after the opening brief is served on the Panel and other parties. Any reply brief shall be submitted to the Panel and served on all parties within seven days after the opposition brief is served on the Panel and other parties. 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.

Note: Authority cited: Section 26042, Business and Professions Code.

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

ARTICLE 5. HEARINGS

6007. Optional Hearing.

(a) After all briefs have been submitted to the Panel pursuant to section 6006, the Panel shall make a preliminary decision in the appeal based on the record. Once the Panel has reached its preliminary decision, the executive director shall notify all parties that the Panel is ready to enter its final order in accordance with section 6016. Each party shall have 20 days from the date they are served with the notice to submit a written request for a hearing to the Panel.

(b) Notwithstanding subsection (a), the Panel may direct for a hearing to be conducted on the appeal even if no party requests a hearing.

(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.

Note: Authority cited: Section 26042, Business and Professions Code.

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

6008. Oral Argument.

(a) In the event that a hearing for the appeal or a motion is scheduled, and unless otherwise directed by the Panel:

(1) A party shall be allowed a maximum of 20 minutes for oral argument;

(2) Not more than one person on a side may be heard;

(3) The appellant, or moving party, shall have the right to present an opening statement and closing statement; however, both statements shall count towards the 20-minute total limit.

(4) No evidence, other than what is contained in the administrative record, shall be referenced by any party.

(5) Panel members may ask questions of any party at the conclusion of oral argument.

Panel member questions and party responses will not count towards the 20-minute time limit.

Note: Authority cited: Section 26042, Business and Professions Code.

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

ARTICLE 6. NEWLY DISCOVERED EVIDENCE

6009. Nature of Evidence and Showing.

(a) A party may file a motion to remand the case back to the licensing authority in accordance with Business and Professions Code section 26044 on the grounds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced at the underlying hearing. In support of the motion, the party shall submit the following in the form of a declaration or affidavit:

(1) The substance of the newly discovered evidence;

(2) Its relevancy and the part of the record to which it pertains;

(3) Names of witnesses to be produced, if any, and their expected testimony;

(4) The nature of any exhibits to be introduced, if any; and

(5) A detailed statement of the reasons why such evidence could not, with due diligence, have been discovered and produced at the underlying hearing. Merely cumulative evidence shall not constitute a valid ground for remand.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042, 26043 and 26044, Business and Professions Code.

ARTICLE 7. MOTIONS

6010. Motions.

(a) All motions referenced in this division shall be prepared and submitted as follows:

(1) A motion shall follow the formatting requirements set forth in section 6006(b).

(2) A motion shall be no more than 10 pages in length unless accompanied by a declaration showing good cause for additional pages, but in no case shall be more than 15 pages in length.

(3) A motion submitted to the Panel shall include proof of service that the motion was served on all parties to the appeal.

(b) Any party opposing a motion may submit their written opposition to the Panel within five days of receipt of service of the initial motion. The opposition shall follow the same requirements described in subsections (a)(1) through (3).

(c) The Panel's executive director shall set a date and location for a hearing on the motion and send notice of the hearing to all parties to the appeal within 20 days of the deadline to submit the opposition described in subsection (b). Notwithstanding the foregoing, at any time after receiving the motion and opposition, the Panel may elect to rule on the motion without holding a hearing.

Note: Authority cited: Section 26042, Business and Professions Code.

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

ARTICLE 8. DISMISSAL OF APPEAL

6011. Dismissal of Appeal.

(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 sections 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; or

(4) Upon a motion by the licensing authority or other party, or upon the Panel's own notice to the parties, where sufficient cause exists for dismissal. In such an instance, the Panel's decision shall set forth with specificity the sufficient cause for the dismissal.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042, 26043 and 26044, Business and Professions Code.

ARTICLE 9. PANEL MEMBERS

6012. Disqualification of Panel Members.

(a) A Panel member shall disqualify himself or herself and withdraw from any case in which the member cannot accord a fair and impartial hearing. Any party may request the disqualification of any member by filing an affidavit with the Panel before the submission of the case, stating with particularity the grounds upon which it is claimed that a fair and impartial appeal cannot be accorded by the Panel member. The issue raised by the request shall be determined by the other members of the Panel. No member of the Panel shall withdraw voluntarily from any hearing, or be subject to disqualification, if this would prevent the Panel from acting in the particular case.

(b) An affidavit submitted to the Panel pursuant to this section shall become a part of the record.

Note: Authority cited: Section 26042, Business and Professions Code.

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

6013. Attendance of Panel Members.

(a) If a Panel member cannot attend a hearing where there will be oral argument, the remaining members of the Panel shall select one other member to recuse from the hearing in order to maintain an odd number of members, unless to do so would prevent the Panel from acting in a particular case.

Note: Authority cited: Section 26042, Business and Professions Code.

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

ARTICLE 10. STAYS AND SETTLEMENTS

6014. Stay.

(a) In any appeal where the underlying decision of a licensing authority is denial of a license renewal, or cancelation, suspension, or revocation of a license, and upon a motion from the appellant made pursuant to section 6010, the Panel may stay the effect of the underlying decision until the Panel enters its final order.

(b) Notwithstanding subsection (a), the Panel may only grant a stay upon a motion by the appellant demonstrating that:

(1) there is a substantial likelihood that the appellant will prevail in the appeal;

(2) the appellant will experience immediate and irreparable harm if the stay is not granted;

and

(3) the stay is not detrimental to the health and welfare of the public.

Note: Authority cited: Section 26042, Business and Professions Code.

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

6015. Settlements.

(a) Whenever any matter is pending before the Panel, and the parties to the matter agree upon a settlement, the Panel shall, upon the stipulation by the parties that such an agreement has been reached, dismiss the matter.

Note: Authority cited: Section 26042, Business and Professions Code.

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

ARTICLE 11. ORDERS

6016. Time Limit for Entry of Order.

(a) In all cases, the Panel shall enter its order within 90 days after the hearing on the merits is held in accordance with section 6007. If no hearing is conducted, then the Panel shall enter its order within 90 days of the executive director's notice to the parties that the Panel has reached a preliminary decision in accordance with section 6007(a).

Note: Authority cited: Section 26042, Business and Professions Code.

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

6017. Form of Order.

(a) Each order of the Panel on appeal from a decision of a licensing authority shall be in writing and shall be filed by delivering copies to the parties personally or by mailing copies to them by certified mail or electronic mail pursuant to section 6005. Each order shall become final upon being filed as provided herein, and there shall be no reconsideration or rehearing by the Panel.

Note: Authority cited: Section 26042, Business and Professions Code.

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

ARTICLE 12. EX PARTE COMMUNICATIONS

6018. Ex Parte Communications.

(a) While an appeal is pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to the Panel from any party to the appeal without notice and opportunity for all parties to participate in the communication.

(b) Nothing in this section precludes a communication made on the record at a hearing.

(c) Notwithstanding subsection (a), the following communications are permissible:

(1) Communications that are required for disposition of an ex parte matter specifically authorized by statute.

(2) Communications concerning a matter of procedure or practice that is not in controversy.

Note: Authority cited: Section 26042, Business and Professions Code.

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

~~DIVISION 42. BUREAU OF CANNABIS CONTROL~~
~~CHAPTER 8. OTHER PROVISIONS~~
~~ARTICLE 1. RESEARCH FUNDING~~
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 13. CONFLICT OF INTEREST CODE PROVISIONS

6020. General Provisions.

[No change to text.]

Note: Authority cited: Section 87300, Government Code.

Reference: Sections 87300 and 87302, Government Code; ~~Title 2 Code of Regulations~~

~~Section 18730.~~