INITIAL STATEMENT OF REASONS

RULE 6000. Definitions.
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SPECIFIC PURPOSE OF THE REGULATIONS

The Cannabis Control Appeals Panel (the “Panel”) is a quasi-judicial administrative body authorized to hear appeals from cannabis licensing decisions. The scope of the Panel’s jurisdiction is provided by Business and Professions Code section 26043. The Panel’s function is to hear and decide appeals concerning adverse administrative actions taken against license applicants and licensees by the Department of Cannabis Control.

The purpose of the proposed regulatory amendments is to bring existing regulatory language in line with recent statutory changes, and to clarify existing procedures to be followed by cannabis license applicants, licensees, and licensing authorities when filing, responding to, or otherwise participating in an appeal. Additionally, these amendments will improve accessibility and gender inclusivity.

PROBLEM

The Panel’s jurisdictional scope is provided by section 26043 of the Business and Professions Code. Originally, the Panel’s jurisdiction included appeals from decisions reached by any of the three state cannabis licensing programs. However, Assembly Bill 141 (effective July 12, 2021) consolidated the three licensing programs—the Bureau of Cannabis Control, California Department of Food and Agriculture’s CalCannabis Cultivation Licensing Division, and California Department of Public Health’s Manufactured Cannabis Safety Branch—into a single licensing agency, the Department of Cannabis Control (the “Department”). As of the same date, section 26043 and all related provisions of law have been amended to reflect the consolidated licensing structure. The Panel’s jurisdiction now includes only appeals from the Department.

The Panel’s regulatory language, however, still reflects the outdated cannabis licensing structure. Moreover, the Panel’s address as provided in the regulations is outdated, as the Panel has recently relocated, and the two documents incorporated by reference have undergone recent revisions.

Finally, the Panel’s previous use of the reflexive pronouns “himself or herself” in the regulatory language excludes parties and members of the public who do not identify with binary gender.
NECESSITY

RULE 6000. Definitions.

Subdivision (d). The proposed amendments to this subdivision address the consolidation of the three previous licensing authorities—the Bureau of Cannabis Control, CDFA’s CalCannabis Cultivation Licensing Division, and CDPH’s Manufactured Cannabis Safety Branch—into a single licensing agency, the Department of Cannabis Control (the “Department”), pursuant to Assembly Bill 141 (eff. July 12, 2021).

The indefinite article “a” is stricken and replaced with the definite article “the” to recognize the existence of a single, unified state agency tasked with cannabis licensing and enforcement.

Additional language is added to specify that for purposes of the Panel’s regulations, “licensing authority” refers to the Department.

These amendments do not alter the procedures for appeal or the scope of the Panel’s jurisdiction. They are necessary, however, to bring the Panel’s regulations in line with statutory changes effected by the codification of Assembly Bill 141, and to clarify the scope of the Panel’s appellate jurisdiction for both licensees and the public at large.

Subdivision (e). This proposed subdivision will define “Online Filing Portal” as used in section 6003. In addition to the meaning of the phrase, this definition clarifies that the portal is available on the Panel’s website, and provides the Panel’s web address.

This provision is necessary to define a term essential to the amendments proposed in section 6003. Additionally, it is necessary to ensure that potential appellants and parties to existing appeals are fully apprised of the nature and location of the Online Filing Portal.

Subdivision (f). The former section (e) is renumbered to (f). This is necessary to accommodate the addition of subdivision (e), above.

Additionally, this subdivision is amended to update the address of the Panel’s offices following relocation. This is necessary to ensure that any communications or filings made by postal mail arrive at the correct address, and that any member of the public seeking to review documents pursuant to a Public Records Act request may visit the correct location.

Subdivision (g). The former section (f) is renumbered to (g). This is necessary to accommodate the addition of subdivision (e), above.

Subdivision (h). The former section (g) is renumbered to (h). This is necessary to accommodate the addition of subdivision (e), above.
RULE 6003. Timing and Contents of Notice of Appeal.

Subdivision (a). The indefinite article “a” is stricken and replaced with the definite article “the” to recognize the existence of a single, unified state agency tasked with cannabis licensing and enforcement.

Subdivision (a), paragraph (1). The version date of CCAP Form 6003, Notice of Appeal, is amended to reflect the most recent revisions, dated October 2021. CCAP Form 6003 is incorporated by reference. This amendment is necessary to ensure that any licensee seeking to file an appeal before the Panel is using the most current version of CCAP Form 6003.

Form 6003 itself, which is incorporated by reference, has been revised to reflect the unified licensing agency structure. An initial reference to “a licensing authority” has been amended to refer to “the Department of Cannabis Control.” and four subsequent references to “licensing authority” have been amended to refer to the “Department.” Additionally, a section of the form that prompted the appellant to designate which licensing authority issued the disciplinary decision has been deleted, as all disciplinary decisions will now be issued by the Department. These changes are necessary to bring Form 6003 in line with the statutory changes effected by the codification of Assembly Bill 141 and avoid confusion.

Finally, the language of this provision, which previously supplied the two acceptable methods of filing CCAP Form 6003, has been broken into subparagraphs, and introductory language has been added to state that “The appellant may submit the form to the Panel through any of the following methods.” This is necessary to accommodate the introduction of the Online Filing Portal as an acceptable filing method, and to maximize clarity and to avoid the confusion that could result from listing all three filing methods in one provision.

Subdivision (a), paragraph (1), subparagraph (A). This subparagraph provides for filing of CCAP Form 6003 “[i]n person or by mail” at the Sacramento office address provided in section 6000. This provision relocates the office-delivery filing option from paragraph (1) into a new subparagraph. This is necessary for clarity and to avoid the confusion that could result from listing all filing options in one provision.

Additionally, the amended language “[i]n person or by mail” elaborates on the previous language by providing specific methods by which a hard copy CCAP Form 6003 may be delivered to the Panel’s offices. This change is necessary to avoid confusion and to guarantee that appellants’ CCAP Form 6003 filings arrive as intended.

Subdivision (a), paragraph (1), subparagraph (B). This subparagraph provides for filing of CCAP Form 6003 “[b]y emailing the completed form to the Panel at appeals@ccap.ca.gov.” This provision relocates the email-delivery filing option from paragraph (1) into a new subparagraph. This is necessary for clarity and to avoid the confusion that could result from listing all filing options in one provision.
Additionally, this amendment omits any reference to first “scanning” CCAP Form 6003. This change is necessary because modern technology permits parties to complete PDF forms entirely in digital format, eliminating the need for scanning a hard-copy document. While some appellants will likely still complete and scan a hard-copy Form 6003, the amended language leaves the completion step open-ended, and provides only that the completed CCAP Form 6003 may be emailed to the address provided. This change will therefore avoid confusion and enhance accessibility.

Subdivision (a), paragraph (1), subparagraph (C). This subparagraph introduces a new filing option that allows an appellant to file their CCAP Form 6003 electronically through an Online Filing Portal located on the Panel’s website.

The design and introduction of the Online Filing Portal is intended to maximize accessibility for parties appearing before the Panel, and to reduce Panel workload by automatically organizing and date-stamping all filings. Use of the Online Filing Portal is entirely optional and does not alter the parties’ right to submit filings by mail or email.

The provision is necessary to make the Online Filing Portal available as an authorized filing method. Additionally, the provision states the location of the Online Filing Portal, which is necessary to avoid confusion and enhance accessibility.

RULE 6004. Submitting the Record.

Subdivision (a). The amendments to this section substitute the word “authority” for “agency.” This is necessary to bring the usage in line with other provisions and with the definition of “Licensing Authority” provided in section 6000.

RULE 6005. Service and Filing by Electronic Mail.

Subdivision (a). The version date of CCAP Form 6005, Certification of Email Address, is amended to reflect the most recent revisions, dated October 2021. CCAP Form 6005 is incorporated by reference. This amendment is necessary to ensure that any licensee seeking to file an appeal before the Panel is using the most current version of CCAP Form 6005.

Form 6005 itself, which is incorporated by reference, has been revised to reflect the unified licensing agency structure. Language prompting the filing party to “write the name of your agency” if they are filing on behalf of a “licensing authority” has been stricken and replaced with the sentence “Write Department of Cannabis Control” if you are submitting this form on behalf of the Department.” Further language prompting the filing party to “Provide the name of the licensing authority that issued the written decision in the underlying case” has been stricken in its entirety, as all disciplinary decisions will now be issued by the Department. These changes are necessary to bring Form 6005 in line with the statutory changes effected by the codification of Assembly Bill 141, avoid confusion, and provide clarity to attorneys filing Form 6005 on behalf of the Department.
Additionally, the language of this provision, which previously supplied the two acceptable methods of filing CCAP Form 6005, has been broken into paragraphs, and introductory language has been added to state that “The appellant may submit the form to the Panel through any of the following methods.” This is necessary to accommodate the introduction of the Online Filing Portal as an acceptable filing method, and to maximize clarity and to avoid the confusion that could result from listing all three filing methods in one provision.

Subdivision (a), paragraph (1). This paragraph provides for filing of CCAP Form 6005 “[i]n person or by mail” at the Sacramento office address provided in section 6000. This provision relocates the office-delivery filing option from subdivision (a) into a new paragraph. This is necessary for clarity and to avoid the confusion that could result from listing all filing options in one provision.

Additionally, the amended language “[i]n person or by mail” elaborates on the previous language by providing specific methods by which a hard copy CCAP Form 6005 may be delivered to the Panel’s offices. This change is necessary to avoid confusion and to guarantee that appellants’ CCAP Form 6005 filings arrive as intended.

Subdivision (a), paragraph (2). This paragraph provides for filing of CCAP Form 6005 “[b]y emailing the completed form to the Panel at appeals@ccap.ca.gov.” This provision relocates the email-delivery filing option from subdivision (a) into a new paragraph. This is necessary for clarity and to avoid the confusion that could result from listing all filing options in one provision.

Additionally, this amendment omits any reference to first “scanning” CCAP Form 6005. This change is necessary because modern technology permits parties to complete PDF forms entirely in digital format, eliminating the need for scanning a hard-copy document. While some appellants will likely still complete and scan a hard-copy Form 6005, the amended language leaves the completion step open-ended, and provides only that the completed CCAP Form 6005 may be emailed to the address provided. This change will therefore avoid confusion and enhance accessibility.

Subdivision (a), paragraph (3). This paragraph introduces a new filing option that allows an appellant to file their CCAP Form 6005 electronically through an Online Filing Portal located on the Panel’s website.

The design and introduction of the Online Filing Portal is intended to maximize accessibility for parties appearing before the Panel, and to reduce Panel workload by automatically organizing and date-stamping all filings. Use of the Online Filing Portal is entirely optional and does not alter the parties’ right to submit filings by mail or email.

The provision is necessary to make the Online Filing Portal available as an authorized filing method. Additionally, the provision states the location of the Online Filing Portal, which is necessary to avoid confusion and enhance accessibility.
Subdivision (b). The version date of CCAP Form 6005, Certification of Email Address, is amended to reflect the most recent revisions, dated October 2021. CCAP Form 6005 is incorporated by reference. This change occurs in two places within the subdivision. The first change is necessary to ensure that any party filing CCAP Form 6005 with the Panel in response to an appeal is using the most current version, and the second change is necessary to ensure that each party to the appeal serves the most current version of the CCAP Form 6005 on all other parties.

This subdivision is also amended to add language allowing all parties filing CCAP Form 6005 in response to an appeal to use the same delivery methods provided in subdivision (a), paragraphs (1) through (3). This change is necessary to grant respondent parties the same degree of clarity and accessibility afforded appellants, as well as to avoid confusion and guarantee that respondent parties’ CCAP Form 6005 filings arrive as intended.

Subdivision (c). The version date of CCAP Form 6005, Certification of Email Address, is amended to reflect the most recent revisions, dated October 2021. CCAP Form 6005 is incorporated by reference. This amendment is necessary for consistency with preceding subdivisions, and to avoid confusion.

Subdivision (e). The version date of CCAP Form 6005, Certification of Email Address, is amended to reflect the most recent revisions, dated October 2021. CCAP Form 6005 is incorporated by reference. This amendment is necessary for consistency with preceding subdivisions, and to avoid confusion.

RULE 6012. Disqualification of Panel Members.

Subdivision (a). The reflexive personal pronouns “himself or herself” have been stricken and replaced with the gender-neutral “themselves.” This change is necessary to acknowledge California’s gender diversity, to encourage gender equity within the cannabis industry, and to improve accessibility.

RULE 6014. Stay.

Subdivision (a). The indefinite article “a” is stricken and replaced with the definite article “the” to recognize the existence of a single, unified state agency tasked with cannabis licensing and enforcement. This change is necessary to bring the Panel’s regulations in line with statutory changes effected by the codification of Assembly Bill 141, and to clarify the scope of the Panel’s appellate jurisdiction for both licensees and the public at large.

RULE 6017. Form of Order.

Subdivision (a). The indefinite article “a” is stricken and replaced with the definite article “the” to recognize the existence of a single, unified state agency tasked with cannabis licensing and enforcement. This change is necessary to bring the Panel’s regulations in line with statutory changes effected by the codification of Assembly Bill 141, and to
clarify the scope of the Panel’s appellate jurisdiction for both licensees and the public at large.

**BENEFITS ANTICIPATED FROM THE REGULATORY ACTION**

The proposed amendments will benefit cannabis applicants, licensees, the Department, and the public by clarifying the Panel’s jurisdiction, by introducing an additional method of filing appeals and documents, by providing an updated Panel office address and revised versions of incorporated documents, and by employing inclusive gender pronouns.

**TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

The Panel did not rely on any technical, theoretical, and/or empirical study, reports, or documents in proposing these amendments.

**ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

The results of the Panel’s Economic Impact Assessment as required by Government Code Section 11346.3(b) are as follows:

The proposed regulations will not impact the creation or elimination of jobs within the State of California.

The proposed regulations will not have an impact on the expansion of existing businesses in the State of California.

Benefit of the proposed action to the health and welfare of California residents, worker safety, and the state’s environment: The proposed regulatory amendments will have no effect on the existing rights, health, or welfare of California residents. As the amendments do not substantively alter existing Panel procedures, they will have no effect on worker safety. Finally, the addition of an alternative electronic portal filing method may reduce paper waste for both the state and parties appearing before the Panel. Otherwise, these amendments will have no effect on the state’s environment.

**Purpose:**

The purpose of these amendments is to improve clarity and accessibility. These amendments will revise the Panel’s regulations to reflect the consolidation of the three prior licensing authorities—the Bureau of Cannabis Control, CDFA’s CalCannabis Cultivation Licensing Division, and CDPH’s Manufactured Cannabis Safety Branch—into a single licensing agency, the Department of Cannabis Control as of July 12, 2021. This will clarify, but not alter, the Panel’s jurisdictional scope.

The amendments will also introduce an additional means of filing appeals and documents through an online filing portal. Existing methods of filing are unchanged. This will improve access to the appeals process. The amendments further update the Panel’s office address, guaranteeing that paper filings arrive at the correct location.
Finally, the amendments modify the use of pronouns to maximize gender-inclusivity.

The Creation or Elimination of Jobs or Businesses Within the State of California

The proposed regulations make certain limited amendments aimed at clarifying existing procedures and improving accessibility. These amendments do not modify existing rights. Moreover, they do not alter or enhance either the Panel’s jurisdictional scope, or the legal or factual basis for a party’s appeal. These amendments will have no effect on the Panel’s decision to affirm or reverse an adverse action taken by the Department. Therefore, the Panel has determined that this regulatory proposal will not impact the creation or elimination of jobs or businesses in the State of California.

The Expansion of Businesses Currently Doing Business Within the State of California

The proposed regulations make certain limited changes aimed at clarifying existing procedures and improving accessibility. These changes do not alter existing rights. They do not alter or enhance the Panel’s jurisdictional scope, do not modify the legal or factual grounds for appeal, and will have no effect on the Panel’s decision to affirm or reverse a decision of the Department. The Panel has therefore determined that this regulatory proposal is not relevant to the expansion of businesses currently doing business in the State of California.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment

These regulatory amendments make certain limited, non-substantive changes aimed at clarifying existing procedures and improving accessibility, including allowing parties to file appeals and submit documents through an online portal system. As such, they will have no effect on the existing rights, health, or welfare of California residents, or on worker safety.

The improvements in accessibility may reduce paper waste for both the Panel and any parties appearing before it. Otherwise, these amendments will have no effect on the state’s environment.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

Businesses in the State of California, including small businesses, are only subject to the Panel’s existing regulations if they are (1) an applicant for, or holder of, a cannabis license; (2) have had an adverse action taken against their application or license by a licensing authority; and (3) have decided to appeal the licensing authority’s adverse decision. The amendments introduced by this regulatory proposal do not affect the rights of those businesses, nor do they alter the procedures those business will follow to exercise their rights before the Panel. Therefore, these amendments do not change the cost to any business appearing before the Panel. Because the proportion of California businesses appearing before the Panel is jurisdictionally limited, and the cost to those businesses is unchanged, there can be no statewide adverse economic impact.
ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES

The Panel has determined that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

REASONABLE ALTERNATIVES TO THE REGULATORY ACTION

These proposed regulatory amendments were discussed and approved on September 16, 2021, at the Panel’s publicly noticed meeting. No alternatives to the recommendations were proposed by the Panel or by any other individual or entity at the meeting. No subsequent alternative recommendations were made prior to the notice. The Panel invites any interested party to offer any alternative proposal during the written comment period or at the scheduled hearing.

Cannabis Control Appeals Panel

November 26, 2021