

CANNABIS CONTROL COMMISSION

**July 20, 2020
10:00AM**

Remote Participation via [Microsoft Teams Live](#)*

PUBLIC MEETING MINUTES

1) Call to Order

- The Chairman recognized a quorum and called the meeting to order.
- The Chairman gave notice that the meeting is being recorded.

2) Chairman's Comments and Updates

- The Chairman gave an overview of the agenda and the format for the agenda.
- The Chairman thanked staff, in particular Deputy General Counsel Pauline Nguyen for work preparing these recommended changes and meeting documents.

3) Commission Discussion and Votes – 8:48

a) Topic: Greenhouse Definition – 8:50

- The Chairman gave an overview of the topic.
- The Commissioners had no comments.

b) Topic: Fingerprint Checks - 9:09

- The Chairman gave an overview of the topic.
- The Commissioners had no comments

c) Topic: Equity Ownership Threshold for SEP Participants to Receive License-related Benefits – 9:50

- The Chairman gave an overview of the topic.
- Commissioner McBride asked about the definition of Small Business, and suggested striking the words “initial or,” given that without a license there would be no revenue to use for this measurement.
- Commissioner Title accepted that change.
- The Chairman noted that \$15 million might not actually be a small business and in other contexts might be a midsize business.



- Commissioner Title noted that the definition was borrowed from OSD Regulations on small business procurement program, but she would be open to making it smaller.
 - The Chairman said that he would go down to \$10 or \$5 million.
 - Commissioner Title suggested \$5 million.
 - Commissioners McBride and Flanagan both agreed with Commissioner Title's suggestion.
 - The Executive Director noted that there might be some forecasting, similar to the concerns about not having revenue, that the OSD certification won't apply until the business is operating.
 - The Chairman noted that these were good points and should be subject to public comment.
- d) Topic: Social Equity Program – 15:46
- The Chairman gave an overview of the topic.
 - The Commissioners had no comment.
- e) Topic: Diversity Plans – 16:19
- The Chairman gave an overview of the topic.
 - The Commissioners had no comments.
- f) Topic: Delivery Licenses and Delivery Endorsements – 16:43
- The Chairman gave an overview of the topic.
 - The Commissioners had no comments.
- g) Economic empowerment applicants – 17:18
- The Chairman gave an overview of the topic.
 - The Commissioners had no comments.
- h) Topic: Persons or Entities with Direct Control – 18:29
- The Chairman gave an overview of the topic.
 - The Commissioners had no comments.
- i) Topic: Notification and Approval of Changes – 19:41
- The Chairman gave an overview of the topic.
 - Commissioners had no comments.
 - The Executive Director noted that as a matter of process, upon promulgation of the regulations, the Executive Director will ask the Commission to vote to renew previous delegations and to affirm those spelled out in the regulations.
 - The Chairman asked that such a vote include what the reporting requirements pursuant to those delegations would be.
- j) Topic: Receivership – 5221:50



- Commissioner McBride had some questions about how these provisions would play out, in particular, what the Commission is envisioning the role of the receiver to be and what the Commission’s role is with respect to receivers.
 - General Counsel Baily gave an overview of the envisioned process and role of the Commission and the necessity of a Receiver to follow the Commissions regulations and laws.
 - The Chairman added additional context with respect to the unavailability of Bankruptcy Courts and the essence of time when circumstances of receivership arise.
 - Commissioner McBride expressed her concerns around the court appointed nature of a Receiver. Commissioner McBride ask that the Commission look closely at this section and make sure it is consistent with the process for receivership under current law.
 - General Counsel Baily said that she can, in coordination with Executive Director, work with stakeholders to ensure these provisions are what the Commission needs and will follow up with a legal opinion.
- k) Topic: Craft Marijuana Cooperatives –29:50
- The Chairman gave an overview of the topic.
 - The Commissioners had no comment.
- l) Topic: Marijuana Research Facility License and Research Permit – 30:26
- The Chairman gave an overview of the topic.
 - The Commissioners had no comment.
- m) Topic: Independent Testing Laboratories—Modifying ISO Certification – 31:34
- The Chairman gave an overview of the topic.
 - The Commissioners had no comment.
- n) Topic: ME/MTC Agent Registration – 32:20
- The Chairman gave an overview of the topic.
 - The Commissioners had no comments.
- o) Topic: Leadership Rating Programs – 33:35
- The Chairman gave an overview of the topic.
 - Commissioner Title had some suggested revisions to social justice leadership rating.
 - Under 3(a)(4), Commissioner Title asked for consistency with the language with respect to staff led changes to Diversity Plans.
 - With respect to the criteria “or a minimum of 20 hours paid time is committed to a...”
 - For medical add “to specifically support patients”
 - For adult “people disproportionately harmed by prohibition.”



- Commissioner Flanagan suggested including areas of disproportionate impact in addition to disproportionately impacted people.
 - Commissioner Title accepted this suggestion.
 - General Counsel Baily clarified that on the patient side, it should be patients and caregivers.
- p) Topic: Priority Review and Expedited Review – 39:39
 - The Chairman gave an overview of the topic.
 - The Commissioners had no comments.
- q) Topic: Social Consumption/Delivery – Application Requirements – 40:36
 - The Chairman gave an overview of the topic.
 - The Commissioners had no comments.
- r) Topic: Delivery: - 41:15
 - The Chairman gave an overview of the topic.
 - The Commissioners had no comment.
- s) Topic: Responsible Vendor Training – 43:34
 - The Chairman gave an overview of the topic.
 - The Commissioners had no comments.
- t) Topic: Personnel Policy – Code of Ethics and Whistleblower Policy – 44:15
 - The Chairman gave an overview of the topic.
 - The Commissioners had no comments.
- u) Topic: Workplace Safety – 45:20
 - The Chairman gave an overview of the topic.
 - The Commissioners had no comment.
- v) Topic: Waste Receptacles – 45:46
 - The Chairman gave an overview of the topic.
 - The Commissioners had no comments.
- w) Topic: Fire Safety Requirements – 46:20
 - The Chairman gave an overview of the topic.
 - The Commissioners had no comments.
- x) Topic: Limited Access Areas – 46:39
 - The Chairman gave an overview of the topic.
 - The Commissioners had no comments.



y) Topic: Buffer Zone – 47:22

- The Chairman gave an overview of the topic.
- Commissioner McBride said she would like to see a definition of “Impassable Barrier.”
- Commissioner Title said that the intent was a barrier that blocks pedestrian travel but is open to adding a definition.
- Commissioner Flanagan suggested contacting the Department of Transportation to see if they have a type of definition for this type.
- The Chairman welcomed public comment on this topic and indicated the buffer zone provisions may be modified in the final regulations.

z) Topic: Advertising, Marketing and Branding – 49:55

- The Chairman gave an overview of the topic.
- Commissioner McBride said she would like to add a provision requiring that any Marijuana Establishment participating in brand name sponsorship retain data on audience composition that the Marijuana Establishment relied on to determine that it complied with regulatory requirements. Commissioner McBride offered language for this change.
- Commissioner Flanagan asked whether the composition data is currently inspected as part of investigations/enforcement.
- Commissioner McBride said she does not know that that is the case, and given the changes of the provisions, it is important to make it clear and set a minimum retention time frame.
- The Executive Director clarified that the Commission would have access to audience composition data if investigators asked for it, but the Commission does not review it in the ordinary course.

aa) Topic: Packaging and Labeling – 54:30

- The Chairman gave an overview of the topic.
- The Commissioners had no comments.

bb) Topic: Concentrate/Vaporizer Labeling – 55:49

- The Chairman gave an overview of the topic.
- The Chairman asked the Executive Director if the changes were in line with the administrative process dealing with the health emergency related to vaping and the Commission's response and research related thereto.
 - The Executive Director confirmed that it does.
- The Commissioners had no additional comment.

cc) Topic: Vape Sales – 57:52

- The Chairman gave an overview of the topic.
- The Commissioners had no comment.

dd) Topic: Indoor/Outdoor Cultivation – 58:31

- The Chairman gave an overview of the topic.



- The Commissioners had no comment.
- ee) Topic: Retail Sale – Additional Operational Requirements – 59:48
- The Chairman gave an overview of the topic.
 - The Commissioners had no comment.
- ff) Topic: Collection of Data – 1:00:00
- The Chairman gave an overview of the topic.
 - The Commissioners had no comment.
- gg) Topic: Transfer of Product -1:01:16
- The Chairman gave an overview of the topic.
 - The Commissioners had no comment.
- hh) Topic: Sampling of Product – 1:01:55
- The Chairman gave an overview of the topic.
 - The Commissioners had no comment.
- ii) Topic: Product Shape and Color – 1:02:50
- The Chairman gave an overview of the topic.
 - Commissioner McBride raised concerns about individual wrapping rather than stamping, and there are some questions about providing the appropriate alert with respect to the product's contents. She wants to raise this concern for public comment.
 - Commissioner Flanagan expressed that she shared Commissioner McBride's concern but noted that some products are so small that printing a stamp might not have the desired effect.
 - Commissioner McBride appreciated the context and asked that this be considered in coordination with the product database considerations and the inclusion of edibles in the product database as those are phased in.
 - The Executive Director noted that it makes sense to consider these requirements in conjunction with the product database. With respect to those small items that Commissioner Flanagan mentioned, in the product database we would want to see the image of the wrapper and the individual item out of the wrapper so that the items can be identified in either form.
- jj) Topic: Product Database – 1:08:10
- The Chairman gave an overview of the topic.
 - Commissioner Flanagan expressed that she would prefer that the Product Database be mandatory rather than optional.
 - Commissioner McBride clarified that using the database is required, but the packaging preapproval is the optional aspect of this in order to avoid operational bottlenecks.
- kk) Topic: Repackaging – 1:10:55



- The Chairman gave an overview of the topic.
- The Commissioners had no comments.

ll) Topic: Contactless Ordering – 1:11:30

- The Chairman gave an overview of the topic.
- The Commissioners had no comment.

mm) Topic: Testing – 1:12:10

- The Chairman gave an overview of the topic.
- Commissioner Title asked with respect to the testing for heavy metal, whether there is a time frame prior to sale when the testing would need to be completed.
- Commissioner McBride said the idea was prior to it appearing on a shelf.
- Commissioner Title clarified that her question was with respect how recent before going on the shelf the testing would have to occur.
- Commissioner McBride noted that no such specific time frame was proposed because they couldn't land on the right time frame and therefore, public comment would be very helpful in this context. There is also a sub regulatory protocol that really fleshes out what is included in the vaporizer and testing regulations. Narrowing down that time frame would be appropriate for that document.
- The Executive Director noted that there is a holistic approach to the testing regulations and the protocol or guidance breathe life into the regulations, so it is helpful to consider them in conjunction. The Executive Director also noted that all testing is valid for one year and the Commission requires retesting after that, but also acknowledged Commissioner Title's point with respect to potential leeching of heavy metals for into products through the associated devices.

nn) Topic: Patient Certification and Registration – 1:20:45

- The Chairman gave an overview of the topic.
- Commissioner Flanagan asked whether the Commission will determine which Hardships will be allowed to go to a biannual certification.
- Commissioner Title noted that the only biannual certifications are social security, disability insurance or supplemental income, or if a Certifying Healthcare Provider diagnoses a patient after an in person visit with a Terminal Illness or Permanent Disability and certifies the patient for two years.
- Commissioner Flanagan asked with respect to the addition of telehealth to the certification process, whether there will still be required a single in person visit per year.
- Commissioner Title suggested that the regulations be revised so that the initial certification had to be in person.
- The Chairman asked the Executive Director to summarize the current telehealth options under the administrative order relating to COVID-19.
- The Executive Director noted that during the public health emergency telehealth is allowed, provided that prior to renewal there is an in-person visit.



- Commissioner Flanagan said she wants new patients to have an in person meeting with doctor, but telehealth is alright once the relationship is established.
- Commissioner Title said she thought was reasonable and noted that there would need to be revision to the proposed language to accommodate this approach.
- Commissioner McBride agreed with the approach.

oo) Topic: Personal Caregivers, Hardship Cultivation – 1:29:00

- The Chairman gave an overview of the topic.
- Commissioner Flanagan said that she is concerned that 1 Caregiver may be overwhelmed by being connected with 10 patients.
- Commissioner Flanagan said that she is concerned about removing the residency requirement for patients, except for those who come to Massachusetts for end of life care. Given the number of states that now have medical marijuana, the need to remove a residency requirement may be moot.
- Commissioner Title said that both of Commissioner Flanagan’s comments makes sense and get at what was intended by the provisions and anticipates strong public comment.
- Commissioner Title suggested limiting out of state patients to those receiving end of life care and cancer treatment in Massachusetts.
- Commissioner Flanagan said there may be other illnesses that would be left out in naming specific illnesses.
- Commissioner McBride noted the importance of public comment on this topic.
- Commissioner Title noted that a physician had specifically mentioned cancer patients in recommending this possibility.
- The Chairman suggested that the draft will include “end of life” and “cancer” in order to solicit public comment.
- Commissioner McBride commented, with respect to the caregiver ratio, the draft included allowance for a 500 square foot canopy. Commissioners McBride asked about the operational implications of maintaining such a canopy, such as inspections and municipal authority. Commissioner McBride also expressed her interest in public comment on this topic.
- Commissioner Title said that the canopy size was based on Maine’s limits, but agrees that the Commission may want to flesh out some of the requirements, in particular with respect to fire safety and record keeping. Commissioner Title said that the Commission needs to strike a balance between not wanting to put too much on a caregiver relative to a commercial cultivator while also making sure any sort of cultivation is done responsibly.
- The Chairman recommended that the regulations go forward as written but could be reconsidered after receiving public comment.
- Commissioner McBride wanted to make sure that this topic gets internal comment at the Commission in addition to public comment to address some of her questions on this.
- Commissioner McBride asked with respect to the definitions of immature plant and vegetative plan in the regulations how establishing those definitions is congruent with the statutory definition of “Marijuana.”



- Commissioner Title said that they were trying to ensure there was a standard that lay people could understand while remaining consistent with the statutory definition. Staff helped use current definitions to delineate between categories of plants.
- Commissioner McBride said that she sees the utility in providing additional definition around these topics to help prevent misinformed law enforcement interactions and other issues surrounding a home grow.
- Commissioner Title said that the goal was to have clear categories that folks could rely on, relying on existing definitions as a starting point and expand on them after public comment.
- The Executive Director commented on what implementation would look like for out state registrations, noting that it can be fleshed out further on during comment period. The new patient portal has certain functions to allow automation and allowing out of state patients would require manual registration verification and the ability to timely and accurately provide information and materials.

pp) Topic: Home Delivery – 1:54:40

- The Chairman gave an overview of the topic.
- The Commissioners had no comments.

The Commission took a 30 minute Break.

qq) Topic: Definitions – 2:29:40

- The Chairman gave an overview of the topic and read through the new or revised definitions.
- The Commissioners had no comments.

rr) Topic: Colocated Regulations

- The Chairman gave an overview of the topic.
- The Commissioners had no comments.

ss) Additional issues.

- Commissioner McBride asked whether there was consideration with respect to vertical integration and removing that requirement for MTCs.
 - The Chairman gave an overview of the options that came out of Commissioner Doyle's writing group.
 - General Counsel Baily gave an overview of her legal opinion on the options.
 - Commissioner McBride asked about the option to allow for endorsement without a statutory change.
 - General Counsel Baily did not think that this was a feasible option because it would not be consistent with the statutory limitations on license ownership.
 - Commissioner McBride disagreed with that reading of the provisions and anticipates public comment on this issue.



- Commissioner Title raised the idea of delivery applicants sharing space to find efficiencies.
- Commissioner Title also reiterated her support for delivery licensees having the ability to wholesale and warehousing.
- Approving the regulations.
 - Commissioner McBride moved to approve the three sets of draft regulations and changes made as a result of the Commission's deliberations and for the regulations to be finalized and filed with the Secretary of the Commonwealth's Regulations and Publication Division, including 935 CMR 500.000: *Adult Use of Marijuana*, 935 CMR 501.000: *Medical Use of Marijuana*, and 935 CMR 502.000: Colocated Adult-Use and Medical-Use Marijuana Operations.
 - Commissioner Flanagan seconded the motion.
 - The Commission unanimously approved the motion.
- Delegation to staff.
 - Commissioner Title moved to allow the Executive Director and his delegates to finalize the regulations, make further changes consistent with the Commission's deliberations and votes, the Commission's governing laws, and the Regulations Division's requirements, and any additional changes necessary to file the draft regulations with the regulations division, to provide notice and seek public comment on the draft regulations, and to eventually make recommendations to the Commission on final regulations.
 - Commissioner Flanagan seconded the motion.
 - The Commission unanimously approved the motion.

4) Next Meeting Date

- The Chairman gave an overview of the public comment period.
- The Chairman gave an overview of the remainder of the regulatory review process.
- The next meeting will be August 6, 2020.

5) Adjournment

- Commissioner Flanagan moved to adjourn.
- Commissioner McBride seconded the motion.
- The Commission unanimously voted to adjourn the meeting.

