

CANNABIS CONTROL COMMISSION

**July 27, 2023  
10:00 AM**

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

PUBLIC MEETING MINUTES

**Documents:**

- [Meeting Packet](#)
- July 2023 Proposed Regs - Adult - 500
- July 2023 Proposed Regs - Medical - 501

**In Attendance:**

- Chair Shannon O'Brien
- Commissioner Nurys Z. Camargo
- Commissioner Ava Callender Concepcion
- Commissioner Kimberly Roy
- Commissioner Bruce Stebbins

**Minutes:**

1) Call to Order

- The Chair recognized a quorum and called the meeting to order.
- The Chair gave notice that the meeting is being recorded.
- The Chair gave an overview of the agenda.

2) Commissioners' Comments & Updates – 00:01:02

- Commissioner Camargo thanked her fellow Commissioners who participated in developing the regulatory drafts being presented. She acknowledged that the work is challenging.
- Commissioner Concepcion stated that she is looking forward to the regulatory and suitability presentations and noted the timeliness of the suitability discussion.
- Commissioner Roy noted that she was the co-regulatory lead of the Host Community Agreement (HCA) Working Group alongside Commissioner Concepcion. She thanked the group members for their efforts.
- Commissioner Stebbins mentioned that he made a site visit to a new dispensary, New Dia, in Boston. He noted that he and Commissioner Camargo hosted both virtual and



in-person listening sessions on social consumption the previous week. He commented that the Social Consumption Survey deadline has passed and that efforts are underway to compile and review the responses. He shared that he will be speaking about social consumption on a panel at the Let's Talk Weed event in Cambridge. He thanked the Commissioners for their efforts in their respective working groups.

- The Chair thanked Commissioner Concepcion and Associate General Counsel, Michael Baker (AGC Baker) for their contributions to the Municipal Equity Working Group. She likewise thanked Associate General Counsel, Andrew Carter (AGC Carter) and Investigations and Enforcement Project Manager, Mercedes Erickson (I&E PM Erikson) for helping to lead the day's discussion.

### 3) Commission Discussion and Votes – 00:07:33

- AGC Carter offered guidance to the Chair on how best to navigate the review and discussion of the regulatory draft proposal.
- Commissioner Roy asked to clarify when to raise the Commissioners' compiled questions to staff.
  - AGC Carter replied that the questions could be raised during the discussion of the related regulation.
  - Commissioner Roy noted that some relate to specific regulations while others are overarching.
  - Commissioner Concepcion acknowledged that the questions were anonymized for dissemination prior to the meeting in compliance with the Open Meeting Law. She suggested that individuals raise the questions they submitted as the related topic arises, since anonymity is no longer required.

### 1. Regulatory Review Discussion: Host Community Agreements, Municipal Equity, Marijuana Establishment Agent Suitability

- The Chair introduced the proposed regulatory draft amendments.
- AGC Carter identified an edit to the definition of "Gross Annual Sales".
- The Chair reviewed the edit. She asked for questions or comments.
- Commissioner Roy read a submitted question about the language of the term "branded goods". She reported that the term appears in the regulations 17 times but is not clearly defined.
  - Commissioner Camargo stated that she submitted the question. She asked if operators factor branded goods into their bottom line as gross sales.
  - AGC Carter noted that "branded goods" is defined under "Marijuana Establishment Branded Goods".
  - Commissioner Camargo stated that she will follow up about how non-branded goods factor into gross sales later in the discussion.
  - The Chair noted a perceived consensus on the definition of "Gross Annual Sales". She asked if a roll-call vote would be required.
  - AGC Carter replied that a single vote at the end would suffice.



- AGC Carter identified an edit to the definition of “Host Community Agreement”.
  - The Chair reviewed the edit. She asked for questions or comments.
- AGC Carter identified an edit to the definition of “Host Community Agreement Waiver”.
  - Commissioner Roy read a submitted question asking if the Waiver is in statute. She affirmed that the option to waive is in statute, per Section 10 of Chapter 180.
- The Chair identified an edit to the definition of “License Applicant”. She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the definition of “Local Approval Process”. She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the definition of “Model Host Community Agreement”. She reviewed the edit and asked for questions or comments.
  - Commissioner Stebbins noted that HCA guidelines are available on the Commission website. He asked if the agency is required by statute to produce a Model HCA.
  - Commissioner Roy replied affirmatively that there is a statutory requirement.
  - AGC Carter noted that the requirement can be found under Section 14 of Chapter 180 that speaks to the development of a Model Host Agreement.
  - Enforcement Counsel Rebecca Lopez (EC Lopez) clarified that the statute grants the Commission the authority to produce a Model HCA but does not obligate it.
  - The Chair asked when a Model HCA would be created.
  - Commissioner Roy replied that the working group determined it would be best to establish the Model HCA once the draft regulations are further developed and best practices can be established.
  - The Chair clarified that the development of a Model HCA is within the scope of the regulation.
  - Commissioner Stebbins cited the related statute and noted it specifies that a Model HCA is intended for use by Social Equity) Businesses during negotiations with their Host Communities. He raised the question of whether a Model should be limited to Social Equity Businesses only in practice.
  - AGC Carter noted that it would be a policy consideration for the Board to review.
  - The Chair indicated she was under the impression that a Model HCA would be accessible to all licensees.
  - Commissioner Roy concurred.
  - Commissioner Camargo posed the question of what the impact might be if all licensees were granted access to a Model HCA.
  - Executive Director (ED) described the value proposition of expanding access to a universal Model HCA. He underscored the positive impact it would have on application processing times.



- The Chair expressed her support of expanding access to a Model HCA. She stated that she would like to get a consensus on the matter. She asked Commissioner Concepcion for her input.
- Commissioner Concepcion noted that she is in favor of the proposition. She expressed she had the same mindset as Commissioner Roy.
- The Chair noted a perceived consensus on expanding access to a Model HCA.
- Commissioner Camargo asked AGC Carter if the definition of “Model Host Community Agreement” would be updated to reflect the determination on expanded access.
- AGC Carter responded that the present definition could accommodate the entirety of licensees. AGC Carter also expressed the HCA working group may want to opine on this.
- The Chair identified an edit to “Reasonably Related”. She reviewed the edit and asked for questions or comments.
  - Commissioner Roy remarked on the significance of this definition. She added that she hopes it will provide the necessary clarity. She thanked Acting Associate Enforcement Counsel Olivia Koval (AAEC Koval) for her contributions.
  - Commissioner Stebbins asked a clarifying question about the language around customarily imposed fees.
  - Commissioner Roy replied that customarily imposed fees not specific to the operation of a cannabis business will not be considered “Reasonably Related”. She cited waste management as an example.
  - Commissioner Concepcion added that the intent of the language is to ensure cannabis businesses are not effectively being charged twice for those services by way of Community Impact Fees (CIF).
- The Chair identified an edit to the definition of “Social Equity Business”. She reviewed the edit and asked for questions or comments.
  - Commissioner Concepcion observed that the language is inconsistent with the statutory change. She noted that it excludes eligible businesses that are not SEP participants. She cited the related statute.
  - The Chair remarked that the group had previously discussed creating a certification for qualifying businesses who are not SEP participants, but persons who would qualify,
  - Commissioner Concepcion noted that the current language would likewise not accommodate certified businesses.
  - AGC Carter asked a clarifying question about the nature of her concern.
  - Commissioner Concepcion clarified that the statute allows eligible businesses who are not SEP participants to carry the Social Equity Business designation, but the definition does not reflect that. She noted the potential need for a policy discussion on the matter.
  - The ED emphasized that there is not always an open SEP cohort. He added that eligible businesses may miss out on certain benefits and opportunities in the intervening time between application windows. He proposed adding



language to create the opportunity for applicants to demonstrate their eligibility. He suggested modifying the language to include eligible businesses in congruence with the statute.

- The Chair noted a perceived consensus on the amendment to the definition.
- The Chair identified an edit to the definition of “Verification of a Social Equity Business”. She reviewed the edit and asked for questions or comments.
  - Commissioner Camargo asked the ED if guidance will be provided around implementing the Verification process.
  - The ED responded affirmatively that guidance would be provided.
- The Chair identified an edit to the language of 500.032(1)(g). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.032(1)(h). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.032(2). She reviewed the edit and asked for questions or comments.
  - Commissioner Concepcion noted that all current and prospective licensees remain subject to the Commission’s suitability standards on an ongoing basis.
- The Chair identified the omission of 500.032(6)(a). She reviewed the edit and asked for questions or comments.
  - AGC Carter noted that the deletion is effectuating the vote previously held on the proposal of a Social Consumption pilot program in May.
  - Commissioner Roy noted that section (6) is incompatible with the newly established definition of a Social Equity Business.
  - Commissioner Stebbins proposed adding the same eligibility language that was incorporated into the Social Equity Business definition.
  - The ED deferred to the Board. He added that the Social Consumption Working Group may wish to deliberate and draft a proposal.
- The Chair identified an edit to the language of 500.101(1)(8). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.101(1)(11). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy asked if the Social Equity Fund (SEF) is established enough to accept donations at this time.
    - Commissioner Concepcion responded that the language is from the statute.
  - The Chair suggested that the Commission and Department of Revenue (DOR) establish a collaborative framework for implementation and enforcement efforts before the November 9<sup>th</sup> policy deadline.
  - The ED noted that SEF is permitted by statute to receive both governmental disbursements and appropriations and private donations. He added that the Executive Office of Economic Development, Office of the Comptroller, et al. are working to get the Fund further established in a durable way.
  - The Chair noted that the SEF’s funds are currently held by the Office of the Comptroller. She raised the question of who will oversee them permanently.



She added that a meeting is scheduled with the Secretary of Economic Affairs to discuss the matter.

- Commissioner Roy proposed that guidelines be developed on ways that licensees may contribute to the SEF. She noted the mutually beneficial effect of providing a timely cash infusion to the SEF while allowing businesses to satisfy a component of their Positive Impact Plan (PIP) requirements.
- The Chair identified an edit to the language of 500.101(2)(a). She reviewed the edit and asked for questions or comments.
  - Commissioner Stebbins noted that the language refers to Economic Empowerment Priority Applicants (EEPAs), though the application window is closed. He asked if the language should be omitted or remain in case the application window is re-opened.
  - The ED advocated for keeping the language intact because of its procedural significance in certain contexts. He offered an example.
  - Commissioner Concepcion clarified that the amendment would expand pre-certification to include all EEP and SEP applicants.
  - The Chair added that she hopes it will lower barriers to entry for EEP/SEP applicants and allow them to proceed through the HCA process at a lower cost.
  - The ED further added that entities and individuals will now be allowed to submit to a background check during this phase and establish their suitability earlier in the application process.
- The Chair identified an edit to the language of 500.101(2)(b). She reviewed the edit and asked for questions or comments.
  - AGC Carter suggested that the wording be simplified and offered alternative language.
  - The ED shared his interpretation of the language and advised that it remain intact.
  - The Chair concurred and offered additional context. She stated the word “commission” could have two different connotations.
  - EC Lopez asked to clarify if the language is intended only for individuals who have been certified or otherwise received EEP/SEP designation, or also those who qualify but are not program participants.
  - Commissioner Concepcion responded that the language as written does not accommodate qualified applicants who do not hold either designation.
  - EC Lopez observed that there has been confusion around whether certain provisions extend to such applicants. She expressed reservation about interpreting the statutes in that manner. She reviewed the statutory definition of “Social Equity Business” per M.G.L., c. 94G § 1 and noted that it refers to a licensee that has already been determined to be eligible. She further noted that the language of the statute may be inconsistent with the policy objective at hand. She emphasized the need for consistent terminology if the aim is to include qualified applicants in the Equity provisions.



- Commissioner Concepcion thanked EC Lopez for her insight. She acknowledged that her interpretation of the statute may be inconsistent with the plain language therein.
- The Chair noted that her interpretation is based on the intent of the statute to provide more opportunities for Social Equity. She added that it is her understanding that the working group was consciously expanding the definition of “eligible” in this context. She gave an overview of the advantages it would provide to the qualified applicant pool.
- Commissioner Roy cited section 14(30) of Bill S.3096 and asked for clarity around the language. She noted that the intention of the working group is to pre-certify eligible applicants who are not SEP participants.
- Commissioner Concepcion explained that pre-certification is different from pre-verification. She further explained that pre-certification is limited to EEP/SEP businesses. She noted that what is being contemplated is a pre-verification for Social Equity-qualified businesses to help expand their access to opportunities and resources.
- EC Lopez provided suggestions to the Commissioners on interpreting the statutes.

Commissioner Camargo moved to take a 10-minute recess.

- Commissioner Roy seconded the motion.
- The Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Concepcion – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Chair O’Brien – Yes
- The Commission unanimously approved taking a 10-minute recess, returning at 11:40 AM (01:35:13)
- The Chair noted that there will be an opportunity to further deliberate on the eligibility topic and make any edits necessitated by the public comment period.
  - Commissioner Camargo suggested that the issue is a legal matter for the group to contemplate and gain a consensus on.
  - AGC Carter proposed reviewing feedback on the language of any regulation that is unclear and open to multiple interpretations, and suggested incorporating it into the regulation to ensure that the Commission’s intentions are accurately reflected in the language used.
  - The Chair acknowledged that there is still some confusion around pre-certification and pre-verification. She added that she has a clear vision for expanding eligibility. She suggested revisiting the language after the public comment period in the interest of time. She asked Commissioner Concepcion for her input.





- Commissioner Concepcion indicated that she would like to hear from those who are not in the Municipal Equity Working Group.
- Commissioner Roy echoed prior sentiments about the need for continuity in the language.
- The ED offered further context around the distinction between expedited review, pre-certification, and pre-verification. He concurred with the need to clarify the distinction in the regulatory language.
- Commissioner Concepcion noted that pre-certification was not conceptualized with the intention of including non-SEP participants, non-EEAs irrespective of their qualification status. She added that pre-verification was intended to accommodate such businesses. She expressed that the working group's interpretation of "Social Equity Business" as defined statutorily may be inconsistent with its intended meaning.
- Commissioner Roy noted that pre-certification affords more benefits to businesses than pre-verification and proposed extending the option to non-SEP participants.
- Commissioner Concepcion noted that pre-certification is granted in anticipation of licensure.
- EC Lopez reiterated that understanding the definition of "Social Equity Business" is essential to the discussion of successive provisions. She noted its importance to developing policy that is within lawful application of the statute. She added that the plain language of the definition does not accommodate qualifying businesses.
- The ED added that a business cannot be a Social Equity Business until they are licensed, so pre-certification is not applicable.
- The Chair expressed a need for further clarity around the language. He also noted that where there is a lack of clarity, the Commission may either proceed according to their interpretation of the language, seek clarification from the legislature, or do both.
- The Chair asked the ED how to formally seek clarification.
- The ED responded that the Commissioners would take a vote to do so. He noted that a third option would be to re-open the SEP application window.
- Commissioner Roy expressed agreement with re-opening the SEP application window. She noted the asynchronous nature of the present format and suggested accepting applications on a rolling basis.
- AGC Carter proposed an amendment to the definition of "Social Equity Business". He asked EC Lopez if the amended language is compliant with the statute.
- EC Lopez replied affirmatively. She reiterated that seeking clarification from the legislature is also an option. She added that there is no perceived ambiguity to the statute and so the Commission is bound by the plain language therein.
- The Chair asked what the practical implications of the amendment might be.





- AGC Carter responded that it would restrict the definition of “Social Equity Business” to licensed EEP/SEP participants.
- Commissioner Camargo added that there is still a path forward for expanding assistance to non-EEP/SEP participants.
- The Chair noted a perceived consensus on omitting the amended language to the definition of “Social Equity Business”. She reiterated her desire to seek clarification on the matter from the legislature.
- AGC Carter suggested methods for interpreting legislative intent.
- The Chair asked how the Commission has sought guidance from the legislature in the past.
- The ED offered an example. He added that it is not customary for the legislature to declare legislative intent. He echoed AGC Carter’s suggestions on interpretive methods.
- The Chair identified an edit to the language of 500.101(2)(f)(3). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.101(2)(g)(9)(b). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.102(7)(a-b). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy observed that the language states the Commission will act on an application within 30 days but does not provide a deadline by which applicants must submit notices of material change.
  - The Chair noted that the omission was not deliberate. She asked Director of Licensing Kyle Potvin (DOL Potvin) for comment.
  - DOL Potvin responded that a 30-day deadline for the Commission is a sufficient placeholder while the logistics around implementation remain in development. He deferred to the ED.
  - The ED expressed support of a tentative 30-day deadline. He acknowledged the time-sensitive nature of SEP applications and the importance of prioritizing them accordingly. He noted that the language is consistent with other regulations in not imposing time constraints on material change reporting. He suggested there may be a need to offer guidance to applicants on what constitutes material change. He clarified the definition and provided examples. He stated that he will flag the matter for revisiting at a later time.
  - EC Lopez raised the question of whether the section needs to be re-evaluated with the newly amended definition of “Social Equity Business” in mind.
  - AGC Carter suggested revisiting the language in the intervening time between the public comment period and final draft deadline.
    - The Chair concurred.
  - The ED likewise concurred with AGC Carter’s position. He explained how the language may be applicable as-is.
- The Chair identified an edit to the language of 500.101(7)(c). She reviewed the edit and asked for questions or comments.



- The Chair identified an edit to the language of 500.102(1)(d)(1). She reviewed the edit and asked for questions or comments.
  - Commissioner Camargo asked for more information about how the process is implemented.
  - The Chair gave an overview of the protocol. She invited DOL Potvin to comment.
  - DOL Potvin offered further context and information.
  - The Chair noted that the process is effectively a formality, so shortening the time frame would not cause undue burden.
- The Chair identified an edit to the language of 500.102(1)(d)(2). She reviewed the edit and asked for questions or comments.
  - AGC Carter asked a clarifying question about the language. He proposed a technical amendment to the language.
  - The Chair noted a perceived consensus on the amendment.
- The Chair identified an edit to the language of 500.103(4)(a). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy noted that the Commission issues a notice to businesses when their license is due for renewal. She asked the ED how the provision will impact the notification process.
  - The ED responded that the Commission issues the notices 120 days in advance and every 30 days thereafter. He added that the notices are automated except in extenuating circumstances.
  - Commissioner Roy asked if the online renewal portal should be opened earlier than 90 days.
  - The ED responded affirmatively.
- The Chair identified an edit to the language of 500.105(1)(m)(3). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.170(4)(a). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.180(1). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.180(2)(a-b). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.180(2)(c)(1-2). She reviewed the edit and asked for questions or comments.
  - AGC Carter proposed that the terms “chief law enforcement authority” and “chief public health authority” be amended for clarity.
  - The Chair replied that the ambiguity of the language is meant to acknowledge the varied governmental structures across municipalities.
  - Commissioner Concepcion asked AGC Carter to clarify his rationale.
  - AGC Carter responded that the change may help to avoid confusion at the municipal level.
  - The Chair noted that guidance could be provided, if necessary.



- DOL Potvin echoed the Chair’s input on governmental structure and offered additional context.
- The Chair identified an edit to the language of 500.180(2)(c)(3). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy noted that HCAs are a matter of public record. She asked if the Invoice of Impact is included with the record.
  - The ED replied affirmatively that statute deems it part of the public record.
  - Commissioner Roy raised the question of adding language to the provisions to disclose that.
  - The ED suggested that any disclosure in the language should refer directly to the established statute, given that the Commission does not have the authority to dictate public record.
  - EC Lopez recommended adding the language to the Community Impact Fee section.
- The Chair identified an edit to the language of 500.180(2)(c)(4). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.180(2)(c)(5). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy read a submitted question about the appropriateness of the word “alleged”.
  - Commissioner Stebbins indicated that he submitted the question. He suggested replacing the word with “proposed”.
  - Commissioner Concepcion asked AGC Carter about the legal implications of making the change.
  - AGC Carter responded that he would inquire with the drafters about the intention behind the word choice and follow up.
  - EC Lopez acknowledged that the word “alleged” is not preferred. She opined that “proposed” may not properly convey the intent of the clause. She offered suggestions on alternative word choices.
  - DOL Potvin offered context around the Commission’s process of assessing CIFs. He suggested the word “claimed”.
  - The Chair noted a perceived consensus on the amendment.
- The Chair identified an edit to the language of 500.180(2)(d-f). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy explained what a contract of adhesion is. She clarified that the Commission would be the body classifying and voiding such contracts.
  - Commissioner Camargo asked Commissioner Roy to elaborate.
  - Commissioner Roy noted that some communities were imposing a No-Challenge clause in their HCAs, among other things.
  - Commissioner Concepcion added that the language would mandate licensees and HCAs to agree on a dispute settlement protocol.
- The Chair identified an edit to the language of 500.180(2)(g-h). She reviewed the edit and asked for questions or comments.



- Commissioner Camargo asked about the procedure following the denial of an HCA.
  - The Chair replied that the HCA would need to be amended according to the Commission's feedback.
- The Chair identified an edit to the language of 500.180(2)(i)(1). She reviewed the edit and asked for questions or comments.
  - Commissioner Concepcion clarified that the language permits a charitable contribution so long as it is not mandated as part of the HCA. She noted the distinction between such a mandate and charitable contributions that are made to satisfy a component of a PIP.
  - Commissioner Stebbins asked how the Commission will differentiate between an explicit and implicit condition.
    - Commissioner Concepcion responded that an implicit condition would be inferred by assessing the totality of the circumstances.
    - EC Lopez added that such a condition would likely come to the attention of the Commission by way of a complaint to the Enforcement department alleging Host Community has imposed a condition outside of the document.
- The Chair identified an edit to the language of 500.180(2)(i)(2-4). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.180(2)(i)(5). She reviewed the edit and asked for questions or comments.
  - Commissioner Camargo asked to clarify who will determine what constitutes Inducements.
  - AGC Carter noted that is defined in 500.002. He reviewed the definition.
- The Chair identified an edit to the language of 500.180(2)(j)(1-5). She reviewed the edit and asked for questions or comments.
  - Commissioner Stebbins asked to clarify if the language in subsection (1) encompasses unilaterally compelling mediation as referenced in 500.180(2)(d).
  - EC Lopez explained that subsection (1) describes the discouraging of adverse legal action which is a distinct policy concern from unilaterally compelling mediation. She suggested adding a new subsection if the group wished to reinforce the language in 500.180(2)(d).

Commissioner Roy moved to take a 30-minute recess.

- Commissioner Camargo seconded the motion.
- The Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Concepcion – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Chair O'Brien – Yes



- The Commission unanimously approved taking a 30-minute recess, returning at 02:15 PM (04:15:24)
- The Chair identified an edit to the language of 500.180(2)(j)(6). She reviewed the edit and asked for questions or comments.
  - Commissioner Concepcion clarified the language of the provision to mean that municipalities cannot assert CIFs relating to overtime labor costs incurred by city employees.
- The Chair identified an edit to the language of 500.180(2)(j)(7). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy cited 500.105(16)(a) and raised a question about the legality of the proposed language per M.G.L., c. 44, § 53G½. She expressed concern over the language of subsection (7), which she perceived aims to prohibit a fellow government agency from engaging in a practice upheld by the Commission's own protocol.
  - DOL Potvin replied that the distinction lies in the beneficiary of an escrow account or surety bond. He noted 500.105(16)(a) requires that the Commission be named the beneficiary. He added that the municipality would be the beneficiary with regard to M.G.L., c. 44, § 53G½, which the proposed regulation would prohibit. He clarified the intent of the provision.
  - The Chair expressed concern about the financial impact of processing HCAs on smaller municipalities. She raised a question around the legality of communities imposing HCA processing costs onto licensees.
  - DOL Potvin responded that the matter would require further legal analysis.
  - EC Lopez concurred. She noted that statute does not presently allow CIFs to include additional payments or obligations. She stated that an HCA cannot include the promise to make future monetary payments. She added that reasonable conditions are acknowledged where required by law or municipal ordinance.
- The Chair identified an edit to the language of 500.180(2)(j)(8). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.180(3). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy read a submitted question asking to clarify the authority of the ED or delegee in granting the final approval of HCA applications.
  - The ED gave an overview of the approval process. He indicated that final approval is ultimately decided by the Commission.
- The Chair identified an edit to the language of 500.180(3)(a). She reviewed the edit and asked for questions or comments.
  - Commissioner Camargo asked how additional information and findings of non-compliance will impact the 90-day review period.
  - The Chair posed the question of whether 90 days is necessary to assess the revisions. She expressed concern over revised applications taking a potential



- cumulative total of up to 180 days to review. She asked DOL Potvin for comment.
- DOL Potvin noted that historically the 90-day period restarts once a Notice of Incomplete Application is issued, per 500.102(1)(b). He stated that Chapter 180 allows the Commission 90 days from the date-of-receipt to assess the revisions. He added that 90 days is the maximum and is meant to allow the agency ample time to address all manner of variables.
  - Commissioner Roy proposed adding language to reflect those 90 days is the maximum time allotted for review.
  - DOL Potvin suggested that such language might be unnecessary as part of the regulations but may be helpful as a component of an application guidance document.
  - EC Lopez noted that amending the language could lead to an implementation concern.
- The Chair identified an edit to the language of 500.180(3)(b)(1-4). She reviewed the edit and asked for questions or comments.
    - Commissioner Stebbins expressed reservation about the appropriateness of informing the parties of their option to discontinue relations.
    - The ED remarked on the value of the disclosure to applicants who may not be aware of their rights and options.
    - The Chair offered her interpretation.
    - DOL Potvin echoed the ED's remarks. He expounded on the freedom of contract concept.
    - Commissioner Roy expressed concern that the language may be misinterpreted as a right to breach a contract.
    - DOL Potvin noted that the disclosure stems from a legal doctrine. He added that parties will retain the right to discontinue relations even if it is omitted from the regulations.
    - Commissioner Concepcion clarified that the provision applies to HCAs that are not yet approved.
    - Commissioner Stebbins proposed inserting language to require that a party provide notice to the Commission upon electing to discontinue relations. He further proposed inserting the language as a standalone subsection.
    - The Chair requested to keep the language intact and revisit the matter at a later time.
  - The Chair identified an edit to the language of 500.180(3)(b)(5). She reviewed the edit and asked for questions or comments.
  - The Chair identified an edit to the language of 500.180(3)(c)(1-4). She reviewed the edit and asked for questions or comments.
    - Commissioner Stebbins proposed amending the language to require that a Host Community provide notice to the Commission upon discontinuing relations with a Marijuana Establishment.
    - The ED stated that he is uncertain whether the Commission can compel a municipality to provide such notice.





- AGC Carter suggested alternative language. He further suggested the possibility of requiring the licensee to forward the Commission any notice of discontinuing relations.
- Commissioner Stebbins requested the definition of “equitable relief”, per subsection (4)(d).
- EC Lopez noted that 500.180(3)(c)(5)(c) of the draft provides examples of what constitutes equitable relief.
- The Chair identified an edit to the language of 500.180(3)(c)(5). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy noted that equitable relief is considered on an individual basis. She proposed an addition to the language of subsection (c)(5) to establish the Commission’s discretionary privilege in this regard.
  - Commissioner Stebbins proposed an alternative word choice.
  - Commissioner Camargo asked a clarifying question about whether the Commissioners or Commission staff will determine equitable relief.
  - The ED indicated that it would vary by circumstance. He added that the language as written preserves the ability to be flexible.
  - Commissioner Stebbins suggested amending the language to replace “equitable relief” with “equitable remedy” in the interest of continuity.
  - DOL Potvin noted that while the terms are interchangeable, they have been utilized more deliberately in the General Laws. He encouraged further contemplation before amending the language.
- The Chair identified an edit to the language of 500.180(3)(c)(6-7). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.180(3)(d)(1-2). She reviewed the edit. She asked how “interested person” is defined.
  - EC Lopez stated that the term is defined from an Enforcement perspective as anyone alleging non-compliance with an HCA requirement.
- The Chair identified an edit to the language of 500.180(3)(d)(3-4). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.180(3)(d)(4)(a)(1-4). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy suggested inserting the public record disclosure regarding Invoices of Impact, as previously discussed. She opined on the need for expanded enforcement and oversight with regard to CIFs.
  - AGC Carter underscored the fact that municipalities are also subject to the Public Records Law. He expressed a desire to contemplate their role in effectuating the Law before inserting the proposed language.
  - DOL Potvin explained the role of the Secretary of the Commonwealth in the public records appeals process.
  - The Chair suggested that the disclosure may be a logical addition to the Municipal Equity regulations around transparency.
- The Chair identified an edit to the language of 500.180(4)(a)(5-7). She reviewed the edit. She asked how “non-frivolous” is defined.





- EC Lopez clarified that the provision is meant to accommodate licensees who may be engaged in a legal dispute at the time their CIF payment is due. She added that the language as written is meant to ensure the accommodation is not misused. She noted that frivolity would conceivably be determined through the complaints process.
- Commissioner Roy asked how the framers arrived at a CIF payment deadline of eight months.
- DOL Potvin explained that the submission of the Invoice of Impact was originally tied to the license renewal process under 500.103. He added that the deadline was established to give businesses enough time to settle the invoice in a compliant manner. He acknowledged that the timeframe may need to be revisited in the context of applicable laws.
- Commissioner Roy noted that statute allowed for room to interpret when the payment would be due.

Commissioner Camargo moved to take a 10-minute recess.

- Commissioner Roy seconded the motion.
- The Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Concepcion – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Chair O'Brien – Yes
- The Commission unanimously approved taking a 10-minute recess, returning at 04:07 PM (05:59:53)
- The Chair identified an edit to the language of 500.180(4)(b)(1-2). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy offered a description of how the provisions are implemented.
- The Chair identified an edit to the language of 500.180(4)(b)(3-6). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.180(4)(c). She reviewed the edit and asked for questions or comments.
  - Commissioner Camargo proposed an addition to the language in the interest of continuity.
  - The Chair noted a perceived consensus on the addition.
- The Chair identified an edit to the language of 500.180(4)(c)(1). She reviewed the edit. She asked for additional context.
  - Commissioner Concepcion explained that municipalities cannot charge more than three percent of Gross Annual Sales in CIFs. She added that the summary



will help the Commission to determine the three percent threshold for each licensee.

- The Chair identified an edit to the language of 500.180(4)(c)(2-6). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.180(5)(a-c). She reviewed the edit and asked for questions or comments.
  - Commissioner Roy proposed a clarifying amendment to the language. She noted that the language as written implies that an HCA must be in place before a Waiver can be obtained.
  - DOL Potvin cautioned against language that may not encompass the varied circumstances under which a Waiver may be obtained.
  - EC Lopez suggested that the proposed amendment would not convey the full scope of options available to the parties.
  - DOL Potvin provided additional context about the choice of language.
  - AGC Carter offered alternative language.
- The Chair identified an edit to the language of 500.180(5)(d-k). She reviewed the edit and expressed reservation about requiring that an HCA Waiver be signed in the presence of a notary, given the available technology. She suggested that the language be amended to omit the in-person requirement and thereby remove any undue burden on the applicant.
  - Commissioner Stebbins asked why the Waivers are required to be notarized.
  - EC Lopez replied that the requirement could be stricken at the discretion of the Commissioners.
  - Commissioner Roy offered an explanation on why certain documents in general are required to be notarized.
  - AGC Carter noted that HCA Waiver requests were historically required to be notarized but that the requirement was later removed.
  - DOL Potvin provided further information on why the Commission requires certain documents to be notarized. He added that the agency endeavors to be forward-thinking and echoed EC Lopez's disclosure that the Commissioners may strike the requirement in this instance.
  - The Chair remarked on the distinction between HCA Waivers and other types of documents that the Commission requires to be notarized. She noted a perceived consensus on striking the requirement.
- The Chair identified an edit to the language of 500.181(1). She reviewed the edit and asked for questions or comments.
  - Commissioner Camargo proposed an addition to the language that would impose minimum acceptable equity standards on municipalities.
  - The Chair noted that a similar provision had been contemplated previously but was determined to be beyond the capacity of some communities.
  - Commissioner Concepcion asked Commissioner Camargo to clarify whether she is suggesting an optional presumption.
  - Commissioner Camargo responded affirmatively.



- The Chair asked Commissioner Camargo to share the proposed language with the group for revisiting.
- The Chair identified an edit to the language of 500.181(2). She reviewed the edit and asked for questions or comments.
- The Chair identified an edit to the language of 500.181(3)(a)(1). She reviewed the edit and asked for questions or comments.
  - Commissioner Stebbins suggested an edit to subsection (1)(a) to include all zoning information.
  - AGC Carter noted that “Local Approval Process” is a defined term that has been revised to include zoning.

4) Next Meeting Date– 06:56:38

- The Chair noted the next meeting would be on July 28, 2023.

5) Adjournment – 06:56:38

- Commissioner Roy moved to adjourn.
- Commissioner Concepcion seconded the motion.
- The Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Concepcion – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Chair O’Brien – Yes
- The Commission unanimously approved the motion to adjourn.

