

## CANNABIS CONTROL COMMISSION

**September 19, 2023**

**9:00 AM**

**In-Person and Remote via [Microsoft Teams Live\\*](#)**

### PUBLIC MEETING MINUTES

#### **Documents:**

- Letter from the Massachusetts Municipal Association

#### **In Attendance:**

- Acting Chair Ava Callender Concepcion
- Commissioner Nurys Z. Camargo
- Commissioner Kimberly Roy
- Commissioner Bruce Stebbins

#### **Minutes:**

##### 1) Call to Order

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

##### 2) Commissioners' Comments & Updates – 00:01:07

- Commissioner Stebbins expressed his appreciation for great dialogue conversation in the last meeting and the great work of their team with supporting them in this process.
- Commissioner Roy voiced her excitement to tackle extremely important topics as well as thanked the whole team, including Enforcement Counsel Rebecca Lopez (EC Lopez) and Director of Licensing Kyle Potvin (DOL Potvin).
- Commissioner Camargo agreed and stated she is looking forward to getting to work.
- The Acting Chair (AC) thanked her colleagues for trusting her in this process and noted the significance of this moment and thanked everyone involved.



### 3) Commission Discussion and Votes – 00:03:53

#### 1. Draft Adult Use and Medical Use of Marijuana Regulations

- The AC asked Associate General Counsel Michael Baker (AGC Baker) to introduce the section on Host Community Agreements (HCAs).
  - AGC Baker directed the body to the section.
- The AC read a provision that obligates a marijuana establishment to set aside money in any escrow, bond, or any similar account for host communities use or purposes.
  - Commissioner Roy asked if the wording should be reasserted to add additional language including but not limited to all contractual vehicles.
  - Commissioner Camargo asked Commissioner Roy to refresh their memory and clarify what she meant by vehicles.
  - Commissioner Roy clarified that contractual vehicle is executed between municipalities and parties and added that it had been brought to her attention countless times that contractual vehicle MOUs (Memorandum of Understanding) and MOAs (Memorandum of Assurance) were being executed.
- Commissioner Camargo asked Commissioner Roy if she wanted to add another number to the section.
  - Commissioner Roy stated that she wanted to lift the direct language from Chapter 180 and add additional language.
  - The AC asked Commissioner Roy to restate her suggestion.
  - Commissioner Roy answered that she would type it out in the chat for the body's review.
- EC Lopez suggested putting another section under subsection I which is prohibitions.
  - Commissioner Roy agreed.
  - Commissioner Stebbins agreed with the suggestion but questioned the wording.
  - Commissioner Camargo agreed that the subsection would make sense.
  - The AC also agreed.
- AGC Baker directed everyone to the next subsection and read it out loud to the body.
  - The AC noted they have received a lot of comments regarding the date listed and asked DOL Potvin for his insight.
  - DOL Potvin stated that the HCA Working Group carefully considered the date and put significant thought into it. He also emphasized the importance of ensuring that not only marijuana establishments and licensed applicants, but also municipalities are aware of the rules once the regulations are promulgated. He noted that a grace period would allow for potential adjustments to existing HCAs and ensure compliance.
  - The AC addressed the need to clarify expectations for adherence to the law. She also noted that providing this clarification would help ensure that the specified date did not imply the Commission was requesting fully compliant HCAs.



- DOL Potvin interjected to provide clarification that the May 1, 2024, date pertained to the Commission's enforcement of the regulations concerning participants of marijuana establishments and licensed applicants.
- Commissioner Camargo asked DOL Potvin to clarify when the internal review would start.
- DOL Potvin noted there were several moving parts not only in investigations and enforcement and that the May 1, 2024, date is based on input from the working group.
- Commissioner Camargo asked a follow-up question regarding a look back date.
- DOL Potvin stated to his recollection that in the draft regulations there is nothing to address that look back and provided her with a hypothetical.
- The AC added that all HCAs will eventually be reviewed due to the renewal process.
- Commissioner Roy inquired with DOL Potvin if there was a possibility to initiate a look back process while still allowing sufficient time for all parties involved.
- DOL Potvin stated that the look back period would be indefinite.
- The AC asked to table the topic for discussion until they get to the appropriate section.
- Commissioner Camargo expressed the importance of finding a balance between the internal team, municipalities, and the industry when addressing the issue.
- Commissioner Stebbins noted his appreciation for the discussion and asked DOL Potvin how the host community, licensed applicant, and marijuana establishment viewed the renewal process.
  - DOL Potvin noted that he heard inquiries and that there was not a one-size fits all perspective. He commented about two big buckets of opinions.
  - The AC asked DOL Potvin for a hypothetical regarding the renewal process.
  - DOL Potvin gave a scenario and noted that it could be discussed further with the Chief of Investigations and Enforcement and Director of Investigations.
  - Commissioner Camargo noted the need for clear communications and asked a clarifying question.
  - The AC clarified.
- Commissioner Camargo inquired about the possibility of advancing the May date and suggested exploring interim measures that would be considerate of all parties involved.
- The AC mentioned that there is a process that must happen before those fees can be collected.
- DOL Potvin noted he understood what Commissioner Camargo stated and added there is a possibility that it will not be consistent if rushed.
  - EC Lopez noted it is important to keep in mind the date is for all of us regarding what the complaint future is going to look like.
- Commissioner Roy asked DOL Potvin how many days in advance should a renewal be submitted to the Commission.



- DOL Potvin answered that the requirement right now is at least 60 days prior but as discussed at the September 18, 2023, public meeting, the timeline was modified to 90 days.
- Commissioner Roy gave DOL Potvin a hypothetical and asked about possibilities.
- DOL Potvin clarified and explained with another hypothetical.
- EC Lopez took a moment to let the Commissioners know that they received public comment regarding whether HCAs must be submitted as part of a renewal application. She added that the public comment stated in the language says that the Commission shall review and approve each host community as part of the complete marijuana establishment or medical marijuana treatment centers license application and at every renewal.
  - Acting General Counsel Carter (AGC Carter) added that his analysis was the same and the renewal process does not need to be folded into the HCA review. He noted that this is a policy consideration for the body.
- Commissioner Stebbins asked a clarifying question with a scenario.
  - EC Lopez clarified what the public comment spoke of.
- Commissioner Roy noted Chapter 180 is not in alignment with processes at the Commission due to them not reviewing final licenses.
- DOL Potvin sought clarification from EC Lopez and AGC Carter regarding the requirement of assessing HCAs in license applications, but not necessarily in a renewal application. He highlighted the statutory obligation to review and approve the HCA at each license renewal. He elaborated that instead of mandating the HCA assessment in the renewal application, proposed a separate and distinct process for conducting the assessment annually.
  - EC Lopez noted it could be a separate review process.
  - The AC asked for clarity to make sure she understood correctly.
  - EC Lopez emphasized that policy is a matter that would need to be developed by the body, but in terms of the law it supports, if the Commissioners wanted to explore policy development.
  - AGC Baker provided a hypothetical.
- Commissioner Camargo asked what this does for the May 1<sup>st</sup> date regarding what needs to be in place as where they are right now.
  - The AC asked if this is something that needs to be drafted in the regulations or something separate and aside from the regulations.
  - AGC Carter noted how the Commission interprets their regulations.
  - DOL Potvin noted the above interpretations and asked to clarify what they are referencing.
  - EC Lopez clarified for the group.
  - DOL Potvin read aloud the information and stated he believed there is a conflict due to wording.



Commissioner Camargo moved to take a seven-minute recess.

- Commissioner Roy seconded the motion.
- The Acting Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Acting Chair Concepcion - Yes
- The Commission unanimously approved taking a seven-minute recess, returning at 10:25AM (01:17:08).
  
- AGC Baker led the body to where they left off prior to the break.
- Commissioner Camargo asked if an earlier implantation date for community impact fees conflict with the May 1<sup>st</sup> HCA review date.
  - DOL Potvin answered that he is not positive, and the Commissioners should circle back to that question when they get to the later section.
- Commissioner Roy mentioned two scenarios to either bifurcate the process or slide it before May 1<sup>st</sup> to an earlier date and asked which one would be less burdensome on staff.
  - DOL Potvin answered that he believes both have their issues and they both suffer but the May 1<sup>st</sup> date is recommended by the working group.
  - The AC recommended to take a step back because they were addressing two different concerns at once and to resolve the date first.
  - Commissioner Stebbins noted that he was comfortable with the May 1<sup>st</sup> date and noted his concerns about muddying the process.
  - The AC agreed and thanked DOL Potvin for explaining what went into the thought process of the May date. She acknowledged that it is important to signal to the industry that renewals will not be contingent on the Cannabis Control Commission's HCA approval.
  - DOL Potvin understood the concern regarding non-compliant HCAs.
  - The AC asked Commissioner Roy her opinion on the date.
  - Commissioner Roy asked anecdotally about expiration date.
  - DOL Potvin noted anecdotally it was not a one size fits all.
- Commissioner Roy noted according to the statute the purpose of an HCA is to establish conditions in which the marijuana establishment operates within a community. She expressed her opinion to change the date to January 1, 2024.
  - DOL Potvin emphasized that the motivation is not selfishly limited to Licensing or to Investigations and Enforcement. He stated that the purpose is to benefit the industry and municipalities and provide a clear understanding of the playing field and time to adapt.
  - Commissioner Roy thanked him for the clarity and noted her intention to be respectful of staff.
  - AGC Carter noted the Commission's authority to impose conditions on licenses and expressed the possibility of exploring this avenue.



- Commissioner Stebbins sought clarification from AGC Carter regarding his suggestion concerning the bifurcated process and the Commission's power to impose conditions licenses.
  - AGC Carter clarified.
  - EC Lopez gave a scenario regarding the possible process of a bifurcated review.
- Commissioner Roy inquired with the Commissioners whether they would approve a renewal without an HCA. She questioned whether such a renewal would be considered incomplete, and if it would fall within the statutory responsibilities of Commissioners to review, certify, and approve.
  - EC Lopez noted at the point of renewal, the Commission will have approved or will have reviewed and made a determination on the HCA under the established process within the regulations. She questioned whether or not they would proceed with denying a renewal application because the HCA conversation has not been finished.
- Commissioner Roy asked a follow up question regarding the statute asking about the word Commission.
  - AGC Carter answered that the review does fall within the body, which is the process EC Lopez outlined, and that all final decisions would fall on the Commission.
- Commissioner Stebbins stated that he did not think they should leave an existing Marijuana Establishment or Marijuana Treatment Center waiting at the time of renewal. He questioned if it can legally operate because the HCA review and compliance has not been completed.
  - DOL Potvin agreed with Commissioner Stebbins as they are trying to find the equitable solution for people and businesses found in this position. He also added that the policy goal should take precedence.
- Commissioner Roy asked DOL Potvin to clarify that even if they were to bifurcate, would the business still have to wait to have it together at once before booking to review a renewal.
  - EC Lopez explained the process and gave an overview.
  - Commissioner Roy thanked her for the clarification.
- AGC Carter provided historical context regarding the conditions.
- Commissioner Camargo asked about the short-term and long-term impact the process will have.
- The AC noted they did not have consensus on the date just yet.
  - Commissioner Camargo stated that she is not good with the date but understood why the working group put that date together and the argument in terms of being prepared.
  - AGC Carter voiced that Commissioner Camargo's point indicate the beginning of a new process that will require education and change. He conveyed his confidence in the group's capacity to learn and adapt, and mentioned that, if necessary, the Commission has the ability to modify policy in the future.



- Commissioner Camargo asked if the group felt comfortable having a discussion regarding the long-term and short-term impacts of the bifurcated process.
  - The AC noted she did not believe they would come to a resolution today.
  - Commissioner Stebbins voiced that he did not want to come back to this and did not want to change this due to making it sloppy and confusing.
  - DOL Potvin added that the bifurcated process could be a significant issue on compliance monitoring.
- AGC Carter asked whether a member of the body would like to make a motion relative to the May 1<sup>st</sup> date. He indicated they could take a vote to include the language or remove it.
  - Commissioner Stebbins suggested to wait for a final version of all the changes to go through and vote on sections individually.
  - The AC noted her hesitation regarding time constraints.
  - Commissioner Stebbins expressed his reluctance highlighting that discussions on other items within the regulations may have an impact.
  - The AC suggested finding a balanced approach by continuing to work through the HCA section and identifying areas where consensus is lacking.
  - Commissioner Stebbins expressed his desire to be mindful of statutory obligations. He noted the need to have a vote on the entire package for final promulgation.
  - AGC Carter acknowledged Commissioner Stebbins' statement and affirmed its validity in relation to the presentation of filing forms. He noted the presentation of filing forms would occur subsequent to the discussions on policy matters. He proposed that once the policy discussions were concluded that the focus could then shift to addressing the mechanics of the filing regulations.
  - The AC asked Commissioner Stebbins to restate his suggestion for clarity.
  - Commissioner Stebbins suggested individual votes on groupings of regulations.
  - The AC restated what Commissioner Stebbins suggested and asked if she was understanding correctly.
- Commissioner Roy raised a question regarding the process of voting when operating by consensus. She inquired whether a vote would be conducted if there were disagreement among the board.
  - The AC noted if everyone understands the context and if they land in different places then they will take a vote.
- Commissioner Roy asked what happens in a situation of deadlock.
  - AGC Carter suggested how the body would operate related to the process.
- Commissioner Roy inquired whether a vote would be conducted on the topic of HCAs and Community Impact Fees (CIFs) once the deliberative process is concluded.
  - The AC stated that it goes into the final vote for the entire package.
  - Commissioner Roy voiced her concern regarding the final vote and the course of action if the Commissioners disagree with a certain section.





- The AC stated in that case they could put a motion and the body would vote on it.
- Commissioner Camargo proposed a motion to determine a specific date.
- Commissioner Stebbins thanked his colleagues for their thoughts and noted the mutual idea where they agree and where they do not.
- Commissioner Camargo noted she wants to be transparent about not putting a motion on the table, but she wants to continue to go through the process and hear more.
- The AC agreed with both points.
- Commissioner Camargo noted the importance of this process.
- AGC Baker redirected the body to two of EC Lopez's comments and noted the need to get consensus before moving forward.
  - The AC noted a consensus.
  - Commissioner Stebbins added that they all agreed on the language as well.
- EC Lopez thanked AGC Baker for identifying the language and keeping the Commission on track. She also asked a clarifying question whether the new language being a new subsection.
  - AGC Baker agreed with the new subsection and directed the body to it.
  - EC Lopez helped direct the body to where the new subsection would be.
  - AGC Baker asked if there was a consensus.
  - The AC noted a consensus.
- AGC Baker read aloud subsection three and went through the language.
  - Commissioner Stebbins noted his worry about one of the sections and stated that he believed the Commission received a significant amount of testimony on the issue. He also stated he did not want to put licensees in limbo and wanted to reward good behavior within the regulations.
  - Commissioner Camargo agreed and discussed her concern as well. She also recommended to strike the language completely.
  - Commissioner Roy agreed as well to strike it all together and read language to propose that she lifted from the Office of the Comptroller that could be better.
- EC Lopez mentioned that two different policy conversations were happening and the body needed to figure out both.
  - Commissioner Stebbins voiced the Commissioner's choice to determine what is put in the determination.
  - The AC agreed and noted a consensus to remove the language. She also asked Commissioner Roy if she wanted to offer the language she previously stated.
  - Commissioner Roy advocated that they adopt the language or a version of it.
  - The AC requested to table the topic for future conversation.
- AGC Baker read out loud the next section to the body.
  - Commissioner Stebbins noted his desire to make sure the language doesn't cause conflict or tension.
- AGC Baker moved on to read the next section.
  - Commissioner Camargo shared her opinion and concerns on the process of discontinuing.





- The AC reminded the body that the subsections being discussed related to notice.
- Commissioner Camargo asked a clarifying question regarding what comes before the notice.
- The AC clarified that she understood what Commissioner Camargo stated.
- EC Lopez noted the legal grounds as an agency to remove this from the notice on the basis of the language being unreasonably impracticable. She also noted possible consideration for the Commissioners.
- Commissioner Stebbins noted his level of comfort with removing both provisions.
- The AC noted the need to provide parameters around what happens should a discontinuance occur. She also stated that she liked EC Lopez's suggestions and noted this could be a good place for the language Commissioner Roy recommended.
- Commissioner Roy recommended to include in the notice that you can come into compliance by utilizing the model Host Community Agreement.
- Commissioner Camargo expressed that this section needs more conversation.
  - Commissioner Stebbins noted his willingness to draft language to make compliance with our model Host Community Agreement something that would drive efficiency and better compliance.
  - The AC asked a clarifying question regarding which section.
  - Commissioner Roy recommended everyone look at feedback during lunch.

Commissioner Stebbins moved to take a fifty-five minute recess.

- Commissioner Camargo seconded the motion.
- The Acting Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Acting Chair Concepcion – Yes
- The Commission unanimously approved taking a fifty-five minute recess, returning at 1:00PM (03:48:36).
- The AC asked a logistical question regarding the hybrid meeting tomorrow.
  - AGC Carter stated Commissioners could participate in person or remotely, but he recommended some are on sight as the notice says hybrid.
  - The AC then noted for tomorrow's meeting everyone should plan to be in person and Thursday the meeting is virtual.
- AGC Baker repeated the page and section for the board.
  - Commissioner Stebbins read his proposed language and noted his desire to have the process become more efficient.
  - DOL Potvin noted the review of the HCA within 90 days is a statutory requirement and the Commission had a current policy around the review of applications adding this new provision could add conflicting nature.



- Commissioner Stebbins asked what benefit of the model HCA would mean on the back end on the licensing team and the review of the HCA.
- DOL Potvin noted one of the benefits of the Model HCA is that licensees will be presumed to be compliant and that his idea could potentially prolong the process.
- Commissioner Roy asked if they bifurcated the HCA process whether it then would not get caught up in rest of the review process.
- DOL Potvin clarified that the bifurcation that was referenced earlier was for renewal applications and not new licensee applications.
- Commissioner Roy asked if the 30 days could apply to just renewals.
- DOL Potvin answered that there would be a higher probability of not meeting the deadline due to volume.
- The AC asked Commissioner Stebbins to state the issue he is addressing.
  - Commissioner Stebbins noted his goal was to make the process more efficient while trying to drive good compliance. He also explained to applicants the benefit to using the model HCA.
  - The AC thanked him for breaking it down and explaining more.
  - Commissioner Roy asked DOL Potvin if this was baked into the municipal equity section.
  - DOL Potvin explained that he understood the purpose of the policy goal raised by Commissioner Roy but argued that it could still have the same negative effect.
  - The AC asked if anyone remembered a previous conversation around a presumption that was given to the model HCA.
  - DOL Potvin stated that he remembered the conversation. He noted an additional benefit to using the model HCA was the quick review because it would appear that the parties are in agreement. He also added that in this situation if they were inclined as the Cannabis Control Commission and that proposal, he would recommend one approach to address the population of applicants with the model HCA.
  - Commissioner Stebbins voiced that would like to explore but is happy to withdraw it from where he previously suggested it be added.
- The AC clarified that the onus is not on the Cannabis Control Commission and it would be on the host community in their response to the Commission.
  - DOL Potvin noted the onus is on the municipality but as a matter of policy if adopted they would be taking a proactive step to make it quicker.
  - Commissioner Stebbins asked if this would also benefit the host community by shortening the timeline.
  - DOL Potvin stated the biggest benefit is to the applicant.
  - Commissioner Stebbins noted they might want to give consideration how they make that optional for the host community instead of forcing it on them.
  - The AC asked a clarifying question regarding general applications.
  - Commissioner Stebbins stated he wants to keep the option open to fold that into social equity.



- The AC directed him to the draft regulations and asked for clarity.
  - DOL Potvin noted the 60-days applies to all licensed applicants, but the working group suggested that there's an exception for Social Equity Businesses that the response time is 30-days.
  - Commissioner Stebbins thanked him for that clarification and stated they could move forward.
- EC Lopez proposed language for a new subsection.
  - DOL Potvin discussed the differences between the wording deemed compliant versus presumed compliant.
  - Commissioner Roy noted they wanted to use presumed because it gives the Commission more wiggle room.
  - DOL Potvin also noted presumed would give them some latitude and one-size-fits-all is not applicable.
  - The AC expressed the importance of this comprehensive conversation.
- DOL Potvin added the statute gave the Commission the permission to create a model HCA which incentivizes compliance.
  - The AC asked Commissioners Stebbins and Camargo their thoughts.
  - Commissioner Stebbins noted he would like to use presumed due to encouraging good behavior.
  - The AC noted a consensus.
- Commissioner Roy discussed an email they received regarding the definition of good compliance standing.
  - Commissioner Stebbins agreed that she had a good point and noted how he had the question yesterday about how they define a host community being on the good compliance list.
  - DOL Potvin explained that he did not believe a definition was required.
  - Commissioner Roy asked DOL Potvin if he believes it's appropriate to put a definition in a guidance document.
  - DOL Potvin stated it is an option but he did not believe it is necessary.
  - The AC asked him if the Commission used the term in other existing regulations outside of the HCA context.
  - DOL Potvin mentioned that the term was used similarly but not exactly.
  - Commissioner Roy asked if language could be proposed regarding a definition.
  - DOL Potvin noted the option and explained it is the body's choice whether to adopt the definition.
  - EC Lopez added this is a policy decision for the Commissioners and she was willing to work with legal to identify language or assist.
  - The AC asked legal if they could provide their opinion on if this definition is necessary.
  - AGC Carter noted it is not necessary but if the board wishes to further clarify then they could and would need to capitalize the term throughout the document.
  - The AC noted she believed this could limit the board.



- Commissioner Camargo stated she did not see a need right now.
- Commissioner Roy believed it was unfair to the municipalities.
- The AC noted municipalities are in good standing until they do something this is not in compliance in the regulation list of things prohibited.
- EC Lopez noted the municipalities have been given the understanding when they are at risk of losing their compliance.
- Commissioner Camargo asked a clarifying question regarding the language.
- EC Lopez clarified.
- The AC noted a consensus on the language and placement.
- Commissioner Roy asked a clarifying question regarding striking the language.
  - EC Lopez mentioned the option for Commissioners to strike the language or explore the matter further.
  - The AC noted a consensus to strike subsections (d) and (e) (4:40:10).
- Commissioner Roy explained her proposed language and that she procured it from the Office of the Comptroller.
  - DOL Potvin asked what her intent was as the result of having that as a policy.
  - Commissioner Roy noted she would want to ask the Office of the Comptroller why they have that as a policy.
  - DOL Potvin stated he understood the goal but saw a gap within goal.
  - Commissioner Roy explained that she sat down with a lot of licensees and gave a hypothetical regarding undue burden on their outdoor farms.
  - AGC Baker asked Commissioner Roy for clarification on the language.
  - Commissioner Roy answered that they could strike suspension and amendment and just leave it at termination or dissolution.
  - EC Lopez explained the obligation to engage in contractual negotiation in good faith is an implied warranty of any contract and any party has the ability to seek redress through the court system.
  - The AC noted the possibility of the language being provided in the notices that the Commission would give the establishments.
  - Commissioner Roy noted this could be stripping them of their good compliance standing and that is how it could be utilized.
  - The AC stated the Commission would be required to decide on whether contacts are entered into with good faith.
  - AGC Baker read the current drafted language.
  - Commissioner Roy restated her language for clarification.
- The AC asked for clarification regarding who is determining if it was entered into good faith.
  - DOL Potvin asked whether the dissolution of the contract or the non-renewal of the contract would be considered good or bad faith.
  - AGC Baker voiced that staff would have to make that determination.
  - DOL Potvin noted there was a delegation component here and the decision-making power could rely on the Commission.
  - The AC asked Commissioner Roy to restate her question again.
- Commissioner Roy asked DOL Potvin a question regarding surrendering of a license.



- DOL Potvin noted he did not want to conflate surrendering of a license versus the dissolution of an HCA.
- Commissioner Roy explained there was no process for the surrendering of a license in the draft regulations right now and she restated her question directing the body to the language.
- The AC paraphrased to make sure she understood.
- Commissioner Roy noted her desire to trigger a lack of good compliance standing.
- EC Lopez asked if there is a policy shift expecting mutuality in the ending of relationship and whether this made the good faith requirement necessary.
- Commissioner Roy voiced that she believed it was necessary because there was not always mutuality and that was what she is hearing from licensees. She also asked if she should make a motion due to this being extraordinarily important.
- Commissioner Stebbins voiced his concern about this section due to the worry about the discontinuance of a relationship between the Host Community and cannabis business. He believed it would be helpful to remove the language here.
- Commissioner Camargo asked a question regarding Chapter 180 and discontinuing language.
  - AGC Baker answered that there is no specific language that requires Commission action.
  - DOL Potvin stated there is a statutory requirement to have an HCA in existence to continue operation.
  - Commissioner Roy noted a possible scenario and asked if it is cause for losing good standing.
  - The AC noted it is a delicate balance that they are trying to strike and that the process is complicated. She also stated her desire to help licensees in this process and asked Commissioner Roy to clarify her request.
  - Commissioner Roy explained that she wanted a good faith provision due to uneven leverage between the parties.
  - The AC stated that she was not opposed to the language but asked about the best way to move forward.
  - DOL Potvin noted marijuana establishments may see her request for equitable relief and he understood good faith but generally if the discontinued relationship occurred, he noted the business still had the courts who could provide equitable relief.
  - Commissioner Roy asked what adequate equitable relief would be.
- AGC Baker read through the equitable relief section before the body.
  - EC Lopez noted the Commissioners had the ability to propose requirements on how the parties could end the relationship. He explained that a good faith requirement would be a challenge to prove except in the most egregious of circumstances.



- Commissioner Stebbins noted his suggestion regarding the sections and asked for clarification on the intent behind a definition.
- Commissioner Camargo asked a clarifying question regarding section 4 and Commissioner Stebbins' suggestions.
- Commissioner Stebbins restated his suggestions.
- The AC asked whether Commissioner Stebbins meant the Commission should provide notice that the parties have an option to enter into the model HCA.
- Commissioner Stebbins confirmed and restated his suggestions.
- Commissioner Camargo asked about the timeline and noted the need for some language around the wind down process.
- The AC suggested a hybrid version with Commissioners Stebbins and Roy's language but explained that the wind down procedure would need to be created. She asked Commissioner Stebbins to repeat his proposed language.
- Commissioner Stebbins repeated his proposed language.
- The AC offered language with both suggestions combined.
- Commissioner Roy said she loved the proposed language and added her opinion to strike the words "amendment and suspension" and leave "termination".
- Commissioner Stebbins asked for clarity regarding who notified the Host Community.
- The AC noted her interpretation was the marijuana establishment would notify municipalities.
- Commissioner Camargo reiterated her prior comment and asked for the body to not forget about including language regarding the wind down process.
- DOL Potvin noted historical context and supported the language.
- EC Lopez drafted new language.
- The AC read the language out loud.
- Commissioner Stebbins envisioned the submission of documentation around the demonstration of good faith and fair dealing. He mentioned that the provision missed the requirement on where to report.
  - Commissioner Roy stated the business would receive a receipt of notice of discontinuance and then they would submit information to the Commission.
  - The AC explained the need to be notified by the host community of the reasoning for discontinuance for writing in demonstration that it was done in good faith.
  - EC Lopez noted the difficulty in documenting good faith and added that imposing the requirement of no bad faith made sense. She explained why the burden of proof for good faith would be complicated.
  - Commissioner Roy noted in Massachusetts municipalities the burden to demonstrate good faith is easier than two-party contracts. She mentioned that host communities must be able to demonstrate that there exists a good business justification or legal necessity that would support termination.



- Commissioner Stebbins noted the body could leave the language in the regulations despite the language's potential ineffectiveness as pointed out by EC Lopez's point.
- Commissioner Roy noted the Commission could enforce the removal of the good compliance standing and that enforcement may give a licensee grounds to sue in a court of competent jurisdiction.
- Commissioner Stebbins noted the body should be mindful of exceptions.
- EC Lopez noted it would be easier to enforce bad faith then good faith.
- The AC asked EC Lopez if she had any proposed language that would not lose the spirit of what they are trying to accomplish.
- EC Lopez stated she would put proposed language in the chat.
- AGC Baker also recommended possible language.
- EC Lopez noted she would incorporate it into the draft and that the language in chat is more workable from an enforceability standpoint.
- Commissioner Roy noted she liked good faith better.
- Commissioner Camargo noted the challenging nature of a good faith determination.
- Commissioner Stebbins stated he is fine with how the language read. He reiterated how he was looking at the provision and that he heard the other Commissioner's concerns.
- The AC asked a clarifying question regarding placement on proposed language.
  - Commissioner Stebbins voiced his recommendation.
  - EC Lopez noted a suggestion but said it is the board's decision to adopt more restrictive language.
  - Commissioner Roy disagreed and expressed that bad faith did not go far enough.
  - EC Lopez noted the Commission could define what bad faith means and the Commission had the authority to interpret the laws and regulations.
  - Commissioner Roy commented that her primary concern when meeting with so many licensees, was that they will be in action to come to the negotiation table to sit down to renegotiate or negotiate. She added that good faith would cover that but questioned if bad faith would.
  - DOL Potvin noted that he does not think every situation of dissolving a relationship or choosing not to renew is always going to be the case of bad faith. He also noted the parties freedom to contract and that there could be an implied pressure because of this language.
  - The AC read the proposed language and asked about consensus.
  - AGC Baker suggested a grammatical change.
  - Commissioner Roy said she would be in consensus if all the evidence brought forth, including the unwillingness to negotiate would be a part of the consideration for bad faith.
  - EC Lopez noted they look to the public meeting record to understand what the policy objectives were and what considerations were made during the passage of the policies.





- The AC noted consensus.

Commissioner Stebbins moved to take a ten-minute recess.

- Commissioner Roy seconded the motion.
- The Acting Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Acting Chair Concepcion – Yes
- The Commission unanimously approved taking a ten-minute recess, returning at 3:17PM (06:09:24).
- The AC voiced a different approach going forward due to time constraints.
  - Commissioner Camargo stated either way was fine with her.
  - Commissioner Roy stated she was agnostic on it.
  - Commissioner Stebbins voiced that he is happy to keep going through it as he already went through it and knew where the questions would be located.
- EC Lopez noted the legal cite in the amendment needs to be checked deferring to Baker for clarity.
  - AGC Baker noted a mistake and stated he would fix the mistake if there was consensus.
  - The AC went back and forth on the language and placement.
  - Commissioner Stebbins added his thoughts regarding the citation.
  - EC Lopez asked AGC Baker to read the citation.
  - AGC Baker clarified the placement.
  - EC Lopez suggested to add a new section to the equitable relief provisions.
- Commissioner Camargo voiced suggestions from the public regarding waiver of fees.
  - The AC asked a clarifying question about the language.
  - Commissioner Camargo voiced that she just wanted the Commissioners to review the language and think about other equitable relief that should be added.
  - Commissioner Roy asked if these fees were financially feasible for the Commission.
  - DOL Potvin stated reimbursements and refunding fees would impact the Commissioner's ability to comply with the ability to remain neutral. He added that budgeting might cause restrictions.
  - Commissioner Roy agreed and stated the Commission did not have a checkbook where they can issue grants. She asked about reduction in some fees.
- DOL Potvin stated the equitable relief options were tailored to the situation where they do not have an HCA. He added that a reduction does not fix problem.
  - Commissioner Camargo noted the public comment and asked how to define other equitable relief.



- EC Lopez commented that the body should determine what equitable relief could look like based on a scenario in which a host community had discontinued operations or both parties agreed to end operations.
  - Commissioner Camargo explained that this option gave the body room to pick and choose if possible.
  - The AC asked Commissioner Camargo if she would like to adopt the language.
  - Commissioner Camargo noted that some is not realistic. She explained the point was to have the conversation and to think through options.
- Commissioner Stebbins noted the importance of the section that reads “other equitable relief is determined by the Commission” due to it putting forth a message that they will do their best on that license. He also noted their cooperative help with any license, marijuana establishment, or marijuana treatment center.
  - EC Lopez read 5C with her edits.
- The AC noted a consensus on the language.
- AGC Baker read the next section to the room.
  - Commissioner Stebbins noted the section needed to be numbered correctly.
  - Commissioner Roy noted feedback they received regarding complaints and stated that all complaints are taken seriously by the Commission.
  - The AC asked what that changed.
  - EC Lopez noted the complaints process and whether the language was consistent with discretion that they hold.
  - Commissioner Roy noted in previous public meetings the Executive Director (ED) had said we take all complaints to reconcile the two from the public statement to the regulations.
  - EC Lopez stated that she wanted the public to understand the staff in the Commission’s investigations and enforcement department take their responsibilities very seriously when it comes to effectively monitoring compliance and noted the difference between an investigation versus inquiry.
- The AC recalled a comment the body received regarding an interested person and asked who had the ability to file a complaint.
  - EC Lopez noted the choice of using “an interested person” was meant to invite anyone who has information or knowledge of regulatory violation to be able to submit a complaint rather than restricting complaints to just licensees.
- Commissioner Roy noted feedback they received today.
  - DOL Potvin stated this could be discussed at a later time and the AC agreed.
  - Commissioner Roy asked if the letter she was referring to could be put into the minutes.
  - The AC asked Commissioner Roy to restate her comment regarding the Massachusetts Municipal Association letter.
  - Commissioner Roy noted her concern that she previously mentioned.
- EC Lopez noted she is not sure the Commission is the proper authority to advise the municipality on how they should allocate or appropriate a fine.



- Commissioner Stebbins proposed to remove the language regarding publication of a host community's lack of good compliance due to more work on their end. He added that he is uncomfortable with a governmental entity doing that to other governmental entities.
- Commissioner Roy explained that planting a flag in a municipality having this information was helpful for businesses because it would help identify municipalities that are good partners and explained her reasoning.
- The AC agreed that is correct.
- Commissioner Camargo noted the public shame list and that she understood the concept but agrees with Commissioner Stebbins. She also added the need to define good standing internally and operationally.
- DOL Potvin noted these policies will need processes that are built and implemented afterwards and once the final rules are promulgated. He explained the process.
- Commissioner Stebbins noted he would like to strike the language as there are other opportunities for them to achieve the same goal.
- The AC clarified what Commissioner Stebbins asked.
- Commissioner Stebbins clarified that he needed a better sense for why this was included and its intentions.
- The AC voiced what they were thinking.
- Commissioner Roy noted another way to look at the provision was that it recognized the good municipalities to partner with for businesses.
- Commissioner Stebbins appreciated the clarification and noted what he wanted to ingrain into regulations.
- Commissioner Roy commented what she thought should be recognized regarding notifying communities and the public.
- Commissioner Stebbins offered new language and moved to amend letter C.
  - Commissioner Camargo voiced that the positive of this would be to know that communities are in compliance and that she would be happy to amend the language but noted caution due to the possibility of it getting muddy in the future.
  - The AC noted this could not go into effect until they have enough HCAs that they must review to make a designation and determination.
- Commissioner Stebbins moved to amend letter C.
- Commissioner Roy seconded the motion.
- The AC took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Acting Chair Concepcion – Yes
- The Commission unanimously approved the motion to amend letter C, by a vote of four in favor and zero opposed.
- AGC Baker noted an area to revisit to gain consensus and he read language.



- The AC noted a consensus.
- EC Lopez wanted to confirm what the options were that the HCA determination notice will be providing to the parties.
  - The AC asked Commissioner Roy if the suggestion to use the language in its entirety is to institute a wind down process.
  - Commissioner Roy confirmed.
  - Commissioner Camargo asked if there is anything to add regarding time.
  - DOL Potvin told Commissioner Camargo he believed it was already tied into the 90-day requirement so that time frame had already been established.
  - The AC asked if there were any questions or comments and if they wanted to include the language in the draft.
  - Commissioner Stebbins voiced that he was interested in the language but questioned where it belonged and in which section.
  - EC Lopez noted what the Commission could do if the language was adopted.
  - Commissioner Stebbins stated he was much more comfortable with that suggestion.
  - Commissioner Roy voiced that she was not as comfortable.
  - Commissioner Stebbins noted he liked the mutual agreement between both parties and preferred to not see the relationship be under the HCA determination notice.
  - DOL Potvin suggested softer language.
  - Commissioner Roy noted a scenario regarding the licensee walking away from the municipalities and if they are entitled to equitable relief.
  - AGC Baker noted they could go through the courts to argue against actions by the business.
  - DOL Potvin explained this language could provoke problems.
  - Commissioner Roy noted she wanted to explore the other side of the equation and make sure the body did not miss anything.
  - The AC asked if it goes beyond the requirement of mutual agreement before a party can step away from the contractual relationship.
  - EC Lopez noted that the agreement does not need to be executed before they step away but before they request equitable relief on the basis of the relationship being over.
  - Commissioner Stebbins voiced that he liked the new language and the suggestion of the placement but saw it being outside of the bounds of what they would be sending out in an HCA determination.
- The AC noted a concern regarding the draft that marijuana establishments cannot request equitable relief unless they have a mutual agreement.
  - EC Lopez noted if the host community ends the relationship, or if both parties do, then the marijuana establishment could seek equitable relief.
  - The AC stated she did not understand the utility or why it would be included.
  - EC Lopez noted the original thought behind the provision was to discourage the situation of a host community walking away.
  - The AC noted her indifference due to not seeing the value in the provision.



- Commissioner Stebbins noted the way he saw the issue was that it could open the door for the marijuana establishments to seek equitable relief and offered a scenario.
- Commissioner Roy voiced the utility of the language.
- Commissioner Camargo noted it provided protection in the wind down process.
- Commissioner Stebbins voiced he is comfortable with the new language and the suggestion to move it to the equitable relief section.
- EC Lopez read aloud what the section would read with the new language and noted if how the process would go without mutual abrogation.
- The AC noted it made sense to her and she was fine with the placement of the language. She noted a consensus.
- AGC Baker read the next section regarding CIFs.
  - Commissioner Roy mentioned a definition that the working group came up with regarding enhanced need.
  - The AC read Chapter 180 out loud regarding CIFs.
  - Commissioner Roy noted the term enhanced need is incompatible with the existing definition.
  - Commissioner Stebbins suggested having it be a standalone.
  - The AC noted a consensus.
  - Commissioner Stebbins read aloud the new standalone number.
- AGC Baker moved to the next section.
  - Commissioner Roy read the letter regarding the draft regulations process and directed Director Potvin to the language.
  - AGC Carter mentioned the option for Commissioner Roy to receive legal advice confidentiality if she preferred.
  - Commissioner Roy noted she wanted to be fair while listening to the concerns of the municipalities.
  - AGC Carter noted the transparency obligations might satisfy some of the concerns that have been identified.
  - Commissioner Stebbins explained it must start with a detailed invoice and how he wanted the language to appear.
- AGC Baker read the next section.
  - Commissioner Camargo asked if operators could submit arguments as to why the asserted CIF is not reasonably related to the actual costs.
  - The AC noted this concern was accounted for in another section.
- Commissioner Stebbins asked a question regarding the timeframe for the marijuana establishment pertaining to the Department of Revenue's comments and suggestions.
  - DOL Potvin explained the timeline and how they came to allow licensees more time. He noted the option to pay CIFs in installments.
  - The AC read the recommendation regarding the language and asked DOL Potvin his thoughts on changing the timeline.
  - DOL Potvin answered that the rationale provided does seem reasonable and reasonable internally too.



- Commissioner Roy asked a clarifying question.
- DOL Potvin clarified for Commissioner Roy.
- Commissioner Stebbins voiced that this change is helpful in a bigger and broader perspective and mentioned the importance of healthy relationships between host communities and marijuana establishments. He also brought to the body's attention that there was a typo in the proposed language.
- The Acting Chair noted a consensus to change the language regarding timeline.
- EC Lopez directed them to the proposed language in the chat.
- The AC read the proposed language out loud and noted a consensus.

Commissioner Stebbins moved to take a five-minute recess.

- Commissioner Camargo seconded the motion.
- The Acting Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Acting Chair Concepcion – Yes
- The Commission unanimously approved taking a five-minute recess, returning at 5:18PM (08:07:59).
- The AC suggested it be a good time to put a pin into things and to come back next meeting clear. She also stated they will pick up at prohibitive practice and the goal will be to conclude HCAs and that included circling back to the date and language then they will go into municipal equity. She commented that Thursday the body could go into agent suitability and ending the discussion with a final vote on the regulations.

#### 4) Next Meeting Date– 08:14:52

- The AC noted the next meeting would be on September 20, 2023.
- Commissioner Camargo asked about the location and time.
- The AC clarified they will be remote and the meeting will go until whatever time is necessary.
- Commissioner Camargo stated she wanted to bring back the equity participant definition and introduce it while bringing up other topics she wants to speak about tomorrow.
- Commissioner Roy added closing thoughts and thanked all her colleagues.
- The AC asked AGC Carter to clarify the start time for tomorrow's meeting.
- AGC Carter clarified the meeting time for Wednesday, September 20<sup>th</sup> would be at 9:00 AM.



5) Adjournment – 08:15:56

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

