

CANNABIS CONTROL COMMISSION

September 18, 2023

10:00 AM

In-Person with Remote Access via [Microsoft Teams Live*](#)

PUBLIC MEETING MINUTES

Documents:

- [Meeting Packet](#)
- Statement by Chair Donahue

In Attendance:

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

Minutes:

1) Call to Order

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

2) Commissioners' Comments and Updates – 00:01:05

- Commissioner Camargo expressed her excitement for the day's proceedings and noted that it is the culmination of years of work.
- Commissioner Concepcion concurred. She thanked those who provided testimony during the public hearing or in writing.
- Commissioner Stebbins thanked those who submitted feedback during and prior to the public comment period. He expressed his eagerness to deliberate and arrive at a final draft of the regulations.
- Commissioner Roy thanked stakeholders for their feedback. She reiterated the objective of the meeting.
- Acting General Counsel Andrew Carter (AGC Carter) explained that the body is compelled to vote on and adopt an Acting Chair (AC) in Chair O'Brien's absence.
 - Commissioner Roy responded that, per statute and precedent, it is the Secretary that serves as AC.



- AGC Carter replied that an AC can either be designated by the sitting Chair or by the Commission as a body. He cited M.G.L., c. 94G § 4.
- Commissioner Roy explained her role as Secretary of the Commission and as Appointed Officer. She noted that historically there has been no objection to the Secretary serving as the AC.
- AGC Carter responded that in previous instances the sitting Chair designated the AC, which has not occurred, and therefore the body needed to designate one to conduct the meeting.
- Commissioner Roy asked AGC Carter if Chair O'Brien had been removed from her position.
- AGC Carter replied that, as far as he was aware, she had not.
- Commissioner Roy remarked that in light of this, it can be inferred that Chair O'Brien continues to hold the position of Chair.
- AGC Carter responded that Chair O'Brien was not currently exercising her authority as Chair.
- Commissioner Roy ruled AGC Carter's proposition as being out of order of the agenda. She noted that she intended to proceed with the public meeting as the AC.
- Commissioner Camargo acknowledged the delicacy of the situation. She echoed AGC Carter's statement that the body has the power and authority to select an AC.
 - Commissioner Roy asked Commissioner Camargo to cite the statute supporting her assertion.
 - AGC Carter quoted M.G.L., c. 94G § 4(a).
- Commissioner Stebbins moved that the Commission appoint the Secretary as Acting Chair for the purposes of the regulatory review meeting.
- Commissioner Roy seconded the motion.
- Commissioner Camargo thanked Commissioner Roy for her service as AC the previous meeting. She indicated that she does not support her continuing in that role. She noted her intention to raise a counter motion.
- Commissioner Stebbins clarified that the motion is intended to establish an AC in the short term to direct and oversee the remainder of the regulatory review efforts. He further clarified his intention and the role of the AC. He advocated for keeping with precedent in the interest of time.
- Commissioner Roy read a passage from the Commission's Code of Ethics.
 - Commissioner Concepcion asked to clarify why the passage was being entered into the record.
 - Commissioner Roy replied that it was being entered into the record as a reminder of the heightened ethical standards to which they are held as Commissioners.
 - Commissioner Concepcion asked a clarifying question about how ethics related to the topic at hand.
 - Commissioner Roy explained that her intention is to extend a reminder of the Commission's expectations around ethics as the body navigates unprecedented circumstances and continued to read the Enhanced Code of Ethics.



- Commissioner Stebbins clarified the intent of the motion and the function of an AC.
- Commissioner Roy took a roll call vote:
 - Commissioner Camargo – No
 - Commissioner Concepcion – No
 - Commissioner Roy – Yes
 - Commissioner Stebbins – Yes
- The Commission denied the motion by a vote of two in favor and two opposed.
- Commissioner Camargo moved to designate Commissioner Concepcion as Acting Chair until the return of the Chairperson.
- Commissioner Concepcion seconded the motion.
- Commissioner Stebbins reiterated that he raised a motion to appoint Commissioner Roy as the AC based on precedent. He noted that Commissioner Concepcion is part of three working groups. He raised the question of how she intends to manage conducting the meeting while contributing to the discussion of such varied policy matters.
 - Commissioner Concepcion responded that her deep involvement with the subject matter will allow her to better facilitate the proceedings.
- Commissioner Stebbins asked Commissioner Camargo if she would be willing to amend her original motion to limit Commissioner Concepcion’s designation as the AC to the regulatory review period.
 - Commissioner Camargo asked Commissioner Stebbins to clarify the rationale behind his request.
 - Commissioner Stebbins recognized the breadth of knowledge that Commissioner Concepcion would bring to the role. He expressed reservation about designating Commissioner Concepcion as the AC beyond the regulatory review period with the state of the Chair seat in question.
 - Commissioner Camargo acknowledged the precariousness of the situation and underscored her confidence in Commissioner Concepcion’s leadership. She declined to amend her motion.
- Commissioner Roy explained that she was unanimously appointed Secretary by the body and that it was likewise agreed upon that the Secretary would serve as AC in the absence of a Chair. She added that she has served in this capacity six times prior with no objection. She asked Commissioner Camargo to clarify the nature of her objection.
 - Commissioner Camargo declined to elaborate.
- Commissioner Roy reiterated that she has served as the AC six times prior without objection. She asked Commissioner Camargo again to clarify the nature of her objection.
 - Commissioner Camargo recognized Commissioner Roy for her service as the AC during the previous meeting. She suggested that Commissioner Concepcion may be better equipped to meet the demands of the regulatory



review process and surrounding circumstances. She added that appointing an AC is at the discretion of the body.

- Enforcement Counsel Rebecca Lopez (EC Lopez) raised the question of whether the day's regulatory work could be legally challenged if an AC is not appointed in a manner consistent with the statute.
 - AGC Carter responded affirmatively that it would leave the Commission vulnerable to the risk of legal challenge.
- EC Lopez advised that the matter of appointing an AC is resolved before proceeding with any regulatory efforts.
- Commissioner Stebbins indicated that he would likely vote against the current motion. He added that he would in turn raise a new motion that would limit Commissioner Concepcion's service as the AC to the regulatory work of the current week's public meetings, after which time another vote would be required.
- Commissioner Roy took a roll call vote:
 - Commissioner Camargo – Yes
 - Commissioner Concepcion – Yes
 - Commissioner Roy – No
 - Commissioner Stebbins – No
- The Commission denied the motion by a vote of two in favor and two opposed.
- Commissioner Stebbins moved to appoint Commissioner Concepcion as the Acting Chair for the purposes of conducting the next three regulatory review and meetings as currently noticed.
- Commissioner Concepcion seconded the motion.
- Commissioner Roy took a roll call vote:
 - Commissioner Camargo – Yes
 - Commissioner Concepcion – Yes
 - Commissioner Roy – Yes
 - Commissioner Stebbins – Yes
- The Commission unanimously approved the motion.

Commissioner Camargo moved to take a ten-minute recess.

- Commissioner Stebbins 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 10:50 AM (00:50:15)



3) Commission Discussion and Votes – 00:50:15

1. Draft Adult Use and Medical Use of Marijuana Regulations

- AGC Carter provided an overview of the regulatory review process. He stated that the Commission’s review would begin with 935 CMR 500.002. He opened the discussion to proposed amendments and debate.
- Commissioner Camargo raised the question of whether guidance needed to be provided around the term Reasonably Related, both for municipalities and industry professionals.
 - EC Lopez responded that the definition as written in 500.002 serves as the agency’s interpretation of “Reasonably Related”. She commented that guidance may be helpful for providing concrete examples.
 - Commissioner Camargo opined that the definition as written leaves too much room for interpretation.
 - EC Lopez replied that the Host Community Agreement (HCA) working group identified several examples of what would constitute “Reasonably Related” but did not incorporate them into the regulatory language as to not be overly prescriptive.
- The AC invited Director of Licensing Kyle Potvin (DOL Potvin) to comment.
- DOL Potvin concurred with EC Lopez. He noted that there is currently a guidance document on HCAs available to the public but will likely need to be revised following promulgation.
- Commissioner Camargo asked to clarify what procedural means the Commission must designate an expense as not “Reasonably Related”.
 - AGC Carter suggested that the matter be revisited as part of the discussion of 500.180(4)(c).
 - EC Lopez added that the legislature granted the Commission the authority to establish criteria for reviewing, certifying, and approving Community Impact Fees (CIF).
- Commissioner Roy proposed including concrete examples of unreasonably related expenses within the guidance document.
 - EC Lopez concurred.
- The AC asked if Commissioner Camargo was recommending a change to the language.
 - Commissioner Camargo responded that she was not proposing a change to the language.
 - The AC noted a consensus on revising the guidance around Reasonably Related fees.
- AGC Carter asked if there were any additional proposed edits to 500.002.
- Commissioner Stebbins noted that he would like to revisit the definition of Host Community Agreement Waiver later in the discussion.



- Commissioner Roy raised the question of expanding the language around the definition of “Model Host Community Agreement” to reflect that municipalities can execute the Model.
 - EC Lopez concurred. She recommended adding that an HCA that conforms to the Model HCA is deemed compliant. She further recommended adding clarifying language that an HCA that conforms to the Model HCA is a separate agreement that the parties can negotiate and execute. She proposed regulatory language including “signed and executed by the parties.”
- EC Lopez suggested a modification to the definition of Local Approval Process to reflect that the Commission has the sole authority to issue licenses to Marijuana Establishments (ME) and Marijuana Treatment Centers (MTC) and that there is not a separate local license.
 - The AC suggested using a word other than “licensing” to convey the municipal-level approval process.
 - AGC Carter proposed the word “permitting”.
 - The AC noted a consensus on replacing the word “licensing” with “permitting” in the definition of Local Approval Process.
 - AGC Carter reviewed the amended definition.
 - Commissioner Stebbins proposed further amending the definition to establish more clearly what the Local Approval Process is in practice.
 - EC Lopez offered language.
- Commissioner Camargo recommended establishing “Equity Participant” as a defined term to encompass Equity participants who are not operators.
 - The AC asked Commissioner Camargo to clarify how the proposed term is distinct from Social Equity Program Participant (SEPP) or Economic Empowerment Priority Applicant (EEPA).
 - Commissioner Camargo explained that her concept is for a designation that allows for the participant to become certified year-round in the same vein as Social Equity Businesses (SEB).
 - The AC asked Commissioner Camargo to provide an example of when this designation might be utilized.
 - Commissioner Camargo explained that currently, a qualifying Equity Participant would have to wait for the start of a new Social Equity Program (SEP) cohort to receive the SEP participant designation and access any related benefits. She noted that the proposed concept would allow qualifying ancillary businesses to become certified at any time.
 - The AC asked to clarify if the purpose of the concept is to create opportunities for SEP-qualifying Equity participants in the intervening time between SEP cohort application windows.
 - Commissioner Camargo responded affirmatively.
 - AGC Carter offered to discuss and help further develop the concept with Commissioner Camargo at a later time.



- Commissioner Roy expressed concern around some of the qualifying language in the definition of Community Impact Fee to potentially prohibit “unquantifiable, generalized expenses, good faith estimates, general impacts, and prorated impacts.”
 - EC Lopez identified the language to be serviceable as written. She invited Commissioner Roy to restate her concerns during the regulatory discussion of CIFs.
- The AC asked for any further questions or comments.
- AGC Carter identified edits to the language of 500.032. He noted that the edits have been made largely to ensure that the suitability tables are congruent with Chapter 180.
- Commissioner Roy asked if social consumption is in scope.
 - AGC Carter responded that it is, to the extent of the Pilot Program.
 - Commissioner Roy asked to clarify if the changes to the Pilot Program will be submitted for promulgation.
 - AGC Carter replied affirmatively.
- AGC Carter identified an edit to the language of 500.050(6)(a). He noted that the edit represents the effectuation of the body’s decision to remove the Pilot Program.
- The AC asked for any questions or comments.
- AGC Carter identified an edit to the language of 500.101(1)(a)(8).
 - Commissioner Stebbins noted that language may need to be introduced to the section pertaining to an HCA Review Waiver.
 - AGC Carter indicated that he would flag the matter for revisiting.
- Commissioner Roy asked to clarify if there is a need to insert language concerning a Model HCA.
 - EC Lopez stated that the language refers to the agreement that the parties have made. She added that a Model HCA may inform the agreement but will not in and of itself be the HCA for the business and municipality.
- AGC Carter identified the addition of new language to 500.101(1)(a)(11).
- Commissioner Roy asked if the Commission would be working with the Social Equity Trust Fund to provide guidance to licensees around the available means of contributing to the fund.
 - AGC Carter expressed his support of the idea. He suggested there may be a need to provide clarity around compliance as well.
- AGC Carter identified edits to the language of 500.101(2)(a).
- The AC asked for questions or comments.
- Commissioner Camargo noted the correlation between the language and her proposed concept of an Equity Participant designation.
- The AC provided additional context about the HCA working group’s thinking behind the pre-certification concept and regulatory language.
- Commissioner Stebbins raised the question of whether the Commission’s definition of Social Equity Business is in alignment with that of Chapter 180.
 - EC Lopez clarified that the definitions are not in conflict. She offered context around the nuances of the language.
- AGC Carter identified an edit to the language of 500.101(2)(f)(3).



- DOL Potvin noted that the language has been updated to reinforce that once an applicant is pre-certified, they will advance to the provisional license phase only when their application is deemed complete, as with non-EEP/SEP applicants.
- Commissioner Roy raised the question of why the language refers to an application being deemed complete but not approved or denied.
- DOL Potvin cited 500.101(2)(a).
- Commissioner Roy clarified that the phrase “subject to Commission approval or denial” did not need to be added to the language.
- DOL Potvin responded that the addition was not needed.
- The AC provided additional context about the procedural distinction between a complete application and an approved application.
- Commissioner Roy suggested adding the language, “subject to Commission approval or denial”. She expressed that the language as written may lead to confusion.
- The AC invited the group to comment.
- DOL Potvin acknowledged the potential for confusion. He added that there has historically been confusion around the subject. He offered further information about the process of deeming an application complete and the efforts to mitigate any confusion.
- Commissioner Roy proposed adding language to convey that once an application is deemed complete, the Commission reserves the right to approve or deny the pre-certification. She elaborated on her concerns that applicants may conflate a complete application with an approved application.
- DOL noted that 501.102(1)-(2) might be a more logical place for incorporating additional language.
- The AC asked Commissioner Roy if she had language to propose.
- Commissioner Roy offered language.
- EC Lopez commented that the proposed language is acceptable but that she is unsure of the appropriate place for it.
- The AC echoed EC Lopez’s comment. She asked Commissioner Roy for input about where the language would best fit within the regulations.
- Commissioner Roy deferred to EC Lopez.
- EC Lopez stated that she would consult with the Legal department to determine the best fit.
- Commissioner Stebbins offered language. He proposed that be included in 500.101(2)(f)(3).
- EC Lopez expressed support of the language and placement.
- The AC asked for questions or comments.



Commissioner Roy 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 12:05 PM (02:05:44).
- AGC Carter identified an edit to the language of 500.101(2)(g)(9)(b).
 - Commissioner Stebbins noted that language may need to be introduced to this section pertaining to an HCA Review Waiver.
- The AC asked for any further questions or comments.
- AGC Carter identified an edit to the language of 500.101(2)(g)(9)(d).
- The AC asked for questions or comments.
- AGC Carter identified edits to the language of 500.101(4)(a).
 - Commissioner Roy raised the question of whether it may be necessary to incorporate language about the possible denial of an application to help prevent any confusion, as with 500.101(2)(f)(3).
 - Commissioner Camargo noted a statement submitted by Daniel Donahue, House Chair of the Joint Committee on Cannabis Policy, regarding the section in question. She suggested that the body take a moment to review it before proceeding.
 - The AC proposed reviewing the statement over the lunch break.

Commissioner Camargo moved to take a forty-five-minute recess for lunch and to review the correspondence by Chair Donahue.

- 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 forty-five-minute recess, returning at 1:00PM (2:58:30).
- The AC called the meeting back to order. She formally recognized the statement by Chair Donahue. She added that Chair Donahue has been an invaluable ally in the creation and formation of Chapter 180. She read the statement aloud. She called for a motion to enter the statement into the record.
- Commissioner Stebbins moved to enter Chair Donahue's submitted statement into the record.



- 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 entering the statement into the record.
- The AC asked for questions or comments.
- EC Lopez proposed changing the term “Verification” to “Pre-Verification” in the section title to offer clarity around the fact that these are individuals who are not yet SEBs in statutory terms but are seeking formal verification of their eligibility. She offered language.
 - The AC proposed additional clarifying edits to the language. She asked EC Lopez to read the section aloud with the proposed edits.
 - Commissioner Roy asked if the language should be amended to encompass verified individuals as well as pre-verified individuals.
 - DOL Potvin in turn asked to clarify if the intent of the body is to promulgate regulations that effectively allow the Pre-Verification process to apply to marijuana establishment applicants and not a business that has already been licensed.
 - The AC concurred.
 - DOL Potvin recommended highlighting that Pre-Verification can occur prior to licensure.
 - Commissioner Roy proposed language to clarify that the language pertains to SEB applicants.
 - Commissioner Stebbins raised concerns about conflicting language.
 - EC Lopez offered alternative language.
 - The AC identified edits to the language of 500.101(4)(b).
 - Commissioner Roy asked to confirm that an entity can be designated an SEB.
 - The AC responded affirmatively.
 - Commissioner Roy suggested amending the language to reflect that both individuals and entities can be designated as SEBs and adding the term Pre-Verification throughout.
 - The AC asked for additional questions or comments.
 - EC Lopez noted that while Pre-Verification is term defined in the regulations, the body is not restricted from using the word in other ways and applications, as long as it is not capitalized.
- The AC asked AGC Carter to read subsections (a) and (b) aloud.
 - EC asked to clarify the policy intent.
 - The AC clarified the intent.



- EC Lopez suggested that both subsections (a) and (b) may not be needed then.
- The AC concurred.
- EC Lopez urged the body to determine if the language of the section is intended to encompass solely non-licensed contingent or also EEP/SEP licensees.
- The AC noted that the intention of the working group was to encompass both.
- Commissioner Roy raised the question of a third group: EEP/SEP participants who are not licensed.
- The AC noted that those individuals would be encompassed under Pre-Certification which is distinct from Pre-Verification.
- DOL Potvin offered further context.
- Commissioner Stebbins cautioned against convoluting the matter. He proposed that language intended to encompass the third group be revisited during the Municipal Equity discussion.
- EC Lopez offered clarifying language to subsection (b).
 - The AC asked for any further questions or comments.
 - Commissioner Roy asked if the language addresses Chair Donahue’s question around how the applicants “stand to benefit”.
 - The AC responded that the question will be addressed during their discussion of the language around Municipal Equity.
- AGC Carter identified edits to the language of 500.101(4)(c).
 - EC Lopez raised the question of what group subsection (c) is intended to address.
 - The AC indicated that the language is meant to address any individual that no longer satisfied the established criteria.
 - Commissioner Stebbins expressed that there may be a need to elaborate on what may constitute a material change.
 - The AC explained that the working group’s rationale for not elaborating was that there is similar language in the existing regulations that speaks to material change.
 - DOL Potvin elaborated on what is encompassed by “material change” under subsection (c), specifically. He discussed how it has and may be interpreted in other contexts.
 - EC Lopez added that material change as a compliance standard can be found in 500.102(1)(e). She quoted the regulation.
 - Commissioner Stebbins recommended inserting clarifying language to underscore the consequentiality of the material change.
 - The AC proposed qualifying language.
 - Commissioner Roy asked how the language accounted for the discovery of untruthfulness with regards to material change.
 - EC Lopez noted that the untruthful submission of information qualifies as a material change standard.
 - DOL Potvin reflected on Commissioner Stebbins’ concerns and offered suggestions of terms to use in lieu of a “material change”.



- AGC Carter shared proposed language.
- Commissioner Roy expressed objection to the term “qualifying condition”. She opined that it may be conflated with the defined term Qualifying Condition as it relates to the Medical-Use program.
 - EC Lopez proposed the term “qualifying criteria”.
 - Commissioner Stebbins suggested an edit to simplify the language.
- Commissioner Roy asked a clarifying question about when the term Pre-Certified is used versus Pre-Verified.
 - DOL Potvin expressed concern about differentiating the processes. He recommended limiting the language to Pre-Verification and Verification to help thwart confusion.
 - EC Lopez concurred. She proposed clarifying amendments to the language of subsection (a).
- The AC asked for any questions or comments.
- AGC Carter identified edits to the language of 500.101(4)(d).
 - Commissioner Camargo asked to clarify the function of the subsection.
 - DOL Potvin responded that there is a requirement in Chapter 180 to notify the Department of Revenue (DOR) of those businesses that qualify as SEBs. He added that the term carries two definitions within Chapter 180. He provided and overview of the distinctions.
- The AC asked for any questions or comments.
- AGC Carter identified edits to the language of 500.102(1)(d).
- The AC asked for any questions or comments.
- AGC Carter identified edits to the language of 500.102(4).
- The AC asked for any questions or comments.
- Commissioner Stebbins asked if the language in subsection (4)(f), requiring a marijuana establishment to request an invoice from its Host Community, will apply under the new regulations around the verification of HCAs.
 - DOL Potvin opined that the language in subsection (4)(f) is redundant and proposed that it be stricken.
 - The AC noted a consensus to strike subsection (4)(f).
- AGC Carter identified an edit to the language of 500.105(1)(m)(3).
- The AC asked for questions or comments.

Commissioner Roy moved to take a ten-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 ten-minute recess, returning at 2:50PM (4:50:13).



- AGC Carter introduced 500.180. He reviewed subsection (1).
- The AC expressed that she would like to take the opportunity to highlight that the effective date of Chapter 180 was November 9, 2022.
- AGC Carter reviewed 500.180(2)(a)-(b).
- The AC asked for questions or comments.
- AGC Carter reviewed subsection 500.180(2)(c)1.
- Commissioner Roy explained that since one party of an HCA is a municipality, it is considered a municipal contract and therefore falls under the purview of the Comptroller. She suggested replacing the language of subsection (2)(b) with that from the Policies and Procedures of the Office of the Comptroller.
- Commissioner Camargo proposed striking subsections (2)(a)-(c). She opined that it gave the perception of offering unchecked power to Chiefs of Police to sign off on HCAs.
 - DOL Potvin expressed objection to broadly striking subsections (a)-(c). He noted that subsection (a) in particular is consistent with the existing, unchanged law.
 - EC Lopez clarified for the record that the process involving Chiefs of Police is initiated only when a licensee is seeking the waiver of a security requirement.
- Commissioner Stebbins raised the question of how the language of (2)(c) interplays with CIFs.
- AGC Carter responded that ultimately it would be a compliance determination as well as a policy decision for the board to contemplate. He added that the language as written does seem to allow for some discretion on the part of the agency.
- The AC asked Commissioner Stebbins to clarify his concerns and whether he is in agreement with Commissioner Camargo that the language should be stricken.
 - Commissioner Stebbins expressed support of Commissioner Camargo's argument. He echoed her concern about undue financial burden on licensees and noted that the Commission retains the authority to contest the suitability and reasonable relatedness of a condition. He raised the question of whether striking the language would impede the ability of a community to be innovative in its approach to Agreements.
- The AC asked Commissioner Camargo to elaborate on her concerns.
 - Commissioner Camargo opined that the current language may offer municipalities disproportionate leverage.
 - Commissioner Roy countered that the language introduces safeguards to avoid that.
 - The AC concurred.
 - Commissioner Camargo thanked Commissioner Roy for the added perspective. She suggested inserting conditions as a compromise. She offered suggested language. She reiterated her concerns about municipalities imposing undue financial burden on businesses.
 - The AC noted that the language provided by Commissioner Camargo appears to be effectively a combination of subsections (a) and (d). She asked Commissioner Camargo to restate her position.



- Commissioner Roy noted Commissioner Camargo’s concerns seem to revolve around CIFs and arbitrary fees. She added that the Commission will be privy to the terms of all HCAs going forward. She expressed that the proposed language may be duplicative.
- Commissioner Stebbins stated that per the language of subsection (c)(2) necessitates that both parties will enter into the HCA in mutual agreement with the terms.
- Commissioner Camargo noted that the proposed language adds an extra layer of protection. She cited anecdotal reports of predatory contracts as told during the public hearing session.
- Commissioner Roy voiced that those contracts were entered into during a period where there was no Commission oversight.
- The AC proposed tabling the matter.
- Commissioner Stebbins elaborated on his position.
- EC Lopez noted that Commissioner Camargo’s proposed language could present an enforceability challenge as it repeats the non-cannabis business condition which could invite unwanted lines of inquiry. She elaborated on the distinction between reasonableness standards and “reasonably related”.
- Commissioner Roy opined that the phrase “good faith estimate” is conceptually at odds with Chapter 180.
- Commissioner Camargo noted that the proposed language is a starting off point. She reiterated the need for safeguards.
- The AC raised the question of whether to table the matter or establish a position before proceeding.
- Commissioner Stebbins proposed tabling the matter pending the discussion on CIFs.
- The AC noted a consensus on tabling the matter.
- The AC asked for questions or comments regarding 500.180(2)(c)(2)e-g.
 - Commissioner Roy proposed exchanging the language of subsection (2)(f) with that around municipalities and contracts from M.G.L., c. 40 § 4.
 - EC Lopez asked if Commissioner Roy wanted to include the entirety of the language or just a portion of it.
 - Commissioner Roy responded that she would like to fully incorporate the language because it is more comprehensive.
 - EC Lopez offered a recommendation on how to incorporate the language.
 - The AC raised the question of whether to leave or strike subsection (f).
 - DOL Potvin explained that laws are sometimes in conflict. He therefore proposed alternative language to target conditions “inconsistent with any previous or conflicting provision of any general or special law”. He opined that the language requires additional specificity. He expressed concern that it otherwise may be inconsistent with existing case law.
 - Commissioner Roy asked if that could be addressed by amending the language to subsection (f) by injecting the phrase “previous or current law”.
 - DOL Potvin recommended the “precedent law” or “current established law”.



- AGC Carter asked DOL Potvin to expound on his concerns.
- DOL Potvin provided a supporting example and emphasized that additional clarity is required.
- EC Lopez offered alternative language.
- Commissioner Stebbins asked to clarify if there is any distinction between “agreement” and “contract” in this context. He noted that the Office of the Comptroller deals in the provision of goods, etc. He raised the question of whether the intent of their chosen language may be asynchronous with the policy objective.
- Commissioner Roy noted that “contract” is used in this instance as a verb and not a noun.
- The AC noted a consensus on the language. She asked for further questions or comments.
- The AC reviewed 500.180(2)(c)(3)-(5). She asked for questions or comments.
- The AC reviewed 500.180(2)(d)-(e).
- Commissioner Stebbins raised the question of whether “good compliance standing” should be defined.
 - EC Lopez advised against the Commission establishing a definition so as not to limit itself. She noted that it is generally defined as being in compliance with the regulations.
- Commissioner Camargo raised the question of what approval of HCAs means in the context of subsection (e).
 - The AC responded that approval in this context refers to the Commission’s approval of the HCA.
 - EC Lopez concurred. She added that it is conditioned on good compliance standing. She offered an example.
- The AC reviewed 500.180(2)(f)-(h).
- Commissioner Stebbins recommended striking the verbiage regarding a name change.
 - DOL Potvin acknowledged the burden of renegotiating a contract as the result of a name change. He added that contracts are agreements between named parties. He further added that, technically speaking, the only change required on the contract is the name change, though that route may conceivably lead to enforceability issues.
 - Commissioner Roy asked if a Change of Name Agreement could function in lieu of a new HCA.
 - DOL Potvin noted that an amendment to the HCA would be required at the very minimum, with both parties signing off.
 - The AC stated that the language does allow a “new or amended HCA”.
- Commissioner Stebbins proposed amended language for subsection (h) regarding a change of location within the same municipality.
 - Commissioner Camargo advocated for simplifying the language wherever possible.
 - EC Lopez added that a guidance document can be provided for simple name changes.



- Commissioner Stebbins maintained his concerns.
- Commissioner Camargo asked Commissioner Stebbins for an alternative option.
- Commissioner Stebbins proposed adding the language, “location change within the municipality”.
- DOL Potvin clarified that even with a simple name change amendment, the HCA becomes a new contract. He acknowledged that the language is not intuitive.
- The AC expressed support of EC Lopez’s name change guidance document recommendation. She asked Commissioner Stebbins how he would like to proceed.
- Commissioner Stebbins responded that he would like to ensure the language does not suggest that anyone seeking a name change will have to pursue a new HCA. He asked DOL Potvin if there is a need to offer guidance around whether a legal name change or name change request to the Commission should come first.
- DOL Potvin responded that under the new regulations the updated HCA would be required first, and the name change would be administrative on the part of the Commission.
- Commissioner Roy asked DOL Potvin if a name change constitutes a change of ownership.
- DOL Potvin responded that currently they are separate processes.
- Commissioner Stebbins again proposed adding the language, “location change within the municipality” to help thwart any confusion among licensees.
- EC Lopez noted that the intention of the HCA working group was to cover any change of location even within the same municipality. She offered to conduct additional legal assessment.
- DOL Potvin noted that this topic is especially important in larger municipalities.
- Commissioner Roy asked about the process to change the license type of an HCA.
 - DOL Potvin noted that per subsection (4), an HCA must specify the license operations permitted under the terms.
 - Commissioner Roy asked if a change in license operation would require an amendment.
 - DOL Potvin discussed the protocol in that instance.
- Commissioner Roy asked what would prevent a business from switching or adding license operations directly upon licensing or renewal.
 - DOL Potvin responded that licensees are required to ensure that the agency is up-to-date or risk compliance issues.
 - EC Lopez reflected on the controls, regulatory systems, and safeguards the agency has set in place.
 - The AC noted a consensus on the language as written.
- The AC reviewed 500.180(2)(i).
- Commissioner Roy proposed language for subsection (5).



- The AC noted a consensus on the language.
- The AC reviewed 500.180(2)(j)(1)-(3).
- Commissioner Roy asked the AC if the Department of Revenue submitted commentary.
 - The AC noted that it seemed their interpretation of the language was not consistent with the intent. She read the comment into the record.
 - DOL Potvin concurred with the ACs analysis. He added that their position is more applicable to Municipal Equity under 500.181.
- The AC reviewed 500.180(2)(j)(4).
 - Commissioner Roy asked if this is the appropriate area for inserting her proposed language for subsection (5) around what is excluded as an acceptable CIF.
 - EC Lopez noted that it could be included here as a new subsection or under the General Requirement section under CIFs.
- Commissioner Roy asked how generalized costs are identified unless a licensee submits a complaint.
 - The AC stated that the body will revisit the matter.
- The AC reviewed 500.180(2)(j)(6). She asked for questions or comments.
- Commissioner Roy noted for the public that she is seeking assurance that contractual vehicles such as Memorandums of Assurance (MOA), Memorandums of Understanding (MOU), etc. would be prohibited under the new regulations.
 - EC Lopez noted that the statute indicates HCAs will include all stipulations and responsibilities between the parties.
 - DOL Potvin concurred. He added that MOAs, MOUs, etc. could hypothetically be considered as part of the HCA, as they contain responsibilities and stipulations.
 - Commissioner Roy asked DOL Potvin to expound on his statement on MOAs and MOUs.
 - DOL Potvin noted that the possibility cannot be ruled out with certainty as a matter of law.
- The AC asked for questions or comments.

Commissioner Camargo 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 5:15PM (7:13:47).
- The body discussed the possibility of convening on Thursday, September 21, 2023.



- The AC reviewed 500.180(2)(j)(7)-(8). She asked for questions or comments.
 - Commissioner Roy asked to clarify that the language around charitable contributions in subsection (8) and whether that encompasses contributions directly to municipalities.
 - Commissioner Stebbins noted that a monetary payment would be covered.
- 4) Next Meeting Date– 07:21:17
- The Acting Chair noted the next meeting would be on September 19, 2023.
- 5) Adjournment – 07:20:06
- Commissioner Camargo moved to adjourn.
 - 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 the motion to adjourn.

