

CANNABIS CONTROL COMMISSION

September 22, 2023

1:00 PM

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

PUBLIC MEETING MINUTES

Documents:

- July 14, 2022, Commissioner Roy letter regarding suitability
- September 22, 2023, Draft Regulations

In Attendance:

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

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 – 00:01:28

- The Acting Chair (AC) asked all Commissioners if anyone had any opening comments. No Commissioners had opening comments.
- The AC pointed out the significant moment and thanked everyone who had been with them internally and externally.

3) Commission Discussion and Votes – 00:02:00

1. Draft Adult Use and Medical Use of Marijuana Regulations

- The AC asked Acting General Counsel Andrew Carter (AGC Carter) to introduce the section for discussion on Municipal Equity.
 - AGC Carter guided the Commission's attention to 935 Code Mass. Regs. § 500.181, Subsection 5, of Equity Standards for Positively Impacting



Communities that were Disproportionately harmed by Marijuana Prohibition and Enforcement.

- The AC proposed new language that would amend Subsection (5)(a) and strike Subsection (b). She voiced the reasons the language required amendment.
 - Commissioner Stebbins expressed agreement with the proposed language and recognized its ability to establish a standard. He inquired about the possibility of incorporating a social equity business group. He discussed the potential development of future guidance that would focus on creating job opportunities for residents as another component of the plan.
 - The AC concurred with Commissioner Stebbins and suggested further context around the proposed language. She emphasized that incorporating the language would ensure that Positive Impact Plans (PIPs) from licensees would align with the standards and requirements set by municipalities and host communities.
 - Director of Licensing Kyle Potvin (Director Potvin) commented that the five populations are already established as Areas of Disproportionate Impact by the Commission's policy. He added that when applicants and licensees are developing a PIP, they can pick one or more of those five groups to have a positive impact. He said that having the same standard for municipalities would make sense.
 - The AC added that she will find the language to make the plan accessible for the public.
 - Enforcement Counsel Rebecca Lopez (EC Lopez) added that she agreed with Director Potvin. She stated she believed that it was reasonable to apply to municipalities the same standard currently applied to licensees.
- Commissioner Roy proposed amended language to the title for Subsection (5).
 - The AC agreed.
 - Commissioner Camargo agreed with Commissioner Roy.
 - The AC read her proposed language in its entirety.
 - Commissioner Roy asked if they should add another sentence and proposed additional language.
 - Director Potvin offered language that was slightly modified. He added that the language already existed in the Commission's regulations as it pertained to PIPs for applicants and licensees.
 - Commissioner Roy stated she lifted her language from the guidance and Director Potvin lifted his from regulations.
 - The AC agreed.
- AGC Carter asked Investigations and Enforcement Project Manager Mercedes Erickson (Manager Erickson) to ensure they had captured the edits and consensus of the Commission before moving onto the next section.
- Commissioner Roy asked the AC if the language she proposed was replacing Subsection (a).
 - The AC answered that it would.



- Commissioner Roy raised a question regarding Subsection (b)(1) and expressed the importance of avoiding any negative impact on the Cannabis Social Equity Trust Fund.
 - The AC answered that the whole thing would be stricken and added that this language would be the only language unless there are recommendations.
 - Commissioner Camargo noted she wanted to add municipality into the title to add clarity.
- EC Lopez asked if the Commissioners would be establishing criteria for donations to the Cannabis Social Equity Trust Fund.
 - The AC answered that they would not.
 - EC Lopez mentioned that her advice with respect to that was put on the record at the last meeting.
 - The AC asked EC Lopez to refresh their memory.
 - EC Lopez stated that the statute does obligate the Commission to promulgate regulations that establish criteria for licensees to donate to the Cannabis Social Equity Trust Fund.
 - The AC mentioned that the language was currently on page 32 of their hard copy and that was why she suggested removing it on page 78. She added that the language on page 32 satisfied that statutory requirement.
 - EC Lopez stated that this is a difference that the Board may want to contemplate.
 - Commissioner Roy expressed gratitude to EC Lopez and inquired about the notification process. She suggested that part of the criteria could include businesses notifying the Commission upon renewal if they made donations to their PIP.
 - Director Potvin clarified that if Commissioner Roy was referring to licensees updating them on their progress towards their goals and PIP, that it was already a preexisting requirement during the renewal process.
 - Commissioner Camargo asked if a required criteria would be when they would have approval to commence operation.
 - EC Lopez answered that it could be an example of criteria because the language stated criteria allowed Marijuana Establishments (MEs) and Medical Marijuana Treatment Centers (MTCs) to satisfy their PIP by donating in part to the fund. She added this is a policy space that the Commission could explore. She stated there is a permissibility expectation in terms of the Commission setting the criteria.
 - Commissioner Camargo made a recommendation to include as one of the criteria whether the licensee had commenced operations or obtained approval for commencing operations.
 - Commissioner Stebbins agreed and mentioned that he wanted to add upon commencing operations that the ME may satisfy the requirement to donate.
- The AC asked if Commissioner Stebbins would like for the existing language to remain for Subsection (b)(1), and then she proceeded to read the language. She asked if everyone was okay with that language remaining.



- Commissioner Stebbins and Commissioner Camargo agreed.
- Commissioner Roy voiced that she was curious what Director Potvin had to offer.
 - Director Potvin stated that based on the conversation earlier in the meeting, there were some recommendations from certain Commissioners that Subsection (5) under 935 Code Mass. Regs. § 500.181 applied to municipalities and that having that language about licensees could cause confusion. He concurred with EC Lopez. He offered his recommendation as being more appropriate.
 - The AC stated that she believed the confusion could be rectified by the title of Subsection (5). She added that she agreed with her fellow Commissioners about including the language and that they could make sure the title did not cause any confusion.
 - Director Potvin acknowledged that the suggested solution might be simpler than his original recommendation, as it offered clarity.
- Commissioner Stebbins asked EC Lopez if establishing criteria would be enough on page 32 to satisfy their obligations with the statute.
 - EC Lopez stated she would prefer the Commissioners came up with another criterion as criteria is plural.
- Commissioner Roy asked the AC for clarification.
 - The AC answered that it would be the same section and the language would remain but they would align the title with the section so there was no added confusion.
 - Commissioner Roy asked if there was opposition to moving the language to the other section that Director Potvin suggested.
 - The AC responded affirmatively.
- Commissioner Stebbins asked EC Lopez if a second criteria could be to offer another time frame in which a licensee or ME could make a donation. He added that if more than one condition was required by statute that he would rather see it related to timing.
 - Director Potvin thanked Commissioner Stebbins for his proposal. He added that renewals were attached to the annual renewal requirements. He stated he saw a potential conflict and offered a possible solution regarding the first renewal after they have commenced operations.
 - The AC suggested that Commissioner Stebbins could add any additional comments.
 - Commissioner Stebbins thanked the AC and stated he appreciated Director Potvin's ideas. He voiced that he was happy with any language where it would give flexibility to small businesses to contribute. He added that he liked the idea around making the donation upon commencing operations, or on their one-year anniversary of commencing operations.
 - The AC voiced that there is an opportunity to add criteria that provided clarity. She wondered if the additional criteria would add clarity by stating that in order to contribute that the business would also need to have an additional component to their PIP.



- EC Lopez asked the Commissioners if there were a minimum number of objectives that they would accept a licensee to pursue in addition to the PIP and what they would like to see.
 - Commissioner Stebbins stated his initial reaction was that they are producing some type of chilling effect on the option to give a contribution, by requiring another component of the plan due to them already fulfilling their obligations under the PIP. He mentioned he saw the worthy intentions, but he also saw the possibility of a licensee shying away from making a contribution to the Cannabis Social Equity Trust Fund, and just confining themselves to two elements of the PIP.
 - The AC noted that the law does not allow a business to completely satisfy a PIP simply by donating. She added the importance of adding clarity to explain that this alone is not sufficient under Chapter 180.
- Commissioner Camargo asked a clarifying question regarding if it was a mandate to have two conditions for criteria.
 - AGC Carter answered that the word “criteria” is plural so therefore they should think about the legislative language before them as plural as opposed to singular. He added that it would be legal advice to follow the language as it was written. He noted that Commissioner Stebbins’ and EC Lopez’s suggestions were interesting and that they had a few different areas for the Board to contemplate.
 - Commissioner Stebbins noted that the donation only gets businesses halfway to fulfilling the obligations for the PIP. He suggested setting those two pieces aside and focusing on what the other criteria could be, making it clearer for the applicant as they are putting their PIP together.
- The AC proposed language from Kevin Gilnack from the Massachusetts Equitable Opportunities Now and read it to the Board. She asked her fellow Commissioners for their thoughts and input.
 - Commissioner Camargo noted confusion regarding licensees and municipalities.
 - The AC clarified that Subsection (5)(a) is for municipalities and Subsection (5)(b) is for licensees. She added that Subsection (b) is a requirement as EC Lopez stated. She noted that the Commission had to create criteria in order for licensees to make contributions to the Cannabis Social Equity Trust Fund based on the law. She added that essentially Subsection (a) is about municipal PIPs.
 - Commissioner Camargo thanked the AC for the clarification. She added that she liked the language and was curious what other folks thought.
 - Commissioner Roy added the possibility of the criteria including consumer education, by requiring the licensee provide patients and consumers with a short description on the Cannabis Social Equity Trust Fund.
 - Commissioner Stebbins expressed confusion regarding Subsection (5), under Municipality Equity, and suggested that they should focus on requirements imposed on municipalities or host communities. He noted that he was under



the impression that the intention was to take the requirement to establish the criteria for a donation to the Cannabis Social Equity Trust Fund and move that back into the earlier section where it talked about fulfilling the obligation of a PIP.

- The AC asked Commissioner Stebbins a clarifying question regarding if his suggestion was the same as Director Potvin's earlier suggestion.
- Commissioner Stebbins responded affirmatively. He expressed approval of the language suggested by the AC. However, he emphasized the significance of inviting donations once licensees have commenced operations and are generating revenue, in order to avoid placing undue financial burden on them before they start earning income.
- The AC requested that the section regarding licensees maintain the language, found on page 78, while incorporating the suggested criteria mentioned in the chat.
- Commissioner Stebbins suggested keeping this section as just for municipalities.
- The AC clarified that the language would be on page 32.
- Commissioner Stebbins stated that he would like to take some of the existing language but add "any time" after commencing operations.
- Commissioner Roy added that when they approve a licensee provisionally, and in a final license, part of their affirmative vote would be an affirmation of their PIP. She stated that her concern with commencing operations was that they are adding more administrative burden. She gave a hypothetical, and added they are closing revenue streams and hurting the fund.
 - Commissioner Stebbins added his thought that Chapter 180 stated criteria that would allow an ME to contribute to the Cannabis Social Equity Trust Fund, and the Commissioners are charged with creating criteria to accomplish that. He added that when reading renewal applications, folks always say they haven't made that donation yet, because they haven't opened their doors and they have no money coming in, so this would give them the option to do that.
 - EC Lopez reinforced what Commissioner Stebbins stated regarding that the provision was not stopping anyone from making a donation to the trust fund, that it was about whether or not they could do that and get credit for that towards their PIP compliance. She added it would not cut off revenue streams.
 - The AC stated that Commissioner Roy brought up a good point because technically what they would be stating is that if a licensee made a donation prior to commencing operations, then that would not count, and this would be disincentivizing them to make that donation until they commenced operations.
 - Commissioner Roy agreed that it would disincentivize donations.
 - The AC suggested the language to state "provisional licensure" instead of "commencing operations."
 - Commissioner Camargo added that she did not want to stop the equity fund from access to donations but also wanted to make sure that they did not leave



- space for bribery. She mentioned she did not want to stop any money that was going into the equity fund.
- Commissioner Stebbins stated he disagreed about discouraging investment and offered amended language.
 - The AC voiced one tweak to the language.
 - Director Potvin disagreed with the citation and made suggestions.
 - The AC mentioned that his suggested change in the language would address the issue raised by Commissioner Roy.
 - Commissioner Stebbins thanked Director Potvin for scouting out the citation. He added that he believed they need do some actual rewarding to make sure that the donation of the Cannabis Social Equity Trust Fund is in the appropriate place.
- The AC asked Director Potvin if he could offer amended language.
 - Director Potvin stated he would and that it would take him a couple minutes.
 - Commissioner Roy asked Director Potvin if it would be better if they broke them into two sentences making it plural criteria.
 - Director Potvin answered that he would draft new proposed language.
 - The AC went back to the language around municipalities and wanted to see if there was consensus before moving forward. She read the language. She asked the Board if they had consensus on that language for Section 5, on page 78.
 - Commissioner Stebbins inquired whether it would be necessary to provide a definition to offer clarity to municipalities included in the Equity Plan. He emphasized the importance of ensuring that this plan would not be separate from what the municipalities were entitled to already.
 - The AC stated that it was a separate plan.
 - Commissioner Roy thanked the AC for the excellent language and brought attention back to the title of Section 5. She stated that they were missing the words Host Community after equity standards.
 - The AC stated she wanted to nuance the language then go back to the title. She asked where the Equity Plan was listed in their hard copy of the draft.
 - Commissioner Camargo answered page 76.
 - The AC asked Commissioner Stebbins to restate his statement regarding the Equity Plan.
 - Commissioner Stebbins reread his suggested language.
 - The AC took back her comments and agreed with Commissioner Stebbins. She apologized for any confusion and read the language with his edit.
 - Commissioner Stebbins suggested publishing and making the plan available in a conspicuous location.
 - EC Lopez made a suggestion and read it to the Commission.
 - The AC asked EC Lopez if her recommendation was to edit the beginning of the statement to incorporate that language.
 - EC Lopez inquired if the Board was referencing (3)(b)(2) which is the language that precedes the publication.



- The AC confirmed and asked if EC Lopez meant they should not reference an Equity Plan here because they are talking about a PIP.
- EC Lopez acknowledged that her previous statement aligned with the current discussion. She clarified that if the Commission desired to incorporate both goals, then they possessed the authority to interpret the statute accordingly.
- The AC suggested not to include the term Equity Plan.
- Commissioner Camargo agreed.
- Commissioner Stebbins acknowledged the previous discussion on a new title for Subsection 5, and expressed that having that information could assist him in determining his position on the AC's proposed language.
 - The AC stated that was the next step and asked if he was waiting for the title to see if he agreed with the language.
 - Commissioner Stebbins responded affirmatively.
- The AC redirected onto the topic of the title.
 - Commissioner Roy suggested a possible title. She added they would need to include "Host Community" in the title and add to "promote and encourage full participation".
 - EC Lopez recommended including Host Communities and read the proposed language.
 - The AC stated she thought that was very clean. 3
 - Commissioner Roy added she thought she was in agreement but asked why they removed "full participation".
 - The AC asked EC Lopez if she could explain her amendment.
 - EC Lopez provided clarification.
 - The AC added her own interpretation. She inquired if the Board was in alignment with the title. She noted consensus on the proposed language.
- The AC directed the Board to page 32, regarding Positive Impact Plans, as it related to licensees. She asked Director Potvin to state his proposed language.
 - Director Potvin read his proposed language and gave an explanation. He welcomed suggestions or edits.
 - The AC asked Director Potvin to point where this language would appear.
 - Director Potvin stated that it would need to be dropped in two different sections. He proposed to strike the language and replace it with his proposed language.
 - The AC asked for clarity regarding if the provision was optional or conditional.
 - Director Potvin clarified they were permissible options and not mandatory. He added that the language could satisfy a PIP.
 - Commissioner Roy thanked Director Potvin for the clarity because her concern was that the language was overly prescriptive.
 - Commissioner Stebbins voiced that he liked how EC Lopez framed the discussion. He added that he wanted people to understand that it would be only prescriptive if the business had an interest in being eligible for that leadership criteria.



- The AC asked if Commissioner Stebbins was recommending that they insert some additional language.
- Commissioner Stebbins stated that he was, but wanted to go through the regulations to see how to edit it first. He asked if the Board was effectuating regulatory changes now under the leadership award section by acting on his suggestion.
- Director Potvin advised omitting the leadership rating program and adopt the language as provided by EC Lopez.
- Commissioner Stebbins thanked him for the explanation.
- The AC agreed and asked for consensus. She noted consensus for page 32, 935 Code Mass. Regs. § 500.101(1)(a)11.
- Director Potvin identified the second place for the proposed language for 935 Code Mass. Regs. § 500.101(2)(g)9.d.
 - The AC read the language.
 - Director Potvin confirmed that it would be replaced by the language proposed by EC Lopez.
 - The AC asked the Commissioners if there was consensus.
 - Commissioner Camargo expressed appreciation for Director Potvin's legal expertise.
 - The AC noted a consensus. She continued with 935 Code Mass. Regs. § 500.181(3)(c)2, of Municipal Equity regarding cap removal. She brought up the previous point made by the Massachusetts Municipal Association (MMA) and added additional language that would address the concern.

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 approved taking a five-minute recess, by a vote of four in favor and none opposed, returning at 2:55PM (1:52:57).
- The AC asked AGC Carter to remind the Board where they left off in the discussion.
 - AGC Carter read the language regarding caps.
 - Commissioner Camargo drafted language. She spoke with staff for guidance on the language. She indicated the goal was to provide a fair and equitable process to individuals who want to become licensed.
 - Commissioner Roy emphasized the importance of the Commission being prepared for potential legal challenges. She reiterated that equity was the shared objective and that the Commission should strive to be mindful of that goal.



- EC Lopez asked a clarifying question and suggested that businesses could submit a waiver through their general waiver process.
- Commissioner Camargo mentioned this was a first draft that would provide relief for municipalities.
- Commissioner Stebbins added that it would be helpful to not create another whole new process. He added that they need to have language that would be fair to smaller communities. He noted the goal was to help municipalities incorporate equity while trying not to restrain them. He stated he liked the steps they are making here and liked EC Lopez's point due to using the existing waiver process as the outlet for the communities to seek that relief.
- AGC Carter echoed similar comments as EC Lopez. He added that it may be prudent to consider the waiver process because it contemplated undue hardship, public health, safety, welfare, and other statutory requirements. He stated the Commission already had forms and a process developed, and that staff is familiar with enforcement.
- EC Lopez suggested language.
- Commissioner Roy asked EC Lopez a clarifying question.
- EC Lopez confirmed that the Commission could explore a policy where the identifying waiver is an option for this particular requirement. She added that what would also be applicable to any waiver request submitted to this requirement, would be a demonstration of the compensating actions that the Host Community is taking to compensate for seeking an exemption from the requirement altogether.
- The AC offered an amendment to the language.
- Commissioner Roy asked if municipalities were precluded from making donations in general and if that was the reason for the stricken language.
- AGC Carter answered that there were challenges with municipalities making these types of appropriations.
- The AC asked AGC Carter if this was the last issue that was flagged within the section of the regulations.
 - AGC Carter suggested they have ministerial edits in a few sections: 935 Code Mass. Regs. § 500.300, § 500.301, and § 500.310.
- Commissioner Stebbins asked for clarification on the working group's goal as it did not appear anywhere else in the municipal equity section.
 - The AC answered that this language was based off their internal research around which communities have been most harmed by cannabis prohibition and enforcement.
 - Commissioner Stebbins stated that her answer helped him understand and provided clarification in how it connected to the disproportionate impact.
- The AC asked EC Lopez to read the proposed language.
 - EC Lopez read the new potential language to the body.
 - Commissioner Roy asked EC Lopez if she could define compensating features.



- EC Lopez answered that it was not a defined term, as it was a part of the established criteria in connection with their waiver process, and it is meant to account for the variation in factual circumstances that necessitate someone to seek a waiver.
- Commissioner Roy asked if it meant a monetary exchange.
- EC Lopez answered that it is not necessarily monetary in nature, but it was a flexible standard that was proposed by the requester.
- Commissioner Roy asked for clarity regarding if that language already existed elsewhere in their waiver process.
- EC Lopez answered that compensating features was the second criteria to the waiver review process.
- Commissioner Stebbins believed this language satisfied Commissioner Roy's concern which she raised at the last meeting. He added it was a viable option for a community to pursue.
- The AC noted a consensus.
- AGC Carter went on to 935 Code Mass. Regs. § 500.300, which is the Complaint Process section. He flagged feedback he received about § 500.320, where the Board should include language pertaining to Host Communities.
 - The AC noted a consensus.
- AGC Carter moved to 935 Code Mass. Regs. § 500.500, which pertains to hearings and appeals on actions of licensees.
 - Commissioner Stebbins asked if Host Communities should be considered under this section.
 - AGC Carter invited EC Lopez and Director Potvin's thoughts about the title needing to be revised.
 - Director Potvin suggested that the Board rename that section and made a suggestion.
 - The AC noted a consensus to change the heading.
- AGC Carter went on to the next section regarding suitability standards for registration as a Marijuana Establishment agent.
 - Commissioner Roy applauded the AC for her work on suitability and for helping with the goal of transitioning folks out of the legacy market into the legal market. She noted that this effort created more jobs in the industry for folks to be successful post-incarceration. She voiced her concern around removing the mandatory disqualifications for sex offenders from the law. She added it was put there for public safety and public welfare. She stated the industry has spoken very loudly on that and the Commission has even received a petition. She noted the legislature has spoken and workers, patients, and consumers do not support this. She made a motion to reinsert the sex offense felony conviction for sex offenses, strike indefinite, and reinsert mandatory disqualification.
 - The AC mentioned they need to understand what is allowed under the law and asked EC Lopez to provide clarity.



- Commissioner Roy asked the AC about a letter she sent to the Commissioners on July 14, 2022, regarding this topic. She highlighted one section of the letter. She stated the language she supported was passed in Chapter 180.
- The AC stated she did not write the language and that it was provided by a member of the Senate that was unanimously approved by every member of the Senate. She stated that during the July 28th public meeting she spoke on record about what her intentions were behind her advocacy efforts and support. She restated for clarity.
- EC Lopez voiced that the Commission is bound by the plain language of the law and their jurisdiction is defined by what the legislature puts forth for them. She added their authority is to carry out and effectuate the intent of the legislature and to interpret the statute.
- Director Potvin concurred with EC Lopez's comments.
- Commissioner Roy asked EC Lopez to read the phrase that the Commission could cite.
 - EC Lopez explained the suitability tables. She added that the catchall provision was for circumstances that may not be foreseeable.
 - Commissioner Stebbins agreed with the AC regarding her testimony. He voiced his major concern regarding the sex offenses. He added that he did not believe the catchall is in the right place.
 - The AC noted that he raised valid concerns. She added that this language did not require sex offenders to be hired and that employers still have that discretion. She added that there are federal protections and requirements that state employers are required to assess potential employees based on their positions.
 - EC Lopez provided clarity about the look-back period and how they utilize information if there are any time constraints. She added in terms of the look-back period it is currently five years and offered a hypothetical.
 - The AC asked if they were worried about the workplace environment in terms of safety and whether the Commission was able to look beyond that time frame.
 - EC Lopez noted they could not under the current regulations and statute. She added they do not have the authority to rely on criminal history as a ground for exclusion for employment, except for the certain exceptions under the law. She noted the distinction in the law regarding owners and agents.
 - The AC asked if they had the ability to expand the look-back period within our authority here at the Commission.
 - EC Lopez confirmed that they may decide to expand the look-back period for the public health, safety, and welfare suitability standard beyond five years. She noted that requirement was not under statute.
 - The AC stated she believed this was an area and a section that they should amend.
 - Commissioner Roy asked EC Lopez whether the Board could, without looking at an applicant's criminal history, apply the standard where there



- might be a question whether a licensee's prior actions pose a risk to public health, safety, and welfare.
- EC Lopez read the suitability standards.
 - Commissioner Roy reworded her question.
 - EC Lopez gave an example regarding non-criminal matters. She added that staff would assess any suitability matter that is referred to them consistent with the statute. She added they would not rely on this standard to circumvent the statute and she counseled against that policy.
 - Commissioner Roy asked whether this standard could be applied to alleged criminal risk to public health safety or welfare.
 - EC Lopez counseled against relying on this standard to address concerns with criminal conviction or prior criminal case disposition because it would run afoul of the statute.
 - Commissioner Camargo explained the need for more education around suitability. She asked if there will be guidance and education on the suitability charts after this regulatory process.
 - The AC stated before the Chapter 180 became law, that there was already a working group in existence, that was dedicated to creating a guidance document around suitability due to misinformation and lack of understanding about their suitability charts. She planned on working with staff to create a guidance document after the implementation of the new law.
 - Director Potvin added that there can never be enough communication about policy. He noted his interactions with the staff over the past year including updating the website and guidance documents. He agreed that there needed to be a guidance document on suitability. He added that efforts have been taken in this regard.
 - The AC noted where they really see this issue arise is through their social equity program due to participants who were admitted into the social equity program but then they could not work in the licensed establishments due to their suitability.
 - Director Potvin added that Chapter 55 of the Acts of 2017 carved out an exception for marijuana-related offenses even as they pertain to felonies and licensees.
 - The AC asked if anyone had recommendations for language.
 - Commissioner Roy voiced her frustration and concern with sex offenders having access to personal identification and delivering to family's homes. She proposed to leave language regarding the ban of sex offenders from the table and gave the reason why she believed it did not conflict with statute.
 - The AC asked if there was consensus.
 - EC Lopez provided more understanding of the laws surrounding the Sex Offender Registry Board. She explained that individuals with criminal convictions are treated more favorably under their policy, than individuals who are required to register before the Sex Offender Registry Board, or who receive that determination for civil-related reasons regarding mental health.



- Commissioner Stebbins stated he appreciated that they were trying to create regulations that comply with the law but he wanted to feel comfortable that regulations being created are operable for their team. He mentioned the importance of maintaining their responsibility of protecting the health, safety, and welfare of the folks of Massachusetts within the Cannabis industry. He asked if the Commission would have any space to decide that if folks have a level 2 or 3 determination that they would not be suitable for working in the Cannabis industry. He added his worry about the likelihood to re-offend and that person gaining access to personal information.
- EC Lopez voiced that the Commission's authority to act is limited by the legislature. She added that the legislature sets the parameters that the Board operated in through statute. She stated the legislature has not expressed the same desire to create an exception for this group of individuals and she would not counsel the agency to adopt a policy that seeks to circumvent what the legislature has provided in the statute. She counseled against reviving the language that was stricken.
- Commissioner Roy proposed additional language.
- Commissioner Camargo noted she wanted to make sure the language that Commissioner Roy proposed was good from a legal perspective.
- EC Lopez stated that reviving a suitability standard to disqualify an individual on the basis of their registration as a sex offender would violate the law. She again counseled against enacting that policy.
- AGC Carter agreed with EC Lopez.
- Commissioner Roy rephrased her comments.
- Commissioner Camargo asked if Commissioner Roy had any other amendments or recommendations for this section.
- Commissioner Roy stated that she did not.
- Director Potvin gave clarification that criminal dispositions could conclude with guilty, not guilty, dismissed, or continued without a finding, but the disposition, more likely than not, came with conditions including to register as a sex offender. He concurred with AGC Carter and EC Lopez that they need to operate within the law as prescribed by the legislature.
- Commissioner Roy asked if the body had to agree with counsel as they do have the authority to decide on their own despite the advice of counsel.
 - AGC Carter stated they are ultimately the policy makers but that this policy matter may invite litigation.
 - Commissioner Roy mentioned inserting certain language.
 - Commissioner Stebbins asked EC Lopez about the suitability questionnaire she made and if it had a question about whether an individual had been jailed for a sex offense or failure to register on a sex offender's list.
 - EC Lopez stated that the tool was created under the prior suitability standards and she believed it asked about sex offenses.



- Commissioner Stebbins asked if there is anything that prohibited the Board from advocacy, or whether they may offer any technical assistance to our licensees around their rights and their concerns over this change.
- AGC Carter stated that licensees have a duty to customers and patients that visit their businesses which include taking appropriate steps to protect them from harm.
- The AC asked EC Lopez a clarifying question relative to Commissioner Stebbins' question.
- EC Lopez stated there was nothing preventing the Commission from providing guidance. She then counseled against the agency explicitly promoting a preference for kinds of individuals that businesses should or should not hire.
- Commissioner Roy motioned proposed language and then read it aloud.
- The AC asked if there was a second.
- Commissioner Stebbins asked to review the language.

Commissioner Roy moved to take a five-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 approved taking a five-minute recess, by a vote of four in favor and none opposed, returning at 4:40PM (3:37:34).
- Commissioner Roy stated read her proposed language.
 - Commissioner Stebbins asked if the motion was to be included in Table B.
 - Commissioner Roy confirmed.
- Commissioner Stebbins seconded the motion.
- The Acting Chair took a roll call vote:
 - Commissioner Stebbins – No
 - Commissioner Roy – Yes
 - Commissioner Camargo – No
 - Acting Chair Concepcion – No
- The Commission denied the motion, by a vote of three opposed and one in favor. (03:40:41).
- The AC stated she voted no because of the reasons outlined by the three attorneys.
- AGC Carter welcomed edits in other sections of the suitability tables.
 - The AC asked if there were any additional edits from the remaining agent suitability section of their draft regulations.



- Commissioner Stebbins asked if they resolved the discussion relative to the catchall policy of five years or whether to expand it to ten years.
- The AC stated within this area of their regulations they have the authority and ability to expand that time frame.
- EC Lopez added that the look-back period is a matter of policy that was determined by the inaugural Commissioners and that the Board does have the authority to modify.
- Commissioner Stebbins moved that the Commission approve a change of the time in tables B, C, & D under the last suitability standard and amend the language to be the preceding ten years.
- The AC seconded the motion.
 - Commissioner Roy added a friendly amendment. She moved to strike ten years to indefinite.
 - Commissioner Stebbins stated he was comfortable with the amendment but asked for counsels' opinions.
 - EC Lopez stated that it was a policy decision and she deferred to the judgement of the policy makers. She asked for clarification from Commissioner Stebbins.
 - Commissioner Stebbins clarified he wanted it extended the provision to lab agents.
 - AGC Carter flagged for everyone that table A and E were not changed during the regulatory review period so the current look-back period for period A and E was for 5 years.
 - The AC asked if they were to amend table A and E, would that do anything in terms of the scope of their regulatory drafting and creation ability.
 - AGC Carter suggested that since A and E were not put out for public comment that they might want to contemplate revising at a future date.
 - The AC asked AGC Carter to tell them what A and E applied to for the record.
 - AGC Carter explained the tables.
 - The AC added that Tables A and E were not amended or changed under Chapter 180 and there were still limitations in terms of individuals seeking licensure with criminal records.
 - AGC Carter confirmed.
 - EC Lopez confirmed that, for Tables A and E, those standards remained unchanged following the amendment of the statute and counseled against embracing two separate standards for the groups.
 - The AC asked if that would be a sufficient reason to have different standards.
 - EC Lopez explained that it sounded like the desire from the Commissioners were to have all the agents and owners subject to the same standard. She added they were all subject to the same look-back standard before. She added her understanding that the two groups might be out of scope of this regulatory review.



- The AC added that she was in support of Commissioner Stebbins' motion due to the differentiation between Tables A & E as in comparison to B, C, and D. She added there were different standards due to the changes in the law.
 - Commissioner Camargo noted she was in support of Commissioner Stebbins' motion with the ten-year look back.
 - Commissioner Stebbins noted he accepted the friendly amendment to make the look-back indefinite for B, C, and D.
 - Commissioner Camargo stated she wanted to hear what indefinite would mean for public education.
 - AGC Carter noted presumably that the look-back period would not occur in these instances.
 - Director Potvin concurred with AGC Carter.
 - Commissioner Stebbins noted that an indefinite look-back does not necessarily mean something that might be found, or a record that might be discovered, would be automatically trigger a determination of unsuitability.
 - Director Potvin asked Commissioner Stebbins what table he was referencing.
 - Commissioner Stebbins restated his suggestion.
 - Director Potvin stated that if the Commissioners were to adopt a policy position, where it stated that the lookback was indefinite, that policy decision would exist for the life of registration.
 - EC Lopez added that her team has studied the look-back periods many times and they have formulated a standard of reviewing them. She gave some clarification regarding the term indefinite.
 - Commissioner Stebbins noted they do not want anybody to be untruthful in the information that they give the Commission during the application.
 - EC Lopez added that Commissioner Stebbins was correct that agents and owners do have a responsibility to remain suitable at all times.
 - The AC asked Commissioner Stebbins if he would still like to make the motion and if he could read it with the amendment.
- Commissioner Stebbins moved that the Commission replace the period with the preceding five years and incorporate indefinite into that time period for suitability tables B, C, and D.
 - The AC seconded the motion.
 - The Acting Chair took a roll call vote:
 - Commissioner Camargo – No
 - Commissioner Roy – Yes
 - Commissioner Stebbins – Yes
 - Acting Chair Concepcion – Yes.
 - The Commission approved the motion, by a vote of three in favor one opposed. (04:03:37).



- EC Lopez mentioned that different provisions of the regulations will need to be amended now that the motion was carried. She offered a proposed amendment to the language.
 - The AC noted a consensus on the edit EC Lopez provided.
- Commissioner Roy asked if they could vote on each section individually and then vote on the document as a whole.
- Manager Erickson asked EC Lopez to restate her recommendation.
 - EC Lopez reread the provision.
- The AC answered Commissioner Roy and asked if she had any additional amendments or proposed language for that section.
 - Commissioner Roy stated she did not.
- AGC explained that he could review the filing process if the Board desired.
 - The AC thanked everyone for their work on the regulations. She stated they will go through the entire document first to ensure that all amendments and edits were aligned. She noted that the Commissioners would then vote on the entire package.
- AGC Carter gave an update regarding the next steps in the regulatory process.
- Commissioner Stebbins moved to approve 935 Code Mass. Regs. § 500.000, made as a result of Commission deliberations, and for the regulations to be finalized and filed with the Secretary of State's regulations and publications division.
- Commissioner Camargo seconded the motion.
- The Acting Chair took a roll call vote:
 - Commissioner Camargo – Yes
 - Commissioner Roy – No
 - Commissioner Stebbins – Yes
 - Acting Chair Concepcion – Yes
- The Commission approved the motion, by a vote of three in favor one opposed. (04:17:15).
- Commissioner Camargo moved to make corresponding edits from 935 Code Mass. Regs. § 500.000 and 935 Code Mass. Regs. § 501.000 and approve 935 Code Mass. Regs. § 501.000 as final regulations and changes, made as a result of Commission deliberations; and for the regulations to be finalized and filed with the Secretary of State's regulations and publication division.
- Commissioner Stebbins seconded the motion.
- The Acting Chair took a roll call vote:
 - Commissioner Stebbins – Yes
 - Commissioner Roy – No
 - Commissioner Camargo – Yes
 - Acting Chair Concepcion - Yes
- The Commission approved the motion, by a vote of three in favor one opposed. (4:18:15).



- Commissioner Stebbins made a motion to authorize Commission staff to finalize the final regulations 935 Code Mass. Regs. § 500 & § 501, and to make any edits consistent with Commission deliberations and votes, the Commission's governing laws, and the regulation division's requirements; and to take any additional steps necessary to file the final regulations with the Secretary of State's regulations and publications division.
- 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 approved the motion, by a vote of four in favor and none opposed. (04:19:45).
- The AC asked AGC Carter if there were any additional steps at this point.
 - AGC Carter stated there was not.

4.) Closing Remarks – 04:19:19

- Director Potvin thanked the Commissioners for accomplishing their goals. He acknowledged the staff that worked on the regulations.
- The AC thanked Manager Erickson for managing a really intensive process and offered EC Lopez, AGC Carter, or manager Erickson to provide any comments.
 - AGC Carter thanked all the Commissioners for creating the policies and thanked staff.
 - EC Lopez thanked every person at the agency who dedicated time and effort into the incredibly important obligation that they have as an agency. She added that she is very privileged to have worked on this with her colleagues.
 - Manager Erikson thanked the staff as well.
- Commissioner Camargo agreed with the prior comments. She thanked everyone at the Commission. She thanked the public for their engagement. She thanked the legislature and staff for the new law. She thanked all Commissioners and stated that she will now work on the next policy and regulatory items that she would like to bring forward.
- Commissioner Roy noted there were so many heroes in this process including staff. She thanked her fellow Commissioners for the debate and deliberative process and thanked the AC for managing them through this process.
- Commissioner Stebbins added thanks to the entire team and thanked the other Commissioners for all their great work. He thanked the working groups and added that he was honored to be a part of the team.
- The AC thanked staff and fellow Commissioners. She thanked the legislature, members of the House, and Senate for listening to everyone involved in this industry,



and creating new law that will bring forward much needed change. She ended with that it was an honor to work with so many people within the Commission and that the public has only seen a piece of the knowledge that their team brings.

4) Next Meeting Date– 04:33:23

- The Chair noted the next meeting would be on October 12, 2023.
- The Chair noted the last 2023 public meetings would be on November 9th and December 14th.

5) Adjournment – 04:33:39

- 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 approved the motion to adjourn, by a vote of four in favor and none opposed.

