



September 25, 2023

The Honorable Adam Gomez  
Senate Co-Chair, Joint Committee on Cannabis  
Policy  
State House, Room 413-B  
Boston, MA 02133

The Honorable Daniel Donahue  
House Co-Chair, Joint Committee on Cannabis  
Policy  
State House, Room 544  
Boston, MA 02133

Dear Co-Chairs Gomez and Donahue:

Although we did not receive any letter from Sen. Michael Moore and your other four colleagues directly, I wanted to take this opportunity to share information regarding the Cannabis Control Commission (Commission)'s operations and answer any questions that they raised.

On behalf of Commission staff, I would like to respond directly to the idea that the Commission has faced "an endless stream of scandals" since the inaugural Commissioners came into their seats in 2017 upon their appointments by the State Treasurer, Attorney General, and Governor. We respectfully reject that notion. Hopefully, your own experiences working with our agency, and the new authority with which you entrusted us through the passage of Chapter 180 of the Acts of 2022, suggests you do, too.

As you know, eleven Commissioners over the past six years, plus more than 120 Commission staff operating out of the agency's Worcester headquarters at Union Station and a satellite office in Boston, have played a pivotal role in standing up a safe, effective, and equitable cannabis industry for the Commonwealth. Today, Massachusetts' legal cannabis industry has generated more than \$5 billion in sales—or roughly \$1 billion in revenue for taxpayers considering the sales, excise, and local option taxes that can be levied for each adult-use retail purchase. More than 570 licensed adult-use Marijuana Establishments have crossed the finish line to commence their operations, along with 101 Medical Marijuana Treatment Centers (MTCs). The Commission has generated millions of dollars in non-tax revenue through its licensing and application fees, annually resulting in a surplus for the Commonwealth over the agency's operating expenses. Between the agency's implementation of new regulations that will operationalize the cannabis equity reform law, and the advent of the Cannabis Social Equity Trust Fund, we are confident Massachusetts will see the 48 Certified Economic Empowerment Priority Applicant licensees and 114 Social Equity Program licensees with at least provisional approval move forward in the state's process and join their 62 peers across both designations that are already operating.

Furthermore, thanks to the Commission's work, Massachusetts is a model for other states in developing their regulated marijuana markets, as evidenced by our [founding membership of the national Cannabis Regulations Association](#) (CANNRA) in 2020 and staff's regular participation in the association's engagements with jurisdictions throughout the country. Recently, a delegation of state legislators and officials from the Executive Offices from the state of Hawaii traveled to the Commonwealth and consulted us regarding how to write regulations for, and then implement, legal marijuana marketplaces, including on how to successfully protect medical marijuana programs. Massachusetts is also considered the national leader for research into marijuana policy, as demonstrated by the number of our publications and consultation from other states and federal agencies, including the



U.S. Food and Drug Administration which sought data from our agency relative to their review of marijuana's Schedule I status. Our [Open Data Platform](#) continues to set the Commonwealth apart for the access it grants researchers, analysts, and the general public to hold us accountable on the progress we are making to fulfill our mission. And, we would be remiss if we did not mention our gratitude for Chair Donahue's contributions when our Research Department had the opportunity to guest edit the first-ever cannabis specialty issue of *Clinical Therapeutics* [this year](#).

All of this is not to say the agency has not addressed certain challenges over the last six years. Our response to the EVALI vaping crisis that started in 2019, immediately followed by the [temporary shut-down of the adult-use cannabis industry](#) at the start of the COVID-19 public health emergency, were two major crises we successfully navigated. We are proud to say that during the two-month period the Baker Administration halted Marijuana Retailer operations in 2020, no business had to close after temporarily shuttering. On the contrary, the agency made [temporary policy changes that enabled adult-use Marijuana Cultivators and Marijuana Product Manufacturers to engage with MTCs to survive](#). To this day, lingering COVID-19 policies continue to allow patients to utilize telehealth services to obtain their recommendation from a Certifying Healthcare Provider as a new or renewing registrant—an option that many constituents would like Commissioners to make permanent. And, thanks to our agency, none of Massachusetts' nearly 100,000 patients must pay a penny in state fees to access their medicine anymore. These reasons and more may explain a recent presentation our Research team gave before the [Research Society on Marijuana](#) which demonstrated findings that patient registrations decreased in other states after adult-use Marijuana Retailers opened, whereas in Massachusetts, they significantly increased.

For all the progress the Commission has made, we have never hesitated to acknowledge that significant work still lies ahead for our agency. Our regulation of a substance that remains federally illegal, and all the unprecedented territory that brings, guarantees that fact. What had seemed to change over the years was the level of interest in the Commission's day-to-day operations, versus the renewed curiosity we have received in recent weeks regarding perceived palace intrigue. For example, the large scrum of journalists who previously followed every Commission public meeting closely to understand when the first Marijuana Retailer would open, have largely moved on to other things. For lack of a better explanation, until recently, our operations appeared to have become commonplace. That may be because the fearmongering at the onset of this industry has largely been disproven by our safe regulation of Marijuana Establishments, or because a majority of Massachusetts residents weighed in and determined [legalization has been positive for the Commonwealth](#). Regardless, much to the disappointment of staff, all the agency's efforts in just the past year alone appear to be overshadowed by rumors, allegations, gross misinformation, and conjecture. As you review the six news stories, published from March through September, that your five colleagues highlighted, we implore you to read that coverage of our agency in full, and consider the source.

As for other questions your colleagues presented to you, we would like to take this opportunity to answer them below.

- Which statutory reason(s) served as the basis for the suspension?
- What are the circumstances that led up to the suspension? How long did they continue before the suspension was made? Was the written notice and opportunity to be heard provided prior to the suspension?
- What is the duration of the suspension?
- Which Commissioner, if any, is currently exercising the powers of the chair?



- What issues did the State Treasurer have with the operations of the CCC and what improvements did the State Treasurer want to see made at the CCC?
- What is the toxic environment referenced in CCC Chair O'Brien's statement?

*Commission Response:* For questions regarding the appointment status of individual Commissioners, we recommend consulting with the relevant Constitutional Officer(s) by whom they are appointed. Under Chapter 55 of the Acts of 2017, the Governor, Attorney General, and State Treasurer have sole authority over appointments to the Commission. Questions regarding the status of the Chair should be directed to the Office of the State Treasurer. At its September 18, 2023 public meeting, the Commission voted 4-0 to designate Commissioner Ava Callender Concepcion, the agency's public safety appointee named by then-Attorney General Maura Healey in 2021, as Acting Chair, as provided by M.G.L. c. 94G §4(a). The Commission affirmed this vote on September 21, 2023, and designated Commissioner Concepcion to serve as Acting Chair through November 9, 2023, which correlates to the Commission's ongoing regulatory review process.

The Commission is committed to maintaining its status as a positive place to work. The Commission has policies in place to ensure a workplace free from abusive or harassing behavior. Employees are held to high ethical standards, which can be found in the agency's Employee Handbook and its [Enhanced Code of Ethics](#). Employees, or individuals acting on their behalf, may not improperly disclose confidential information and/or state or federal information learned during the course of their employment. Individuals found to be in violation of these policies will be held appropriately accountable.

Ironically, the Legislature, in adapting the Commission to its current form in 2017, did so to insulate the agency, and its policies, from political influence or the risk of industry capture. Our license evaluations have always relied solely on the order in which an application is received or prioritized due to equity status, and our investigative work ought to be objective and thorough. Both activities, however, ought to be free from political influence or interference.

- What legislative changes would improve the situation at the CCC?

*Commission Response:* In Chapter 180 of the Acts of 2022, [passed by the Legislature](#) and signed into law last August, the Commission was entrusted with greater oversight of the host community agreement process and municipal efforts to ensure equitable opportunities for individuals and communities that have been disproportionately harmed by the War on Drugs. The agency voted to approve final regulations at its September 22, 2023 public meeting that implement the new mandates outlined in the new law and completed its fourth regulatory review. These new policies regulate host community agreements, extends equity requirements to the municipal level, and removes barriers to the social consumption license type and Marijuana Establishment agent suitability standards. These policies are the result of years of advocacy by stakeholders, legislators, and Commissioners and come at a time when the adult-use marketplace has already surpassed \$1 billion in gross sales for the calendar year and experienced back-to-back record sales months in June, July, and August.

The Commission, as always, is monitoring the legislative process and is grateful for the Legislature's collaboration over the last six years. As the agency continues its buildout to meet the demands of the booming licensed cannabis industry, we will seek to continue that deep collaboration with our Legislative partners. The Commission has engaged in a formal Legislative and Executive Branch Outreach process to develop, debate, and approve Statements of Commission Policy, to be shared with officials on policies the Commission believes would improve its ability to meet its mandate, effectively



regulate the licensed cannabis industry, or further the goals of the Legislature and Governor for a safe and inclusive industry. Per the policy, the Commission does not weigh in on specific bills, but rather, may advocate for general policies to support an industry that protects public safety, health, and welfare, and that promotes an equitable and fair marketplace. In addition to outreach that Commissioners may conduct in their individual capacity, to date, the Commission has approved Statements of Commission Policy on the following topics: the implementation of a [Social Equity Loan Fund](#), advocating a [fix for the municipal opt-in process for social consumption licensees](#), updates to OUI legislation [and data collection](#), and streamlined access to the Medical Use of Marijuana Program by [Veterans](#).

We are grateful for the Legislature's work on many of these topics and look forward to collaborating with you in the months ahead as the agency implements critical new regulations in response to the passage of Chapter 180 of the Acts of 2022.

Of particular importance, of course, is the legislative appropriation that the agency depends on for its operations and programming. The letter sent by your colleagues seems to dwell on the Commission's request for additional resources, and the percentage increase that it would represent. However, less attention has been given to the amount approved by the Legislature and signed by the Governor. That actual amount is less than was requested, and unfortunately fails to meet a level service of our operations. Yet, our agency continues to manage expectations to prioritize public health, safety, and equity.

- What issues lead to the decision of the CCC to engage in mediation and when did these issues begin?
- How many Commissioners and staff members have engaged in these mediation sessions, and how many work hours have they dedicated to preparing for and engaging in these mediation sessions?
- What is the cost in terms of public funds that have been expended in preparing for and participating in these mediation sessions?
- How much has the CCC spent on mediation services and any other procurements related to the mediation?
- What is the current status of the mediation and what, if any, results have come from the mediation so far?
- Has the CCC considered adopting the governance structure of the Massachusetts Gaming Commission, and if not, why not?

*Commission Response:* Prior to the agency's fifth anniversary, then-Chairman Steven Hoffman, the Commissioners, and Executive Director saw value in defining distinctions in roles, responsibilities, and processes between Commissioners and administrative staff. Before starting a process to define its governance structure, the Commission looked at how other agencies, including the Massachusetts Gaming Commission, defined their governance structures and processes. Based on this review, the Commission issued a request for responses from vendors to facilitate and independently advise on best practices for the Commission's governance structure. The goal is to solidify and refine agency procedures that will outlast the individuals who have been instrumental in getting the organization off the ground and build upon its foundation. During its April 2022 public meeting, the Commission voted to engage in mediation for the purpose of developing a durable governance framework. To comply with the Open Meeting Law, which protects mediation sessions, Commissioners voted to "have the Commission participate in mediation between the Commissioners and staff leadership, for the purpose of finding common ground and obtaining buy-in from all parties, in our efforts to establish a durable and effective governance structure."



The Commission held an open procurement to obtain a vendor to administer the mediation services. Between FY 2022 and FY 2024, the Commission has spent \$159,181 as of September 19, 2023, on its contracted vendor, Podziba LLC. To date, the Commission has met in executive session 15 times in compliance with the Open Meeting Law to meet or to confer with a mediator, as required under G. L. c. 233, § 23C. The process primarily included the current four Commissioners, three Chairs, the Executive Director, and Legal personnel. Leadership staff, including the Chief Operations Officer, Chief Communications Officer, Chief of Investigations and Enforcement, and Human Resources personnel also participated in sessions in a limited capacity, and additional staff feedback was provided. Altogether, the Commissioners, Executive Director, and staff members have spent at least 80 hours over the life of the project on meetings and document reviews. The agency is committed to faithfully and fully implementing the affirmative motions and policy directives of the Commission. The development of the governance charter is ongoing. Once a charter is finalized, the Commission will need to vote to publish the minutes from the executive sessions, in addition to the charter.

What might be particularly helpful to understand the Commission's governance work is how it relates to the administration of government. Every community across the Commonwealth is ultimately governed by some form of charter, or bylaws, or often both. Every functioning business is governed by their own bylaws, or their Articles of Incorporation. It is the very document or series of documents that govern any and all decisions and is what clearly delineates authority. One would hope that an agency taking these proactive steps to answer questions left unanswered in statute should be supported, not undermined.

The discussion relative to governance raises additional concerns into the media coverage and legislative attention received by the Commission. For instance, much has been made about the budget for such a project, but the figures being published and discussed are, at best, inaccurate, and, at worst, made up entirely. The \$159,181 we have spent up to now is well below [the \\$300,000](#) and [\\$600,000](#) estimates that have been incorrectly floated in recent press coverage about your colleagues' letter. A quick review of the Commonwealth's Open Checkbook platform would prove as much.

Further, there seems to be a strange focus on the status of the Commission's workplace status, which is now in a hybrid format modeled after many other state agencies and private sector employers. The Commission did indeed close its office to public access during the pandemic, much in the same way that the State House was closed to visitors and the public and the Senate and House permitted remote participation in legislative sessions. Even during that period, however, Commission staff continued to conduct inspections and investigations in the field, putting themselves at heightened risk at a time when much of bureaucracy remained remote. As we have now entered a permanent hybrid phase with our workforce, we think the public servants that support this industry, but also patients and consumers, ought to be respected. Indeed, the cannabis industry in Massachusetts not only survived the pandemic, but expanded throughout it, due in large part to the efforts of those very public servants that are unfairly chastised by your colleagues.

- What oversight are the Commissioners exercising over the processing of licenses?
- How are these delays impacting the equity goals of the CCC?
- Why is the CCC unable to give even a rough or estimated timeframe to prospective applicants?
- What steps is the CCC taking to reduce delays as part of the licensing process?
- What is the recourse for a prospective licensee faced with undue delay as part of the application process?



- What are the CCC's policies and procedures for conducting its investigations? How were these policies and procedures developed and what type of training does the CCC provide to its investigators?
- Has the CCC made any changes to its investigation policies, procedures and practices resulting from alleged overly aggressive investigations? What were the results of the CCC's internal review of these allegations and what process did the CCC employ as part of that internal review?
- What is status of the investigation related to Trulieve Cannabis Corporation and the death of Lorna McMurray? Why has this investigation taken so long to complete? What recommendations and changes has the CCC implemented as a result of this investigation?
- What was the CCC's findings and recommendations from its internal investigation related to the CCC's site visit to MCR Labs?

*Commission Response:* The Commission reviews all license applications that have been fully submitted. Once fully submitted, a license application enters the queue to be reviewed based on the date and time submitted and whether the application is a priority, expedited, or general application. Applications are reviewed in that order, with priority applications first, followed by expedited applications and finally general application. Commissioners vote on applications for licensure at regularly scheduled public meetings. The Commissioners may vote to approve, deny, or remand an application to staff, based on their review of application materials. While staff will recommend approval or denial based on compliance with 935 CMR 500.000 and M.G.L. c. 94G, Commissioners have the ultimate and sole authority to approve applications.

The Commission has reduced delays in the licensing process, iterating since its inception to become more effective and efficient. In 2019, the average time for an applicant for licensure's first review was 112 days. By 2020, the average wait time for first application review was down to 14.5 days, and has remained there since. Certified Economic Empowerment Priority Applicants receive priority for application review and inspections, and Social Equity Program participants receive expedited review. An applicant's equity status remains with them over the course of their advancement through the licensing process. Equity applicants receive priority for inspections, waived or reduced application and license fees, and access to the Commission's technical training programming.

The Commission was able to implement these process improvements through a variety of means: hiring more staff, additional Standard Operating Procedures for priority, expedited and general reviews, and improved technological platforms to identify applicants' status both internally and externally.

That does not discount the fact that application review and inspections require ongoing compliance. When a licensee is ready for a post-provisional or post-final licensing inspection, they contact the Commission and enter an inspection queue. In general, the average wait time in the queue for priority or expedited licensees is 2-4 weeks. For all other licensees, the average wait time is generally 6-8 weeks. If business entities are found to be non-compliant with state law or regulations at any point in this process, the Commission must pivot to focus on protecting the public health, safety and welfare. When a licensee is not in compliance with state law or regulations, the responsibility is on the licensee to correct any deficiencies and notify the agency when corrective action has been taken. This can lead to delays on the ability of the licensee to move forward in the licensing process. For those reasons, it is difficult to determine an estimated timeline for the entire licensing process. Regarding any perceived delays, those are likely due to pending investigations or other outstanding compliance matters, which are based on substantiated concerns deriving from evidence gathered on a licensee's ability or inability to follow applicable law and regulations. The progression of a Commission investigation can also be influenced by



the involvement of our sister agencies. For example, an investigation into alleged pesticide use is performed in concert with the Massachusetts Department of Agricultural Resources (MDAR), the state agency with primary jurisdiction to regulate the use of pesticides on plants.

The Commission provides internal and external training to staff in the Investigations and Enforcement department. Investigators also participate in trainings through federal and state agencies and third-party vendors, including, but not limited to the Occupational and Safety Health Administration (OSHA), MDAR, Citrin Cooperman, METRC, and HVAC training from DNV Consulting. Further, all Commission staff must take mandatory training relative to the Commonwealth's ethics laws.

As you can appreciate, cannabis remains a complex public policy area that continues to evolve regularly. It is not akin to gaming, or alcohol for that matter, where regulatory schemes are mature and federal agencies are actively engaged with their own respective oversight. Our work, therefore, is often novel and precedent setting, not just for Massachusetts, but across the country and indeed the globe. Relatedly, there is no manual for this work and our training should not be static. We have long advocated for sufficient resources to ensure our agility and ability to react to those evolving circumstances nimbly.

As discussed at the agency's [August 10 public meeting](#), the Commission's investigation into Trulieve is within the Investigations and Enforcement department. The investigation progressed from the agency's Investigations team to its Enforcement Counsel staff, who is charged with reviewing investigatory findings for possible litigation. The Chief of Investigations and Enforcement has since issued an Order to Show Cause to the entity. The length of any Commission investigation is influenced, in part, by the complexity of the compliance issues and the extent of inter-agency collaboration needed to perform a due diligence review. It is important to note that there is still limited legal and regulatory precedent in this area due to federal prohibition of cannabis. As a result, this is not a simple case, and the Commission's continued collaboration with OSHA and the Massachusetts Department of Public Health has been essential.

To avoid pre-judging any applicant or licensee, it is best practice for Commissioners to remain insulated from details regarding active investigations performed at the staff level. If an investigation leads to an administrative enforcement action, Commissioners act as the ultimate arbiter. The Commission complies with M.G.L. Chapter 30A and Chapter 94G, in addition to its duly promulgated regulations 935 CMR 500.000. Because of the need to remain objective, protect the integrity of ongoing investigations and procedural fairness to all parties involved, the Commission does not comment on ongoing matters, unless the matter involves an emergency situation that poses an immediate or serious risk to the public health, safety, or welfare.

The Commission also announced at its [August 10 public meeting](#) that the human resources investigation into staff conduct as part of an unannounced inspection at MCR Labs is closed. HR investigated the complaint this spring through interviews, reviewing video of the inspection that was provided by MCR Labs, and referring to inspection protocols. This resulted in evidence that Commission employees should have used gloves while in the MCR Labs laboratory space. However, no credible evidence supported the remaining allegations of improper conduct in MCR Labs' March 26 letter to the Commission. Staff have been reminded and will continue to be retrained on protocols such as wearing appropriate gear in sterile spaces. Strangely, [it has been referenced](#) that the Commission only discussed its findings relative to the MCR internal investigation after the letter was issued by your colleagues. That is patently false, and the public record confirms as much. Further, concern has been raised with respect to



the absence of any formal report. While a report was completed, it is important to recall that the investigation conducted was relative to the conduct of Commission personnel and therefore their privacy ought to not only be respected, but protected.

Despite the closure of this HR matter, the agency currently has an ongoing enforcement matter pertaining to MCR Labs. With regards to the unannounced inspection that was central to MCR Labs' complaint, Commission staff completed that same work in March 2023 at another Independent Testing Lab (ITL) the week prior to the MCR Labs inspection for some of the same reasons and looking for similar records.

Pursuant to M.G.L. c. 94G, §4(a)(xvii), compliance monitoring activities, such as unannounced inspections, are routine and integral to ensuring investigators see how a Marijuana Establishment operates on a typical day, not one in which a licensee prepares for an inspection. Investigators are not required to disclose the purpose of their investigation while on site. In fact, the statute confers the agency with authority to be present, through investigators, at any time in Marijuana Establishments for the purposes of exercising the Commission's oversight responsibilities.

- Does the CCC have a written policy for determining when they will and will not recognize someone as a member of the media? If so, is this written policy publicly available or provided to members of the media? Does this policy set out fair, equal and transparent criteria and standards with notice to individuals? Are there any warnings to members of the media prior to the removal of their press credentials? Is there an opportunity to be heard or an option to appeal to the Commissioners themselves?
- Was each circumstance that led up to this decision documented and the final decision memorialized? Does the CCC apply the same monitoring and evaluation to all members of the media with whom it interacts?

*Commission Response:* The Commission offers robust external affairs support to assist the many advocates, stakeholders, and constituents that have questions or wish to share feedback with the agency, and we are proud of our work to build a transparent state agency. Depending on the nature of a stakeholder's question, the inquiring individual or organization may be routed to the Commission's Communications, Constituent Services, Equity Programming and Community Outreach, and Government Affairs departments. If the individual is a licensee or applicant for licensure, they may be routed to the Commission's Investigations and Enforcement department for follow-up.

Members of the media may access information through and share questions with the Commission's Communications department. No journalist has ever been denied access to the Commission's Communications team or had their access removed. Individuals or organizations who advocate for specific policies or who wish to share their opinions with the Commission may speak with staff in the Constituent Services staff or contact Commissioners directly by using their publicly available email addresses. Contrary to the statements of one constituent, the agency remains responsive to inquiries from the public and from press and has shared the rationale with the advocate that their concerns and questions are better addressed by Constituent Services, as was also shared with Sen. Moore's office in August. This constituent also petitioned a Single Justice of the Supreme Judicial Court with an emergency request to have normal press access to the Commission reinstated, and that request was denied.





To be clear: the individual in question was not singled out by the Commission in response to testimony given at the July 18, 2023 Joint Committee on Cannabis Policy hearing, or testimony given at the June 27, 2023 Joint Committee on Cannabis Policy hearing for that matter—nor for their support for any specific bill or issue area. Over time, the Communications department has observed numerous instances of the individual operating without the journalistic ethics and standards that members of the media are expected to uphold by making their own stance on a policy issue clear while also covering it.

For example, the individual recently authored and led a petition advocating for changes to statute and regulations. The individual then posted reporting about “a petition” without disclosing they were the author. As recently as the Commission’s September 8 [public hearing](#), the constituent again advocated regarding matters on which he also publishes writing. No other journalists have done this. Constituents are more than welcome to create and share petitions with the Commission, and we appreciate and review their statements; however, this advocacy is not consistent with unbiased media reporting and is more appropriately shared with the agency’s Constituent Services staff. Advocates and members of the general public are critical stakeholders and their contributions to the development of public policy have improved the industry and state regulations. We continue to welcome such contributions via the appropriate agency channels.

We are grateful for the Legislature’s historic support of the Commission. Additionally, we are proud to have established a licensed industry and built a new state agency that protects public health and safety, is respected by other jurisdictions throughout the United States, and is at the forefront of national statewide equity programs. In the meantime, if you have any further questions, please do not hesitate to contact us directly. Thank you again.

Sincerely,



Cedric Sinclair  
Chief Communications Officer, on behalf of:

Shawn Collins  
Executive Director

cc: Governor Maura Healey, Attorney General Andrea Joy Campbell, Treasurer Deborah B. Goldberg, Senate President Karen E. Spilka, Speaker Ronald Mariano, Sen. Michael O. Moore, Sen. Bruce E. Tarr, Sen. Michael D. Brady, Rep. Michael J. Soter, Rep. Donald R. Berthiaume

cc: Andrew Carter, Acting General Counsel; Debra Hilton Creek, Chief People Officer; Yaw Gyebi, Jr., Chief of Investigations and Enforcement, Alisa Stack, Chief Operations Officer

