

CANNABIS CONTROL COMMISSION

August 17, 2020
10:00AM

MINUTES OF THE JOINT MEETING OF THE CANNABIS CONTROL COMMISSION AND THE CANNABIS ADVISORY BOARD

- 1) Call to Order
 - Cannabis Advisory Board (CAB) Chair Collins recognized a quorum and called the meeting to order.
 - CAB Chair Collins gave an overview of the meeting agenda.
- 2) Chairman's Comments and Updates
 - Chairman Hoffman recognized a quorum of the Cannabis Control Commission and called the meeting of the Commission to Order and gave an overview of the agenda.
- 3) Regulatory Comment
 - a. Minimum Equity Threshold, Economic Empowerment Applicants (EEA) – 8:30
 - Chairman Hoffman gave an overview of the topic.
 - Ms. Kim Napoli expressed that these thresholds should be maintained at 51%. Ms. Napoli said she can understand wanting to sell equity to get capital, but ownership is essential to fulfill the mission of EEA. The goal is to create generational wealth for an entire community of people who bore the brunt of the negative effects of the War on Drugs, not just short term returns for a handful of individuals.
 - Commissioner Title thanked Ms. Napoli and the market participation committee for their recommendation.
 - Mr. Michael Latulippe echoed Ms. Napoli's sentiments. Mr. Latulippe expressed his concern with respect to all ownership changes being reported only by EEAs. It is unclear how such reporting serves the EEAs and may cost more time and money than providing any benefit.
 - Ms. Shanel Lindsay supported maintaining the 51% ownership threshold for EEAs, citing the loss of control by EEAs over the business by the community members



intended to benefit. A drop below 51% opens up questions about who controls what. Believes that there is plenty of room to negotiate for capital while maintaining 51% ownership. Negotiating into a position of owning less than a majority of equity starts to minimize the leverage EEAs have to benefit from that designation.

b. Delivery - 20:33

- Chairman Hoffman gave an overview of the topic.
- Ms. Napoli (and baby Shea) said that delivery-only licensees should be able to purchase product at wholesale. Ms. Napoli recognized that allowing for wholesale purchases from cultivators and product manufacturers could increase the cost of entry into the market, but that businesses should be able to make that decision for themselves. The cashflow modeling for delivery without wholesale (and the corresponding storage) is almost nonexistent.
- Ms. Napoli also noted that the ability to participate in delivery, it should be opened up to more groups, including craft cooperatives.
- Ms. Napoli indicated that a five year exclusivity period for delivery, citing last year's recommendation from the CAB and citing Harvard Business School predicting it will take about 7 years to realize profits, so a two year exclusivity period is insufficient to create the generational wealth sought.
- Chairman Hoffman asked, if the Commission allowed for wholesaling and storage, whether there is a viable business model remaining for any delivery operation who chooses not to wholesale or store products.
- Mr. Latulippe supported creating an option for delivery businesses to purchase product at wholesale and store products or a simple courier type model. Mr. Latulippe also noted that there are questions of municipal tax collection with respect to delivery.
- Chairman Hoffman noted that the Commission has worked with DOR to determine the tax implications, as it is DOR's determination to make.
- Commissioner McBride asked the group, with respect to wholesaling, whether licensees would be required to warehouse or whether there is a mechanism to separate those two aspects.
 - Ms. Napoli said that she thinks it is a threshold question that allows a tiered approach.
 - Commissioner McBride asked about Repackaging and the need for a facility to process those products.
 - Ms. Napoli said she envisioned only finished product.
 - Mr. Latulippe said that the delivery agreement could provide for the details of this, including "white labeling" so that it appears to come from the delivery business.
 - Ms. Napoli echoed the notion that the delivery agreement could fill in those details, assuming the Commission is reviewing those agreements for compliance with its regulations.
- Ms. Lindsay thinks the discussion of delivery needs to be centered on equity and how the hurdles to equitable entry to the market are issues are things we inherited. Delivery is intended to be an equitable pathway into the market. Without this pathway, equity in



Massachusetts cannabis markets may not happen. That is why it is crucial to ensure that delivery is a viable business and that the exclusivity period be extended beyond two years. Ms. Lindsay warned against red herring concerns about disruption to the industry by allowing exclusivity in the delivery market or allowing wholesale.

- Ms. Lindsay also thinks there could be options to arrange storage with the wholesaler, rather than at its own facility.
- Commissioner Title asked with respect a courier only option, with the goal being to lower barriers to entry, but how could these goals be met while creating a viable business model.
 - Mr. Latulippe, said that allowing for the courier only option, and therefore not having marijuana stored on a premises (and the municipal and Commission oversight associated with storing) creates a lower threshold to market entry. It also may make it easier to work with municipalities that are willing to allow delivery, but do not want Marijuana or Marijuana Products stored in their town. Therefore, maintaining the option for courier only model is important.

c. Personal Caregivers, Hardship Cultivation – 50:35

- Chairman Hoffman gave an overview of the topic.
- Ms. Nichole Snow noted that with respect to the patient ratio, it should be a case by case medical decision. With respect to institutional caregivers, including hospice, senior homes, or specialized medicine homes, would direct care be available bedside, such as in senior homes. Ms. Snow’s research noted that there is possible bedside treatment in senior homes. A Personal Care Attendant follows a care plan, and that can include Medical Marijuana. Ms. Snow does not want to lose sight of the institutional caregiver aspect of the conversation.
- Ms. Napoli supports the 10:1 ratio included in the draft regs. It is important to ending the criminalizing and stigmatization of marijuana to allow caregivers. If RSO is unavailable in Massachusetts, then a patient needs to be able to access that through the caregiver. Therefore, Ms. Napoli also supports the 500 square foot canopy.
- Mr. Latulippe supports the expanded ratio for caregivers and then put restrictions on the caregiver, rather than limiting the ratio. Mr. Latulippe also supported a testing regime for caregivers similar to the Cape islands testing regime. Mr. Latulippe also indicated that certain restrictions, such as requiring it to be sold at cost and limiting advertising, to ensure caregivers do not become a competing business for MTCs, delivery licensees, etc.
- Dr. Alan Balsam discussed nursing home residents accessing cannabis. It is unclear what the right ratio is to facilitate nursing home resident access but hopes the Commission can work to accomplish that.
- Ms. Lindsay expressed her support for the 10:1 ratio for caregivers.
- Ms. Mary Ann Pesce expressed her support for the increased caregiver/patient ratio. Adaptability and flexibility are key for patients, which this increased ratio supports.
- Nichole Snow thanked everyone for their input on this and thanked the Commission for their thoughtfulness.



d. Vertical Integration – 1:12:20

- Chairman Hoffman gave an overview of the topic.
- Mr. Latulippe expressed how important de-integrating the medical industry is to patient access. Mr. Latulippe notes that there is a lack of medical products, which he thinks is a result of vertical integration. Believes that allowing for medical businesses to focus on one portion of operations rather than requiring seed to sale operations could create flexibility and allow for smaller medical operators. It also might create greater competition in the industry.
- Ms. Napoli believes de-integrating could create greater opportunities in the industry by lowering the barriers of entry, allowing EEAs and DBEs to get into the medical sector of the industry.
- Ms. Snow echoed the de-integration of medical marijuana for the reasons suggested.
- Ms. Lindsay expressed concern about de-integrating medical licenses without establishing a pathway for EEAs and other equity applicants, such as by allowing a priority review or an exclusivity period in a de-integrated medical market.
- Commissioner Title asked for clarification with respect to the term used “priority period,”
 - Ms. Napoli and Ms. Lindsay said that there should be an exclusivity period for particular communities.
- Mr. Latulippe echoed support for equity in the medical space, including waiving EE and SE applicant fees, perhaps when they locate in an ADI, in addition to an exclusivity period. Mr. Latulippe also noted that there are aspects of the state that do not have access to medical marijuana and de-integration and equity pathways into the medical sector might assist expansion.
- Nichole Snow echoed that there are lots of places in Massachusetts where medical marijuana is not available, and if there is a way to prioritize those communities.

The meeting broke for a 30 minute recess.

- Chairman Hoffman recognized Michael Dundas, Chair of the Cannabis Industry subcommittee.
- Mr. Dundas noted that the subcommittee would be submitting written recommendations toward the end of the week.

e. Vaping Products

- Chairman Hoffman gave an overview of the Topics
 - i. Labeling
 - ii. Sales
 - iii. Testing



- Nichole Snow noted that the public health subcommittee met earlier in the year and there were written comments submitted on labeling, market/advertising, and social consumption requirements.
- Nichole Snow commented, on behalf of the public safety subcommittee, to consider requiring that the “not safe for kids” icon be placed on the front of products in lettering the same size or larger than the name of the product.

f. Advertising, Marketing, & Branding – 2:01:40

- Chairman Hoffman gave an overview of the topic.
- Commissioner Title noted comments that the regulations are vague, but Commissioner Title asked for specificity with respect to those comment.
- Ms. Napoli expressed support for the expansion of advertising. With respect to Commissioner Title’s question, she said that sometimes the regulations are do not seem vague until you begin trying to advertise under them.
- Michael Dundas asked question with respect to Branded Goods, and whether apparel and other types of branded goods that can be sold by an ME and MTC. Under prohibited practices, there was a seeming conflict.
 - Commissioner McBride said that the Branded Goods should be allowed to advertise with a logo of the licensee, but not a specific marijuana product.
- Commissioner Title asked if there is a product that is the same name as the company, whether that name and logo could still be used in reference to the company.
 - Commissioner McBride agreed with that.
- Mr. Latulippe suggested adding a prohibition to the adult-use regs prevent non-CMO adult-use MEs from advertising themselves as medical-use MTCs.

g. Other feedback on regulations from Advisory Board members – 2:10:34

- Ms. Napoli raised an idea whereby operators of a certain size, in lieu of a Positive Impact Plan, can be an incubator for smaller equity applicants, that is overseen by the Commission, to help increase ease of entry into the market. It would be a voluntary partnership.
 - Mr. Latulippe added that the incubating company would have no ownership or control relationship, but rather a philanthropic relationship.
 - Ms. Napoli also suggested that this type of incubation activity could be a criteria for a leadership rating. This could galvanize and incentivize folks around equity. Suggested that for a certain period of time, the beneficiaries of incubator relationships should be limited to Economic Empowerment Applicants or there should be a right of first refusal for equity applicants. Additional considerations include:
 - The “helper” businesses should provide:
 - Seed funding
 - Space
 - Executive level mentorship.
 - Technical and professional assistance



- And Assistance with HCAs
 - The partnerships should be altruistic, rather than pecuniary in nature for the bigger “helper” business. But perhaps the “helper” company could gain good will that helps their business.
 - The larger “helper” operator should provide mentorship that helps with contract negotiation and streamline some of the startup aspects of market entry.
- Commissioner McBride asked with respect to sharing of space and location, whether there would be a sublicense?
 - Ms. Napoli said yes, and it would be two businesses operating under one roof, and there would be essentially a new license type, but the EEA would not be Agents of the larger operator, they’d otherwise be separate.
- Commissioner McBride asked about liability and compliance violations and determining where the error occurs, etc.
 - Ms. Napoli said it would likely depend on chain of custody, and up to investigators to determine where the violation occurred, but there would be an extent to which the larger operator would have responsibility to ensure compliance, which is part of the basis for the relationship – to ensure the smaller operator comes into the industry “on the up and up”.
 - Mr. Latulippe concurred with Kim’s analysis.
- Ms. Napoli recommended establishing a citizen’s review committee exclusively made up of victims of mass incarceration, to ensure input from those individuals. This would ensure that the harms of mass incarceration are addressed in the cannabis industry, work with the SEP director for purposes of outreach, and produce an annual report for what it has accomplished a goals for future years.
- Commissioner Title noted that with the concept of shared space, research is ongoing since the equity plan was developed in April 2019.
- Ms. Napoli also suggested modifying Commission guidance with respect to municipalities to encourage towns and cities that are not ADIs to not prioritize local residents for HCAs and other practices that have the impact of excluding equity applicants.
- Ms. Napoli suggested the following as well, noting that there may be additional comments with respect to these and other topics from the industry participation subcommittee:
 - Conduct outreach to healthcare providers in ADIs.
 - Allowing ME/MTC located in ADIs to provide education with respect to caregivers and patients.
 - Recommending that all Commission be provided in additional languages and brail to ensure access by a full diversity of participants.
 - EEAs should be allowed to incubate – elimination of fees entirely with proof of rent and other expenses and allowing for priority/exclusivity in medical as part of de-integration.
 - Add additional category under Leadership Rating for those that successfully incubate an EEA or SE applicant.



- Commission should issue an annual report showing how these folks accomplished what they did.
 - Develop licensing incentives for the larger operator to promote participating in the incubation program.
 - Disaggregate the data with respect to race in the industry, by role, to show how certain operators are doing in comparison to other operators.
 - Similarly disaggregate info by race with respect to DBEs.
 - Collect data about where in the corporate organization certain classes of individuals fall.
 - Avoid self-reporting data to reduce potential inaccuracies.
 - Make telehealth permanent, rather than requiring an in person initial certification.
- Ms. Snow said that racism and prejudice are a public health issue and should be eliminated in all systems, and the Research and Development subcommittee should convene to study how best to accomplish this.
- Mr. Latulippe discussed the definition of mature and immature plants for home grows and suggested that Chapter 94C may provide further guidance.
- Ms. Napoli discussed market participation subcommittee comments on the operation of the CAB and new members needing assignment to a subcommittee. Also, some folks are no longer on the board. Ms. Napoli requested a clearer process on how CAB operates, including scheduling meeting and getting space for meetings. Some guidance from the Commission on how to be assigned to a subcommittee would be helpful.
- CAB Chair Collins said that there have been some issues and what needs to happen is to maintain two way communication to coordinate logistics.
- Mr. Latulippe requested that at least one Commissioner at the CAB meetings.
- Amanda Rosita echoed the sentiments expressed so far with respect to process and said that a new member orientation would be helpful.
- Commissioner McBride said that she would be happy to attend meetings with the requisite notice and coordination with the Commissioners' schedules.

4) Adjournment

- Ms. Napoli moved to adjourn the meeting of CAB.
- Mr. Latulippe seconded the motion.
- The CAB unanimously voted to adjourn the meeting (with one abstention).
- Commissioner McBride moved to adjourn the meeting of the Commission.
- Commissioner Title seconded the motion.
- The Commission unanimously voted to adjourn the meeting.

