

CANNABIS CONTROL COMMISSION

August 28, 2020
10:00AM

PUBLIC MEETING MINUTES

Documents:

[Meeting Materials Packet](#)

In Attendance:

- Chairman Steven Hoffman
- Commissioner Jennifer Flanagan
- Commissioner Britte McBride
- Commissioner Shaleen Title

Minutes:

1) Call to Order

- The Chairman recognized a quorum and called the meeting to order.
- The Chairman gave notice to the public that the meeting is being recorded.
- The Chairman thanked the Chief of Staff and Director of Constituent Services for their work preparing the meeting.

2) Chairman's Comments and Updates

- The Chair gave an overview of the agenda, the process for this meeting and the overall regulatory review process, thanking the General Counsel's office for their work driving the regulatory review process.

3) Regulatory Policy Discussion

a. DEFINITIONS: CITIZEN REVIEW COMMITTEE -

- General Counsel Baily presented the topic.
- The Chairman gave additional context of the topic.
- Commissioner Flanagan said that she agreed with the concept of removing the definition and dissolving the Board. Commissioner Flanagan said that the Commission does not control the committee and the Committee was not able to establish a quorum for its



purposes. Therefore, it should be dissolved, removed from the definitions, and the public has other avenues of giving input to the Commission, for example, through round tables.

- Commissioner Title said that she supports removing the definition but believes there should be something to replace it. Commissioner Title also suggested that the Citizen Review Committee take on the form of the social consumption working group.
- Commissioner McBride said that even if the Commission removes the definition, the Citizen Review Committee would still be restricted by quorum requirements and open meeting laws. Commissioner McBride also expressed hope that constituents will be able to still provide input, regardless of format.
- The Chairman summarized the comments and noted that further discussion is warranted at another meeting to determine next steps after removing the definition from the regulations.
- Commissioner Flanagan moved to remove the definition of Citizen Review Committee from the regulations.
- Commissioner McBride seconded the motion.
- The Commission unanimously approved the motion to remove the definition of Citizen Review Committee from the regulations.

b. DEFINITIONS: CLONE, VEGETATIVE/IMMATURE PLANT, FLOWERING/MATURE PLANT - 15:07

- The General Counsel introduced the topic.
- Commissioner Title gave an overview and additional context of the topic.
- Commissioner McBride asked the General Counsel whether statute allows this and whether it has been analyzed by legal.
- General Counsel noted that Licensing and Enforcement was involved in the development of the definition and the General Counsel is comfortable with the definition.
- Commissioner Title moved to modify the definitions as previously discussed.
- Commissioner Flanagan seconded the motion.
- The Commission unanimously approved the motion.

c. DEFINITIONS: APPLICATION OF ECONOMIC EMPOWERMENT APPLICANT PRIORITY STATUS – 19:20

- The General Counsel gave an overview of the topic.
- Question 1
 - The Chairman gave additional context.
 - Commissioner Title expressed comfort with how the regulations are currently written.
 - Commissioner McBride agreed.
 - The Chairman noted that a motion would not be necessary for this topic.
- Question 2



- Commissioner Title suggested that individuals who are certified as part of an EEA may use that certification as part of a different business entity. Commissioner Title proposed regulatory language.
- Commission McBride asked whether the review of EEA status would occur on a change of ownership application or notice (under the new proposed language).
 - Commissioner Title confirmed this.
- Commissioner McBride asked whether this review would happen at the Commission or Staff level.
 - Commissioner Title said that it would happen at the staff level.
- Commissioner McBride asked the Executive Director if this was manageable from an administrative perspective.
 - The Executive Director said that it is manageable given the limited universe this will impact.
- Commissioner Title moved to update the regulations pursuant to the proposed regulatory language presented.
- Commissioner McBride seconded the motion.
- The Commission unanimously approved the motion.

d. APPLICATION PROCESS: MEASUREMENT OF BUFFER ZONE – 30:20

- Question 1
 - The General counsel gave an overview of the topic.
 - Commissioner Title gave additional context with respect to the topic.
 - Commissioner Title suggested removing the words “any part of the” from the proposed definition of Impassible Barrier.
 - Commission McBride asked how a row of buildings a definite impassable barrier to pedestrians, given one’s ability to potentially walk through a building.
 - The General Counsel suggested that this would be a question of implementation and whether or not the licensee can demonstrate that a particular obstruction was an impassable barrier and further clarification may be needed of when a public building would not serve as an impassible barrier.
 - Commissioner McBride asked if the Commission received public comment from municipalities on this topic.
 - Commissioner Flanagan read from the public comment from the Massachusetts Municipal Association.
 - Commissioner McBride agrees with defining “impassable barrier” but expressed concern about the application of structures or row buildings and how those serve as an impassible barrier. Commissioner McBride suggested striking the language “structures or row of buildings” from the definition of impassable Barrier.
 - Commissioner Title and Commissioner Flanagan supported that revision.
 - Commissioner McBride moved to adopt the language as amended by Commissioner McBride and Commissioner Title.



- Commissioner Title seconded the motion.
 - The Commission unanimously approved the motion.
 - Question 2
 - The General Counsel gave an overview of the topic.
 - Commissioner Flanagan asked whether the “egress and ingress” refers to the parking lot or the building.
 - Commissioner Title said that parking lots are not consistent with her understanding of ingress or egress.
 - Commissioner McBride said that practically speaking, the building makes more sense.
 - Commissioner Flanagan she thinks whichever way it goes; the clarification needs to be made and asked the General Counsel asked how this is being interpreted now.
 - The General Counsel said that she would interpret “ingress and egress” as relating to the school and not the parking lot.
 - Commissioner Flanagan said that she is willing to go with that interpretation if that is how it has been interpreted in the past.
 - Commissioner Title moved to adopt the language in question 2.
 - Commissioner Flanagan seconded the motion.
 - The Commission unanimously voted to approve the motion.
 - Question 3
 - The General Counsel gave an overview of the topic.
 - Commissioner Flanagan asked why this new definition is needed.
 - The General Counsel said that her understanding was that the reason for this proposal is to provide clarity with respect to where the buffers zone starts and ends and it may have implications for security requirements, which the Commission would vote on any associated changes as part of the final regs.
 - Commissioner Title moved to adopt the definition question 3.
 - Commissioner McBride seconded the motion.
 - The Commission unanimously approved the motion.
- e. LICENSE TYPES: DELIVERY LICENSEES’ ABILITY TO WHOLESALE AND WAREHOUSE - 50:25
- The General Counsel gave an overview of the Topic.
 - Question 1
 - Commissioner Flanagan expressed that the vote will have a substantial impact on operations. There’s a tension between establishing a low-barrier to entry option for the industry but also an ability to run a profitable business.
 - Commissioner McBride reflected that a key decision of allowing deliver was to create a lower barrier to entry into the marijuana industry. There is a tricky balancing test to allow for this but also ensure a safe and secure market.



- Commissioner Title expressed that the comments from industry were thoughtful and authentic and it was clear that commenters had done their due diligence to provide comment on the proposed model for delivery.
 - The Chairman said that there were compelling arguments on both sides of the question of whether to allow purchase at wholesale and warehousing.
 - Commissioner Title asked the General Counsel to define wholesaling.
 - General Counsel said that it would allow delivery operators to purchase from cultivators and product manufacturers, not just retailers.
 - Commissioner Title moved to allow for wholesaling in delivery operations.
 - Commissioner McBride seconded the motion.
 - The Commission unanimously approved the motion.
- Question 2
 - Commissioner McBride said that if allowing wholesaling, warehousing is necessary and that there are security implications, so for example a lockbox in a car is not sufficient warehousing. There would be operational requirements to this, which may increase overhead costs, but it is necessary to allow for wholesaling.
 - Commissioner Title said that it should be “allowed to warehouse” as opposed to “required to warehouse.” This allows flexibility in the delivery business model.
 - The Chairman said that there can be an exception, but if there is any inventory remaining at the end of a day, it has to be warehoused. But if there is a model where inventory is exhausted at the end of the day, warehousing is not necessary.
 - Commissioner McBride said it is important to consider how this impacts compliance and oversight. Commissioner McBride said that there need to be clear parameters to allow the compliance team to enforce requirements. Commissioner McBride asked if/what threshold of product requires “warehousing” and with what frequency is a *de minimus* amount to be held overnight.
 - The Executive Director noted that enforcement relies heavily on the Seed-to-sale SOR, and with the fluidity of manifests under potential delivery scenarios, there would need to be very clear standard operating procedures and working with the licensees. The Executive Director said any decision on this topic will require time and thought with respect to implementation.
 - Commissioner Flanagan asked whether the Commission plans to allow folks who don’t want to wholesale/warehouse to go with a courier model, noting it will be key to determine whether it is a “may” or “shall” with respect to warehousing or wholesaling. Commissioner Flanagan also expressed concern about unfair competition for courier style businesses compared with wholesaling businesses and questions whether allowing for both types of delivery license sets courier type licensees up for success or not.
 - Commissioner McBride said that this topic needs to be thought of holistically.
 - Commissioner Title said she is in strong support of establishing both a courier model and a wholesaling model, noting that in order for the courier model to be



competitive, some of the requirements currently in place may need to be pulled back.

- Commissioner McBride moved to require that delivery licenses that purchase at wholesale shall also be required to warehouse, and to modify the regulations in accordance with that requirement.
 - Commissioner Title seconded the motion.
 - The Commission unanimously approved the motion.
- Question 3
 - The Chairman provided insight that if all delivery licenses are required to wholesale and are required to warehouse that creates heightened barriers to entries into the market. Allowing a courier only model, however, may create difficulty in competing with wholesaling delivery licensees.
 - Commissioner McBride expressed agreement with the Chairman that there should be two pathways to enter the delivery space, though she expressed similar concern as Commissioner Flanagan, that allowing the two delivery models may put courier only licensees at a competitive disadvantage.
 - Commissioner Title said she is of similar thought as Commissioner McBride and the Chairman and noted that some folks have been developing their businesses under the courier only model and don't want to see that option taken away. Commissioner Titled echoed her previous hope that the requirements of the courier model can be scaled back.
 - Commissioner Flanagan agreed as well. She echoed her concerns about competitive challenges for courier only models, but that it is up to market participants to make their own business decisions.
 - Commissioner McBride moved to allow two models of delivery, one that can wholesale and warehouse and the other that is courier only.
 - Commissioner Title seconded the motion.
 - The Commission unanimously approved the motion.
 - Question 4a (regulatory requirements)
 - Commissioner McBride supported requiring the same regulatory obligations as other warehousing licensees.
 - Commissioner Flanagan said that she supports requiring regulatory requirements the same as other licensees that warehouse products.
 - Commissioner McBride moved to require delivery licensees that engage in wholesaling or warehousing model also be required to comply with all operational requirements of the regulations.
 - Commissioner Title seconded the motion.
 - The Commission unanimously approved the motion.
 - Question 4b (types of products)



- Commissioner McBride said that, as long as delivery licensees comply with regulatory requirements for security, storage, inventory, etc., she does not see the need to limit the products a delivery licensee can sell/deliver.
- Commissioner Title said it should be based on the licensee's ability to comply with requirements for storing certain types of products.
- Commissioner Title also noted that under the draft regulations, retailers are allowed to Repackage marijuana and Commissioner Title said she believes that that delivery businesses that are allowed to purchase at wholesale and warehouse should be allowed to Repackage as well.
- Commissioner Flanagan asked whether retailers would be allowed to sell other, non-marijuana items, using the example of a subscription box that contains non-cannabis items that are not regulated by the Commission.
- Commissioner McBride said what we allow for delivery we should allow for retailers, but there are limits to what the Commission regulates and has the expertise to oversee.
- The Chairman noted that those limits are currently in place and that the same restriction should be applied to delivery licensees.
- Commissioner Title suggested that any flexibility on the type of products should be allowed only for courier model delivery, and not wholesaling or retailers.
- General Counsel clarified that the definition of Branded Goods is broad but applies only to delivery licensees or MEs with delivery endorsements.
- Commissioner McBride believes that all licensees should be able to operate in the same way, so to the extent that there are restrictions on branded goods, it should be expanded to all licensees. If the commission further expands the ability to sell non-marijuana products (e.g. for a prescription box) then it should be extended to all licensees.

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The Commission took a 15 minute recess.

1:54:34

- Commissioner Flanagan said that delivery is another license, so it can be equated to a craft cooperative, and therefore anything a delivery license should be allowed to sell should be allowed by retail and that and that it should be limited to Branded Goods.
- Commissioner Title expressed that craft cooperatives and delivery licenses are special because of the communities intended to be reached with those, so she expressed her support for allowing the Branded Goods to be a special innovation for that license type, and now should be allowed only for courier deliveries. Commissioner Title suggested allowing the sale of Branded Goods only by courier delivery licensees during the exclusivity period.
- The Chairman expressed agreement with Commissioner Title, so allowing a limited expansion of type of products allows that license type/business model to be more viable in a competitive marketplace.



- Commissioner McBride expressed again her concern about limiting some licensees but not all. If the Commission expands the types of products that may be delivered, she believed it should be allowed in retail stores as well.
- Commissioner Flanagan agreed with this, noting that delivery licensees and retail should have the same requirements, limiting Branded Goods.

- Commissioner McBride moved to allow Branded Goods to be sold by all license types.
- Commissioner Flanagan seconded the motion.
- The Commission voted in favor of the motion three in favor (Flanagan, Hoffman, McBride) and one against (Title)
- Commissioner McBride moved to amend the previous vote to clarify that the expansion to allow sale of branded goods is limited to retailers in addition to delivery licensees.
- Commissioner Flanagan seconded the motion.
- The Commission unanimously approve the motion.

- Question 4c (quantity of products)
 - Commissioner McBride suggests that there may be a tiered system for the amount of product that can be delivered.
 - Commissioner McBride said that the tiers may allow ongoing compliance costs of various levels.
 - Commissioner Title said she has concerns about setting limits on the quantity of product but is open to the idea of tiering.
 - Commissioner Flanagan agreed with the concept of tiering.
 - The Chairman asked whether the benefits of tiering would be lowering costs of compliance for smaller operators.
 - Commissioner McBride said that she does not plan to limit the number of contracts a delivery licensee could have, but the tiering would be based on the volume of purchasing at wholesale and warehousing, and what the cost of compliance, both for the licensee and the Commission, based on that volume.
 - The Chairman asked if, like cultivation, there would be an application fee commensurate with the tier size.
 - Commissioner McBride said she hadn't contemplated the fees aspect of it, but more an overall cost.
 - The Chairman noted that application fees are designed to cover the cost of ensuring compliance, so a tiered system would necessitate tiered fees. The Chairman asked the Executive Director for his thoughts.
 - The Executive Director said that there needs to be a lot of thought put into compliance, both with respect to the amount of marijuana being purchased at wholesale and warehoused and how courier models work with the Seed-to-sale System of Record and manifests and how unsold product is returned. There are



initial review questions and ongoing compliance requirements, such as inspections and inventory audits. The initial application is similar, and the ongoing compliance is where things may differ.

- Commissioner Title expressed hearing Commissioner McBride's further explanation and ultimately supports the tiering suggestion.
 - The Chairman asked about a two tier model that distinguishes between a small business and large business?
 - Commissioner McBride said that two seems too few but 11 is too many.
 - The Chairman suggested that we may need additional discussion at a later meeting, but it sounds like the tiered system is generally accepted as a good approach.
 - The Executive Direct noted the proximity in time of the September 10 meeting and the need to research other models.
 - Commissioner McBride volunteered to work with staff to help appropriately structure this concept.
- Q4(d) (Repackage)
 - Commissioner Title moved to allow delivery licensees that wholesale and warehouse be allowed to repackage.
 - Commissioner McBride asked if this includes white labeling.
 - Commissioner Title clarified she is relying on the current proposed definition of repackaging.
 - Commissioner McBride seconded the motion.
 - The Commission unanimously voted to approve the motion.

f. LICENSE TYPES: DURATION OF SOCIAL CONSUMPTION AND DELIVERY
LICENSES EXCLUSIVITY PERIOD *New - 2:29:00*

- The Deputy General Counsel gave an overview of the topic.
- Commissioner Title reiterated her preference that the exclusivity period be for 5 years.
- Commissioner McBride expressed that she supports extending the exclusivity period but noted her concern about the legal implications of extending the exclusivity period to five years.
- General Counsel Baily expressed that case law says that any favorable treatment of a licensee must be for a limited amount of time. There is no set time period, but the time period must be "reasonable" and looks to see that such restrictions being monitored and extended based on information.
- The Chairman expressed that he thinks 5 years is too long for the initial period and 3 years is a good time frame to collect data and for the Commission to consider extending it in its discretion.
- Commissioner Title said that she supports 5 years, but the priority/expedited status of such applicants makes the shortened time frame reasonable.
- Commissioner McBride agreed 3 years is reasonable.



- Commissioner Flanagan moved to extend the adult use delivery and social consumption exclusivity period to 3 years subject to Commission’s ability to extend beyond based on data.
- Commissioner McBride seconded the motion.
- The Commission unanimously approved the motion.

g. LICENSE TYPES: DELIVERY LICENSEES, DELIVERY ENDORSEMENTS, SCOPE OF DELIVERY- 2:39:30

- Deputy General Counsel Nguyen gave an overview of the topic.
- Question 1 (Microbusinesses)
 - Commissioner Title said that she supports allowing a to either get a delivery license or a delivery endorsement.
 - The Chairman asked what a delivery license gets a microbusiness that they don’t get with an endorsement.
 - Commissioner Title said it would allow a microbusiness to sell products of other licensees.
 - Commissioner McBride said that she would not like to see this happen at this time, expressing that the restrictions set up were part of keeping microbusinesses as small businesses.
 - Commissioner Flanagan agreed.
 - The Chairman expressed agreement with Commissioners McBride and Flanagan.
 - Commissioner Title further expressed her belief that allowing a delivery licenses for microbusiness will further support the microbusiness model.
 - Commissioner Flanagan expressed that she thinks microbusinesses should be limited to delivery endorsement.
 - Commissioner Title noted that Microbusinesses are meant to receive special benefits in order to promote small businesses in the industry, but with the changes to the delivery licenses, a delivery endorsement doesn’t carry as much advantage. Commissioner Title said that at least allowing a courier license would be an advantage to Microbusinesses.
 - The Chairman suggested that this would still be an item the Commission acts on in this regulatory round, but not at this meeting.
 - Commissioner Flanagan noted that she understands the rationale, but that she does not support allowing microbusinesses to have more than a delivery endorsement.
- Question 2 (delivery as retailers)
 - The Chairman suggested tabling this topic until further legal analysis can be developed and its impact on licensing caps.
 - Commissioner Title agreed.
 - Commissioner McBride asked for how long the topic would be tabled, so that applicants can plan.
 - Commissioner Flanagan echoed this concern and encouraged the Commission to have this discussion.



- The Chairman said that he had received conflicting opinions and didn't feel in a position to make a decision but noted that the issue couldn't be tabled for long.
 - Commissioner McBride said she believes that there is no question based on the statutory definition, delivery licensees are definitely retailers.
 - General Counsel Baily gave an overview of the definition of retailer and the Commission's authority to develop delivery licensees, but there may be some flexibility for the Commission to exert some discretion on the topic. Ultimately this is an unanswered question of law and the Commission's determination would be entitled to deference.
 - Commissioner McBride expressed that she is ok with tabling.
 - Commissioner Flanagan said that the topic should not be tabled. The decision is going to inform many following decisions but acquiesced to tabling given other Commissioners' desire to table the topic.
- Question 3 (municipality description)
 - Deputy General Counsel gave an overview of the topic.
 - Commissioner Flanagan and the Chairman were not sure why this is a discussion, since the statute is clear on local control.
 - The General Counsel explained that it is related to the question 2, hinging on whether a delivery licensee is a retailer.
 - Commissioner Title expressed her understanding that if the delivery licensee not a retailer, and a city did not explicitly ban on delivery, then the Commission's restrictions on delivery to opt-in municipalities could be repealed and licensees would be allowed or disallowed in accordance with 94G § 3.
 - Commissioner McBride expressed her understanding that, whether or not it is deemed a retailer, is going to be a "Marijuana Establishment" for the purposes of the Commission's regulations and discussed the previous considerations that led to the current requirements. Commissioner McBride concluded that there is not much room to make any change.

The Commission took a 30 minute recess.

h. LICENSE TYPES: DELIVERY LICENSEES' SCOPE OF PREMISES *New* – 3:34:00

- Deputy General counsel gave an overview of the topic.
- Commissioner Title gave additional context to the issue.
- Commissioner McBride does not support changing the security requirements at this time.
- The Chairman and Executive Director each noted that at this point in the regulatory cycle, it could be difficult to ensure draft language and proper policy discussions are had.
- Commissioner Title noted that revising or reviewing security requirements for the courier model could be crucial to ensuring the viability of such businesses, which in turn is a matter of fulfilling the Commission's equity mission.
- Commissioner McBride noted that that there is a security waiver process in place and does not support an open ended discussion on changing security requirements.



- i. LICENSE TYPES: ALL LICENSE TYPES' ABILITY TO SHARE SPACE *New* – 3:46:30
- Commissioner Title said that there is no regulatory change needed. Currently, there is no prohibition on sharing space, but there are still required to fulfill all regulatory requirements.
 - Commissioner Flanagan suggested that perhaps a guidance is required to clarify current requirements.
 - The General Counsel said a clarification of current requirements could be done by guidance, but modifications to requirements should be done by regulation.
 - Commissioner McBride asked how staff is treating this currently.
 - The Executive Director said that the hypothetical about shared space is possible, but there are regulatory hurdles that it is up to licensees to show how they would comply with them.
 - Commissioner Title followed up by reading from the Social Equity Work Plan with respect to shared space and noting that the shared use of cultivation and manufacturing space was included as an item for staff research with recommendations previously scheduled for this round of regulatory changes, but that it would make sense to revisit this during the next round.
- j. OPERATIONS: SCOPE OF SAMPLING *New* – 4:00:36
- The General Counsel gave an overview of the topic.
 - Commissioner Title said that she found the public comment persuasive in particular the comparison between the sample limits and possession limits. Commissioner Title asked where the limit came from.
 - Deputy General Counsel said she would find out where the limit came from.
 - Commissioner Flanagan said that she thinks that the writing group looked at other states, but it was not a scientific determination and that she did not support the increase.
- k. OPERATIONS: DISABILITY ACCESS *New* – 4:04:15
- The General Counsel gave an overview of the topic.
 - Question 1 (adding disabled populations to RVT training topics)
 - Commissioner Title described the results of the patient survey and how issues relating to disabled communities can be a problem.
 - Commissioner Flanagan asked why we're talking about this given disability discrimination laws.
 - Commissioner Title clarified that this is not a question of minimal legal requirements, but individual training to improve customer experience.
 - Commissioner McBride supported the suggestion.
 - Commissioner Title moved to add the requirement that RVT training cover working with disabled populations.
 - Commissioner McBride seconded the motion.
 - The Commission unanimously approved the motion.
 - Question 2 (employee handbook)



- Commissioner McBride clarified whether these materials would be submitted to the Commission.
- Commissioner Title said it would not be submitted and approved by the Commission but would be subject to inspection of documents like any other required policy/document.
- Commissioner Title moved to approve the addition of an employee handbook requirement for working with disabled populations.
- Commissioner McBride seconded the motion.
- The Commission unanimously approved the motion.

l. MEDICAL: MTCs' COMPLIANCE WITH PRODUCT DATABASE REQUIREMENT

New – 4:10:00

- Deputy General Counsel gave an overview of the topic.
- Commissioner McBride said that MTCs should be required to comply with the database requirements and doesn't see any reason why it should not be.
- Commissioners Title and Flanagan and the Chairman agreed.
- Commissioner McBride moved to apply the database requirements to MTCs.
- Commissioner Flanagan seconded the motion.
- The Commission unanimously approved the motion.

m. MEDICAL: CAREGIVERS – 4:12:31

- Deputy General Counsel gave an overview of the topic.
- Question 1 ((number of patients))
 - Commissioner Flanagan said what matters is that patients are being properly taken care of. Commissioner Flanagan also expressed concern about allowing the canopy to be too large.
 - Commissioner McBride said that a definitive number is important for compliance perspective and for a municipal control issues.
 - Commissioner Title agreed with the comments made so far and noted that from her perspective, it is not the number, but the nature of the relationships. Commissioner Title said that she supports a definite number, and perhaps making it 5 patients with a waiver process to be a caregiver for more. The canopy limitation was based on the concept of the number of patients informing the size of canopy, to follow what other states do.
 - Commissioner Flanagan expressed concern with respect to the risk of diversion the higher the number of patients and the larger the canopy size.
 - Commissioner Title said that she has a hard time believing that someone who is likely to divert marijuana would voluntarily be listed in a government database and subject themselves to inspections.
 - Commissioner Flanagan said that that makes sense, but her concern about diversion is constant, but supports a number more like 5 patients.
 - The Chairman also said he supported 5 patient limit.



- Commissioner McBride suggested a commensurate reduction to 250 ft. of canopy and requiring an electrical inspection and that a caregiver keep a log of the cost of cultivating activities.
 - The Executive Director noted that any change to the patient/caregiver ratio would require some recoding in the medical marijuana portal. The Executive Director indicated that a patient could consent to a caregiver serving another patient. If we were to change it, it can be done, but would require adjustments to the patient portal.
 - Commissioner Title asked that in addition to the log of costs and electrical inspection, there has to be a tracking of every plant. Also, if a caregiver is given permission to take on more than 5 patients, they should be able to expand their canopy, subject to restrictions already discussed.
 - Commissioner McBride moved 1. to make clear in the regulations that personal caregivers can serve up to 5 patients, but a waiver can be sought if a personal caregiver wants to serve more than five patients. 2. Caregivers under no circumstance can cultivate in excess of 500 sq. ft. of canopy as defined. 3. Caregivers engaging in cultivation must maintain a log of the cost of growing, and make that log available to the Commission on request
 - Commissioner Title seconded the motion
 - The Commission unanimously approved the motion.
- Question 2 (advertising by caregivers)
 - Commissioners agreed that caregivers should be prohibited from paid advertising.
 - Commissioner Title moved to affirm this restriction.
 - Commissioner Flanagan seconded the motion.
 - The Commission unanimously approved the motion.

n. MEDICAL: HARDSHIP CULTIVATION – 4:58:03

- Deputy General Counsel gave an overview of the topic.
- Question 1 (electrical inspection/fire safety).
 - Commissioner Title clarified whether this should be expanded to all cultivation not just hardship cultivation.
 - DGC clarified that there may be caregivers cultivating for patients who do not have a Hardship Cultivation designation. So, the question of whether these safety requirements should apply to that as well.
 - Commissioner McBride said she thinks it makes sense to remove Hardship since the change made under the previous vote.
 - Commissioner Title said that she wanted to consider this question with Hardship in the language, because she is concerned with requiring too much reporting and inspections for individuals growing for themselves in their homes. Commissioner Title also asked what would be reported to municipalities and who within the municipality?
 - Commissioner McBride said she doesn't know, but there needs to be room for it.
 - Commissioner Flanagan asked the origin of the question.



- The Chairman said that this came from Commissioner Title’s writing group.
 - Commissioner Flanagan said that the caregiver could file a safety plan with the fire department, but it is unclear who at the municipality electrical usage would be reported to.
 - Commissioner McBride indicated that this is in part a requirement to make sure that they are not creating fire hazards in order to harness the electricity needed to cultivate.
 - The Chairman suggested that the Commission vote on this policy point and review specific language as part of the vote on final regulations.
 - Commissioner McBride moved to require that Patients and Personal Caregivers engaging in Hardship Cultivation are required to comply with all applicable municipal or state requirements for electrical usage and fire safety and document its fire safety plan and electrical and fire inspections
 - Commissioner Title seconded the motion.
 - The Commission unanimously approved the motion.
- Question 2 (notice of cultivation conditions)
 - Commissioner Title envisioned that Caregivers would be giving this to patients by default, but based on public comment, Commissioner Title wanted to formalize a requirement around this.
 - Commissioner Flanagan asked that they specify a frequency.
 - Commissioner Title suggested an annual requirement.
 - Commissioner Flanagan suggested additional notice if conditions change before the annual reporting.
 - Commissioner Title made a motion to provide patients with annual written notice of cultivation conditions and notice of changes to those conditions.
 - Commissioner Flanagan seconded the motion
 - The Commission unanimously approved the motion.
- Question 3 (caregiver for non-Hardship patients)
 - The Executive Director noted that Hardship cultivation has not been fully implemented.
 - Deputy General Counsel Nguyen gave context to the question based on her understanding of current practice while Hardship Cultivation is being implemented.
 - Commissioner Title gave additional context, noting that there are patients whose Caregiver is cultivating product for them, despite that patient not having a Hardship Cultivation designation. These patients expressed during public comment period that they do not want to lose that option or be required to apply for Hardship Cultivation.
 - Commissioner Title moved to allow Caregivers to cultivate for up to one patient that does not have a Hardship Cultivation.



- Question 4 (limits on Caregiver cultivation per-patient)
 - The Chairman noted that this question had been asked and answered through previous discussions.

- Question 5 (Commission inspections of Hardship Cultivation).
 - Commissioner Title gave an overview of the topic.
 - The General Counsel gave some additional context and legal considerations.
 - The Executive Director noted that this is a topic that needs to be fleshed out more, potentially in a Standard Operating Policy and/or Guidance.
 - Commissioner Title moved to change “reasonable notice” to “reasonable notice as defined by the Commission.”
 - Commissioner Flanagan seconded the motion.
 - The Commission unanimously voted to approve the motion.

- o. MEDICAL: OUT-OF-STATE PATIENTS – 5:35:35
 - Deputy General Counsel gave an overview of the topic.
 - The Chairman said he was uncomfortable drawing a line and raised concerns of patient privacy.
 - Commissioner Title said she also has the privacy concern and where to draw the line of who can take advantage of it.
 - Commissioner Flanagan said she is not comfortable drawing a line when it comes to illness. Commissioner Flanagan also expressed concern about the interstate transport of Marijuana Products, so she does not think out of state patients should be able to participate in.
 - Commissioner McBride said she agrees with Commissioner Flanagan’s concerns about crossing state lines. Commissioner McBride suggested that contingent on such out-of-state patients (1) are receiving treatment in Massachusetts and (2) is not bringing it across state lines.
 - Commissioner Flanagan expressed her concern that one can get treatment in Massachusetts and then go home.
 - The Executive Director gave an overview of the technical aspects of making these changes and made recommendations to reconcile Commissioner McBride’s idea with Commissioner Flanagan’s concerns of requiring a Massachusetts mailing address for the purposes of a patient availing themselves of the Commonwealth’s medical program.
 - Commissioner Title expressed she’s a little far removed with respect to the concerns raised because she found it hard to believe that anyone would fraudulently claim to meet these standards when cannabis is available to all adults over 21 in Massachusetts, but said her major concern is patient privacy.
 - Commissioner Title moved to insert “as determined by a Certified Healthcare Provider” after the “end-of-life or palliative care or cancer treatment in M…”
 - Commissioner McBride seconded the motion.
 - The Commission voted in favor of the motion by a vote of three in favor (Hoffman, McBride, and Title) and one against (Flanagan).



p. MEDICAL: VERTICAL INTEGRATION *New*

- The General Counsel gave an overview of the topic.
- The Chairman said that this is a complex topic therefore he does not think that this is a topic that the Commission should consider now.
- Commissioner Title expressed her support for vertical integration being changed, but there is a concern about doing it correctly with sufficient time.
- Commissioner Flanagan said that she is concerned about putting this off, especially if the next regulatory review is going to be sometime in the future.
- Commissioner McBride also expressed that she thinks this is something that needs to be addressed, but in particular, this is going to have to wait to ensure that it is done properly.
- General counsel stated that it would require a substantial revision of the regulations.
- Executive Director said he thinks this would be a heavy lift and could stop all other work of the Commission, saying this would be the most monumental undertaking since starting the agency itself.
- Commissioners McBride and Flanagan said that based on the input, they are comfortable waiting to address this to ensure it is done properly.
- Commissioner Title made a statement for the record for future Commissioners to consider. Commissioner Title stated that she believes it is crucial to the Commission's equity mission that when medical licenses are no longer subject to vertical integration, ensuring that those licenses are subject to an exclusivity period for equity applicants, similar to delivery and social consumption.

q. OTHER TOPICS NOT PREVIOUSLY RAISED

- Commissioner Title noted three staff led suggestions that, if within scope, she would like the Commission to discuss including (1) to strengthen enforcement of inadequate disclosures under suitability and licensing regulations; (2) to clarify that an admission to sufficient facts or a Continuance Without a Finding does not constitute a conviction for purposes of reviewing suitability for licensure; and (3) clarify that an applicant must disclose all state and federal administrative actions in a manner consistent with disclosure of civil actions.
- General Counsel that, given these changes relate to suitability regulations, which had not been revised and part of public comment, some members of the public may feel they didn't have the opportunity to comment, but this is ultimately within the discretion of the Commission.
- The Chairman stated that he believed it was best to save these for a future regulatory review.
- Commissioner McBride asked why testing questions were not being considered, given there were changes to those provisions as part of what was previously filed with the Secretary of the Commonwealth.



- The Deputy General Counsel noted that these questions would be within scope, but are largely clarifying in nature, so it is something legal could handle without policy discussions.

4) Next Meeting Date

- Regularly scheduled meeting on September 10, 2020.
- Meeting to vote on final regulations to be determined.

5) Adjournment

- Commissioner Flanagan moved to adjourn the meeting.
- Commissioner McBride seconded the motion.
- The Commission unanimously voted to adjourn at 4

