

December 31, 2019

Alexis Podesta, Secretary
California Business, Consumer Services and Housing Agency
915 Capitol Mall, Suite 350-A
Sacramento, CA 95814

Dear Ms. Alexis Podesta,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Cannabis Control Appeals Panel submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2019.

Should you have any questions please contact Anne Hawley, Executive Director, at (916) 322-6870, Anne.Hawley@ccap.ca.gov.

GOVERNANCE

Mission and Strategic Plan

Brief History

In 1996, voters approved Proposition 215, which legalized the use of medicinal cannabis in California. Following passage, local governments performed most of the regulation. In 2015 the Governor signed into law three bills (Assembly Bills 243 and 266, and Senate Bill 643) that created a licensing and regulatory framework for medicinal cannabis through the Medical Cannabis Regulation and Safety Act (MCRSA). This legislation divided the responsibility for state licensing between three state entities – the California Department of Food and Agriculture, the California Department of Public Health and the Bureau of Cannabis Control – with the Bureau of Cannabis Control designated as the lead agency in regulating the cannabis industry in California.

In 2016, voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). Under Proposition 64, adults 21 years of age or older can legally grow, possess, and use cannabis for non-medicinal purposes, with certain restrictions. Further, as of January 1, 2018, AUMA made it legal to sell and distribute commercial cannabis through a regulated business. In June 2017, the State Legislature passed and the Governor signed Senate Bill 94, a budget trailer bill that merged the Medical Cannabis Regulation and Safety Act (MCRSA) and AUMA to create the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). Under MAUCRSA, a single regulatory system now governs the medicinal and adult-use cannabis industry in California.

Mission and Strategic Plan

The Cannabis Control Appeals Panel (Panel) is responsible for hearing the appeals of any decision by state cannabis licensing authorities relating to the order of any penalty assessment, issuance, denial, transferal, conditioning, suspension or revocation of any annual license provided under MAUCRSA.

In August 2019, the Panel developed a draft mission, vision, values, and goals statements.

Mission

Provide fair, accessible, and timely quasi-judicial resolution of appeals from cannabis licensing decisions.

Vision

Cultivating a transparent and respectful forum for cannabis businesses within all California communities.

Strategic Goals

The Panel has developed three strategic goals:

1. Decision Making - To ensure appeals from licensing agency decisions are resolved in a fair and timely fashion.
2. Outreach and Education - To provide transparency and education on the appeals process for cannabis stakeholders.
3. Organizational Effectiveness - To develop an effective and collaborative work environment while maximizing resources.

The panel members and staff are continuing to develop specific objectives to fully implement the Panel's strategic goals for 2020 and beyond.

Entities Under the Panel's Reporting Responsibility

The Panel is a small, independent state agency and does not have separate entities under the Panel's reporting responsibility.

Control Environment

Management's Establishment and Demonstration of Integrity and Ethical Values

The Panel establishes and demonstrates integrity and ethical values in the following manner:

- The Panel has developed five core values which act as guiding principles for all aspects of the Panel's operations and decision-making by management. These five core values embrace the following objectives:
 - Fairness
 - Efficiency
 - Professionalism
 - Respect
 - Transparency
- The executive director (ED) has an open-door policy and encourages all members of the Panel and staff to share ideas and/or concerns. The ED works to foster a spirit of respect, fairness and professionalism in all interactions between panel members, management, and staff to create a team-oriented atmosphere. The ED strives for transparency throughout all aspects of

the Panel's operations to ensure that staff have a clear understanding of the Panel's goals and management's expectations.

- The Panel is developing a decision-making process for recusal to identify any potential conflicts of interest on a case-by-case basis for panel members and staff. This will ensure that individuals with appeals before the Panel are provided a fair and impartial hearing.
- All panel members and the executive director are required to annually file the Form 700 with the California Fair Political Practices Commission (FPPC). Additionally, staff who serve in designated positions file the Form 700, which is required to be on file at the Panel and are available for public inspection and reproduction. (Government Code Section 81008)
- Creating a work environment of professionalism and respect is a top priority for the Panel. Details of the Panel's Equal Employment Opportunity Policy (EEO) is provided in the "Information and Communication" section of this report.
- All panel members and employees receive annual notifications of their rights and protections under the California Whistleblower Protection Act on how to report improper activity to the California State Auditor and/or a retaliatory action to the State Personnel Board.

Oversight

On July 1, 2019, Governor Newsom signed Assembly Bill 97, a trailer bill containing statutory provisions related to cannabis and clarifying that the Panel is established under the Business Consumer Services and Housing Agency (Agency). Management meets with the Agency's Secretary and executive team on a monthly basis. The executive director also provides a "Week Ahead Report" when necessary on high-level updates for the Agency and Governor's Office consideration.

Secondly, the panel members, whom three are appointed by the Governor, one appointed by the Senate Committee on Rules, and one appointed by the Speaker of the Assembly, provide oversight and direction to the executive director and staff. The executive director reports directly to the Panel's chairperson and panel members and serves at their pleasure.

Organizational Structure Ensures Appropriate Levels of Responsibility and Authority

Below is an overview of the organizational structure and key roles of the Panel, outlining levels of responsibility to ensure the Panel achieves its mission, goals and objectives.

Panel Chair. The responsibilities of the chair include coordinating with the executive director to exercise oversight of day-to-day operations; manage panel hearings to ensure orderly and efficient review of each agenda item; coordinate the annual review of the executive director; represent the panel before external entities, as necessary; and, serve as signatory on delegations made by the Panel to the executive director. Election of the chair occurs annually at the first meeting of each year.

Panel Members (4). The panel members, including the chair, are vested with issuing written decisions with orders affirming, reversing, or remanding the licensing and/or disciplinary decisions. The Panel works with staff to review appeals. The Panel holds hearings, reviews and approves regulations, and works closely with the executive director on the operations of the Panel.

Executive Director (ED). This position is responsible for oversight and general direction of the day-to-

day operations of the Panel. The executive director manages, at the direction of the Panel, on a wide variety of regulatory, legislative, appeal, and operational issues. This position is responsible for ensuring that the Panel's mission, goals and objectives are accomplished by developing and interpreting broad policy into strategies and operational procedures to be implemented.

Assistant Chief Counsel (ACC). The ACC acts as the Panel's principal legal advisor, works with panel members and the executive director in the formulation, administration, and implementation of departmental policies and procedures. Serves as primary contact on all legal issues before the Governor's Office, the Legislature, control agencies and others. Manages the legal unit operations and staff. Reviews attorneys' legal work, distributes assignments and manages caseloads for legal staff.

Attorney III (2). Under the direction of the ACC, the Attorney III independently performs written analysis and summary of cases, peer review of legal documents prepared by staff attorneys, and legal counsel as requested by the Panel, executive director and/or assistant chief counsel. In addition, this position will respond to public inquiries, promulgate revised or additional regulations, and develop and refine policies and procedures when necessary.

Associate Governmental Program Analyst (AGPA). Under the direction of the executive director, this position is responsible for a variety of administrative functions related to the Panel's budget, accounting, procurement, contracts, human resources, and annual reports as required by the State. This position works closely with the Department of General Services' (DGS) Office of Contracted Fiscal Services (CFS), Office of Human Resources, and Procurement Division.

Panel's Interagency Service Providers

Due to the Panel's small size, it is more efficient to contract for administrative services with state agencies who have expertise in accounting, budgeting, human resources and information technology. Below are the Panel's service providers:

- Department of General Services (DGS), Contracted Financial Services Unit for budget and accounting services.
- Department of General Services (DGS), Office of Human Resources for personnel services.
- Department of Business Oversight (DBO) for information technology support and data security.
- Department of Consumer Affairs (DCA) for website management/configuration and phone installation and support.

Documentation of the Internal Control System

As stated earlier, the Panel is responsible for appeals from any decision by the state cannabis licensing authorities; therefore, (1) it is essential that clear documentation is provided to ensure that the appeal process operates as efficiently and effectively as possible; (2) reliable data is produced about the Panel's operations; and (3) the Panel is complying with all laws and regulations to ensure a fair process for all appellants and respondents.

Below is the documentation created thus far for the appeal process:

- Several processes have been identified and work-flow charts have been created to provide detailed, step-by-step procedures for staff:

- Intake of new cases
- Intake of the administrative record
- Filing of opening brief and proof of service
- Motion to continue or change location
- Request for continuance based on exigent circumstances
- Decision making process for panel members
- Disqualification of panel member (party initiated and panel member initiated)
- Motion to remand for new evidence
- Motion to waive page limits
- Reconsideration by licensing agency
- Request for extension to file administrative record
- Stipulation for truncated administrative record
- Stipulated settlement
- Motion to stay
- Response to California Public Records Act requests

Additionally, the Panel is in the process of developing a case management system utilizing LegalStratus, a development accelerator for the cloud-based platform, Salesforce. Key performance indicators (KPI) will be identified, such as the age of cases, for example, to ensure “real time” reporting of Panel operation metrics to panel members, management, the Governor’s Office, Legislature, and other stakeholders. This data will assist the Panel in achieving its strategic goals and objectives.

Establishing and Maintaining a Competent Workforce

As stated earlier, the Panel contracts with Department of General Services (DGS), Office of Human Resources for personnel services. The Panel leverages DGS’ resources to ensure that the Panel recruits, develops, and maintains the most competent and diverse staff.

- Recruitment:
 - The Panel works with DGS to conduct extensive advertising and outreach to prospective candidates through popular job-search platforms.
 - For positions that require specific qualifications, for example a legal degree, outreach to diverse legal associations and their listservs is executed.
 - For entry-level positions that do not require a college degree, the Panel advertises and conducts outreach to local high schools and community colleges through their career centers.
 - For all positions, the Panel conducts outreach to ensure that the pool of candidates is representative of the State’s diversity.
- Development of Staff:
 - It is important to assess the individual’s core competencies and to identify areas for additional training to support achievement of the position’s duties and responsibilities.
 - The Panel’s goal is to provide multiple training opportunities each year that are tailored to the individual’s needs.
 - The executive director will provide timely feedback during and after the probationary period to ensure skills are aligned with the Panel’s objectives.

- Retention
 - The executive director and assistant chief counsel provides meaningful and ongoing mentorship for staff to have an opportunity to grow professionally in their roles.
 - The executive director conducts annual reviews and goal setting with each staff member to provide motivation to hone their skills, support their professional goals, and the Panel's goals and objectives.
 - Management recognizes and rewards staff who have shown exemplary levels of performance.

Enforcement of Accountability

There are three levels of accountability for the Panel.

First, panel members serve at the pleasure of their appointing authority and can be removed at any time.

Second, panel members conduct an annual evaluation of the executive director, who is responsible for the financial operations and integrity of the Panel, and is the official custodian of records. Panel members provide information to the Panel's chair on the executive director's performance in advance of this meeting. The findings are shared with the executive director in closed session. The executive director is an at-will employee, who serves at the pleasure of the Panel.

Third, employees of the Panel are civil service employees and their employment, pay, benefits, discipline, termination, and conditions of employment are governed by civil service laws and regulations, and by collective bargaining agreements. The Panel delegates the authority and responsibility for management of the civil service staff to the executive director. The executive director provides feedback and assessment during probationary reports and annual reviews to ensure that the employee is meeting the requirements of their role as indicated in their duty statements. If an employee is not meeting the expectations of their position, the executive director consults with the Department of General Services' Constructive Intervention Unit for guidance on addressing poor performance through the progressive discipline process.

Information and Communication

Information for Operational, Programmatic and Financial Decision Making

As stated earlier, key performance indicators (KPI) will be identified in the Panel's case management system to report on the Panel's operations pertaining to the length of time to process each appeal. Other metrics will be developed to provide operational and programmatic information vis-à-vis the case management system, which is currently under development.

Financial information is provided by the Department of General Services' Contracted Financial Services Unit for budget and accounting reports. These reports are provided on an as needed basis to the Panel. Furthermore, reports are provided on a quarterly and end-of-the fiscal year basis as required by state control agencies. These reports ensure that the Panel is in compliance and within its appropriation for the fiscal year.

Channels for Communication

While the internal panel communications, facilitated by the Panel's small size (5 panel members and 8 staff), are direct and frequent, the Panel has instituted the following procedures supporting regular communication.

- There is a weekly staff meeting, typically on Monday morning. This meeting provides an opportunity for the executive director to check-in with staff, hear any questions or concerns they may have, and provide guidance on the upcoming priorities for the Panel.
- Often, there are meetings with staff on special projects—such as the case management system, regulations, and developing policies and procedures, for example.
- The executive director provides a Week Ahead Report to Agency, as needed, and briefs Agency leadership at a monthly meeting. When necessary, the executive director elevates issues to Agency to ensure the Governor's Office is kept abreast of sensitive issues.
- The executive director and assistant chief counsel conduct check-in calls with panel members on a bi-monthly/monthly basis.
- Communication with external stakeholders is through various avenues:
 - All external stakeholders may sign-up for the Panel's listserv, which is used to update interested parties on upcoming panel meetings and other pertinent news.
 - Stakeholders can contact staff through info@ccap.ca.gov, which is posted on the Panel's website or the Panel's main phone number.
 - The Panel's staff provides trainings/workshops on the appeals process at conferences and other stakeholder venues.
 - New website content will be uploaded in early 2020 on frequently asked questions, a glossary, and instructional videos on the appeals process.
 - As of July 1, 2019, the Panel's website is fully accessible and is designed, developed and maintained to be in compliance with California Government Code Sections 7405 and 11135.
 - Additionally, on the Panel's website the required forms to initiate appeals, the frequently asked questions, and the glossary on the Panel's website will be translated into Spanish, Chinese Mandarin, and Tagalog, the three most common foreign languages spoken in California.
 - Later in 2020, live-streaming of panel meetings will be available on the website.
 - Finally, at panel meetings and per requirements of the Bagley-Keene Act, the public is provided an opportunity to comment on each agenda item in open session.

Reporting for Employees to Report Inefficiencies & Inappropriate Actions

- As stated earlier, creating a work environment of professionalism and respect is a top priority for the Panel. As set forth in the Panel's Equal Employment Opportunity Policy (EEOP), the Panel ensures a work environment free of all forms of unlawful discrimination, harassment, intimidation, or coercion, and establishes and maintains an effective EEOP Program and Discrimination Compliant Process (DCP). All employees are encouraged to identify, prevent, and report any inappropriate conduct either to the executive director and/or the Panel's equal employment opportunity officer (EEOO). Because the Panel is a small agency, the EEOO for the Panel is the manager for administrative operations at the Business Consumer Services and Housing Agency (Agency).

- All panel members and employees receive annual notifications of their rights and protections under the California Whistleblower Protection Act on how to report improper activity to the California State Auditor and/or a retaliatory action to the State Personnel Board.

MONITORING

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the Cannabis Control Appeals Panel monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Anne Hawley, Executive Director.

The Panel anticipates use of the following processes to ensure the effectiveness of internal control systems, identify potential problems, and respond to vulnerabilities.

- The executive director analyzes reports on key performance indicators, for example a case's age, generated by the case management system to identify work processes that should be streamlined.
- The executive director conducts check-in meetings to assess the caseload for the assistant chief counsel and staff attorneys to verify that workloads are fairly distributed.
- Because of the Panel's small size, all staff, including the executive director, are generally knowledgeable about the day-to-day operations; however, the Panel's chair could review and compare the output number of the Panel's decisions to expectations and determine if change is needed.
- If change is necessary to address internal control systems, the executive director would report to the Panel's chair the necessary adjustments to streamline work processes. These adjustments would be reported to Agency as well.

Once the Panel begins to receive appeals, a baseline can be created and used in monitoring activities to evaluate whether corrective measures are having the intended impact. The executive director will document and track the progress of addressing the Panel's vulnerabilities and report to the panel members and Agency.

RISK ASSESSMENT PROCESS

The following personnel were involved in the Cannabis Control Appeals Panel risk assessment process: executive management, front line management, and staff.

The following methods were used to identify risks: brainstorming meetings, ongoing monitoring activities, consideration of potential fraud, and performance metrics.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, timing of potential event, potential impact of remediation efforts, and tolerance level for the type of risk.

RISKS AND CONTROLS

Risk: Workforce Planning

Because of the Panel's small staff and the fact that some functions are performed by one person, there is a risk that a loss of specialized expertise could disrupt Panel operations. Therefore, it is imperative that a workforce plan be fully implemented to cross-train personnel on essential tasks and procedures. If the workforce plan is not fully implemented and cross-training is not completed, delays could occur in processing appeals and other significant administrative functions.

Control: Workforce Plan, Trainings and On-Line Procedure Manuals

Management is conducting an analysis of the critical needs of the Panel regarding processing of appeals and other administrative functions in order to determine workforce gaps. The controls designed to address these risks are the following:

- All staff are required to undergo cross-training in critical functions.
- All positions are required to develop on-line, procedure manuals which will describe critical functions and step-by-step processes for each position. These manuals will be on-line in the shared drive for easy access.

Cross-training and on-line procedure manuals will reduce the risk of delay in processing appeals and key administrative functions.

Risk: FI\$Cal Implementation

Implementation of FI\$Cal has not been fully realized and this has caused internal reports to be inadequate and/or difficult to produce in a timely manner; therefore, not meeting the needs of management or staff.

The root causes for the partial implementation of FI\$Cal into the Panel's operations are the following:

- FI\$Cal's system functionality is not user-friendly or intuitive to the Panel's internal users. For example, the search function is difficult to use if incorrect accounting vocabulary is inputted into the search bar; thus, preventing staff from using reporting tools or solving problems.
- FI\$Cal's reporting capabilities are opaque. This often causes delays because of inefficient methods in presenting information to decision makers.
- FI\$Cal's customer service response time is typically more than 24 hours. Once FI\$Cal's guidance is received, it is sometimes difficult to comprehend and implement.

As stated earlier, one of the Panel's strategic goals is organizational effectiveness. It is imperative that staff are able to produce routine financial reports in a timely manner to ensure that the Panel is prudent with its spending.

Control: Staff Training

The Panel will build upon current staff competencies by taking advantage of training opportunities provided by FI\$Cal and the Department of Finance.

By gaining additional expertise in FI\$Cal's functionality, this will allow staff to produce internal reports in a more timely and impactful fashion, and more effectively navigate FI\$Cal's interface.

Risk: Disruption Due To Natural Disaster/External Acts

Disruption to the Panel's operations due to a natural or manmade disaster, could seriously impact the Panel's operations and continuity. The cause of this catastrophic event—a flood, for example—could create a prolonged power outage in Sacramento. Loss of electricity would make operational functions difficult or impossible. Access to electronic files, email, processing the intake of new appeals, and communication with appellants and respondents would be jeopardized.

Control: Cloud-based Record Keeping and Issuance of Portable Devices

The Panel has instituted a cloud-based electronic record keeping and issuance of portable devices (laptops and cell phones) for off-premises staff use. This would allow for the continuity of operations to be maintained until electricity is restored.

CONCLUSION

The Cannabis Control Appeals Panel strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Anne Hawley, Executive Director

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency