



July 18, 2019

The Honorable Mark J. Cusack, Chairman  
Joint Committee on Revenue  
State House, Room 34  
Boston, MA, 02133

Dear Chairman Cusack,

Thank you for your letter dated June 27 regarding your concerns about revenue generated from the first seven months of adult-use cannabis sales in the Commonwealth. I appreciate your continuing interest in and support for the activities of the Cannabis Control Commission (Commission). Attached, please find our responses to each of the data and information requests made in your letter. I would be happy to answer any questions you might have about these data.

As your letter raised specific concerns about the work of the Commission, I would additionally like to take this opportunity to address them.

**Pace of Retail Store Licensing and Tax Revenue Generation**

When I accepted my appointment as Commission Chairman in September 2017, I understood the task before me and my fellow Commissioners was to honor the will of the voters by safely, equitably, and effectively creating a legal cannabis industry for Massachusetts. While the generation of tax revenue for the state and its municipalities was a clear objective of the law, nowhere in statute does it state that maximizing tax revenue, particularly in the short term, should dominate the other objectives such as enhancing public health and safety, preventing diversion, minimizing the illicit market, preventing access by underaged persons, creating a diverse industry, and ensuring the participation of those communities disproportionately harmed by marijuana prohibition. Accordingly, in all our actions and decisions, the other Commissioners and I have sought to find the appropriate balance to ensure we attain all the law's objectives.

As you noted, as of June 23, licensed Marijuana Retailers in Massachusetts had reported nearly \$176 million in sales since the first two stores opened on November 20, 2018. Twenty-two locations are currently operating statewide, while five final licensees and 44 more provisional licensees are on the path to open soon. The tax revenue the state will continue to collect from licensed retailers comes in addition to the non-tax revenue that the Commission generates for the Marijuana Regulation Fund in the form of fees and other charges, as well as the benefits municipalities receive through local taxes and economic development. I expect these revenue sources will continue to grow as more licensees open for business and more cities and towns recognize the opportunities that come with allowing regulated adult-use sales into their communities.



The \$44 to \$82 million “benchmark” projection of state tax revenue for the first year of sales was developed without input from our Commission but it is not far from reach when one measures twelve, complete months of retail operations, versus seven months into implementation. As you know, the Commission was mandated to meet a number of statutory deadlines in 2018 relative to promulgating regulations, opening and accepting license applications, and assuming regulatory authority for the Medical Use of Marijuana Program – and met them successfully. There was no mandated date by which Marijuana Retailers had to open, and the Commission authorized sales to begin only once we were confident the newly regulated industry would function safely and effectively. I am confident that the industry will, over the intermediate term, generate the substantial tax revenue expected by the Commonwealth.

### **Equity**

I applaud the Legislature for crafting a statute that made Massachusetts the first state to require industry participation by communities that have been disproportionately harmed by marijuana prohibition. Those provisions guide our agency’s efforts to ensure the regulated industry includes the communities that experienced the highest rates of drug-related arrests and incarceration, and especially minorities, women, veterans, and small farmers. We post relevant licensing data regularly through the Commission’s Open Data Platform, so the public has a clear and current picture of where we stand in fulfilling those mandates.

In accordance with Section 56 of Chapter 55 of the Acts of 2017, over a two-week period in April 2018, the Commission certified 122 applicants with Economic Empowerment priority status which allows them to jump the licensing queue once their completed license application is submitted. The first of these priority applications recently received a provisional license and an additional nine priority applications are currently under review. A voluntary survey last summer indicated that some of the greatest challenges applicants face include access to capital, navigating municipal processes, and developing business plans. As you are aware, the Commission also launched a Social Equity Program to assist individuals who have drug convictions, a parent or spouse who has a drug conviction, or who come from an area of disproportionate impact, and may be up against similar obstacles. So far, we have accepted more than 100 applications from those who seek to enter the legal marketplace as owners, executives, managers, employees, or ancillary business entities, and offered introductory training over two seminars, with many more courses still to come. We know that we have much work to do in this area, particularly with respect to the availability of capital. Achieving our social equity objectives will require the collaboration of our Commission, the Administration, private industry, cities and towns, and, of course, the Legislature. I welcome your support in meeting these important goals.

### **Role of Municipalities**

Both M.G.L. c. 94G and Chapter 55 of the Acts of 2017 reflect the Commonwealth’s strong tradition of local control by giving a great deal of flexibility to municipal governments in how they choose to govern their licensing and zoning process. As laid out in M.G.L. c. 40A, Chapter 55, and elsewhere, the adoption of zoning and other bylaws and ordinances is a strictly local process. While town zoning bylaws are subject to review by the Attorney General’s Municipal Law Unit, the Commission does not have that authority.



Between the passage of Question 4 in 2016 and the establishment of the Commission in the fall of 2017, over half of the 351 cities and towns in the Commonwealth either moved to prohibit adult-use Marijuana Establishments completely or to adopt a temporary moratorium. While a number of these communities have since clarified their stance or adopted zoning or general bylaws and ordinances to allow for adult use Marijuana Establishments, a sizable number remain closed to the industry. That impacts both the pace of implementation and revenue.

At a public meeting in August 2018, the Commission took the position by a 4-1 vote that it does not have the authority to review or regulate host community agreements made between private entities and local governments. As noted in the attached Commission [\*Report on Host Community Agreements and Marijuana Establishments\*](#), submitted to the Legislature March 16 of this year, the plain language of the statute provides no express authority to the Commission to review or take enforcement action regarding host community agreements. The Commission is not referenced in M.G.L. c. 94G § 3(d). Similarly, there is no language expressly authorizing the Commission to either review host community agreements or implement regulations regarding host community agreements in M.G.L. c. 94G § 4, the provision that provides a detailed list of the powers of the Commission and the issues it may regulate.

Essex County Superior Court Judge Timothy Q. Feeley, in the attached decision in [\*Mederi, Inc. v. City of Salem & others.\*](#), agreed with this interpretation, saying:

“As the [commission] argues, it has been its consistent position that it has no role under [state law] in reviewing the contents of HCAs, and the court agrees,” the judge wrote in a ruling dismissing the Commission as a defendant in the case. “The statute requires as part of a license application the inclusion of a certification that an HCA has been executed. The statute gives the [commission] no further role in looking beyond the certification to the contents of the HCA.”

### **Frequency of Public Meetings**

Regarding the frequency of our public meetings, the Legislature requires the Commission to carry out our business in a manner consistent with the requirements of the Open Meeting Law. I am proud of the transparent and open way that the Commission conducts ourselves under those guidelines. However, as you know, that means for the Commission to attend to any matters before us, we must do so with advance notice and in public. This includes all of the organizational structure, technology, and infrastructure decisions that are needed to stand up a new, independent state agency from scratch, while simultaneously doing the important work of developing and revising regulations, reviewing applications for new licenses, renewals, and changes of control, determining appropriate enforcement actions for regulatory violations, and fulfilling all of the reporting and research obligations under the law.

### **Role of the Individual Commissioners**

Your foresight in creating this independent body – with five diverse individuals who have ranging expertise in corporate management, public health, public safety, social justice and regulated industries – enabled the Commission to create a model regulatory structure that other states can now follow when they seek to legalize and regulate cannabis. That structure, through



which Commissioners are appointed by the Treasurer, Governor, and Attorney General – or jointly by all three – means each independent member has a wide range of latitude as to how they fulfill their roles. While I am honored to chair this well-chosen group of incredibly talented individuals, they do not report to me beyond the scope of conducting official Commission business. Any concern you may have about the actions of an individual member outside of this scope is best and most productively directed to the Commissioner personally, or to the respective appointing authorities.

### **Agency Staffing and Headquarters Location**

Within the agency, the Commission also has made strides. Since Commissioners were initially appointed in September 2017, we have grown to more than 60 employees staffing both the medical and adult-use cannabis programs and have plans to occupy space in Boston and Worcester by the end of this year. The Commission’s decision to build our permanent headquarters in the “Heart of the Commonwealth” was both unanimous and strategic, based on a search that was completed in collaboration with the Division of Capital Asset Management and Maintenance. The cost-effective location will enable staff to easily assist licensees and stakeholders located in all corners of state, and coincidentally Worcester County is already home to more than twice as many licensees as any other county in Massachusetts. Even better, constituents who attend our public meetings, coming anywhere from the Berkshires to Boston, will have equal access to the agency, while Union Station itself affords visitors the option of utilizing a variety of public transportation options to reach us. I am excited about the opportunities the move brings the Commission and our constituents throughout the state.

### **Guidance Documents**

As you mentioned in your letter, the Commission has placed a premium on sharing information publicly through our website in the form of guidance documents, press releases, and other resources, such as the previously mentioned Open Data Platform. They are designed to keep the public updated on our progress. When my fellow Commissioners and I started on this journey, we set out a mission statement and operating principles that commit to conducting our processes openly and transparently, and to engage in regular, two-way communication with concerned constituencies. Insofar as Commission guidance provides a tool for better understanding state mandates, regulations, and processes, the documents also contain a disclosure that the information or recommendations offered are not legal advice. If they fulfill their purpose of helping readers to comply with the complex laws and rules that govern this industry – effectively getting applicants through the licensing process and helping municipalities understand their opportunities and responsibilities –cannabis revenue will continue to increase. As you will note in the attachment to this letter, much of the data and information you have requested can be accessed through our website and our Open Data Platform.

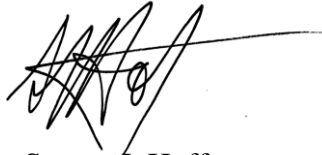
I am proud of the work of the Commission. From a standing start, we have constructed a new state agency from scratch and launched a new industry with a strong foundation that will have long-term viability. We have listened to and seriously considered the input we have received from the numerous constituencies to whom we are accountable, including the Legislature, other elected and appointed officials, municipalities, law enforcement, the public health community, advocacy groups, the industry, and, of course, the citizens and patients of Massachusetts. I feel



we have done a good job balancing the oftentimes conflicting perspectives of these groups and are continuing to stand up a marketplace that will work for all. The launch, to date, has been relatively smooth and incident-free, in contrast with other states that legalized adult-use cannabis at the same time Massachusetts did. Each Commissioner recognizes we still have a great deal of work left. We are committed to doing everything we can to meet all the objectives of the legislation. As former Chair of the Joint Committee on Cannabis Policy, and an architect of Chapter 55 of the Acts of 2017, I hope you take pride in the fact that the law you helped enact has enabled these outcomes. The Commission's progress stems directly from the strong basis the Legislature established for the state's medical and adult-use programs and the legal industry.

I welcome the opportunity to meet directly with you at any time to discuss any other observations, concerns, or questions you may have about the agency and our progress and look forward to our ongoing collaboration to ensure Massachusetts voters have access to the safe, equitable, and accessible industry they envisioned.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Hoffman', with a long horizontal line extending to the right.

Steven J. Hoffman  
Chairman  
Cannabis Control Commission

Cc: David Rogers, House Chairman, Joint Committee on Cannabis Policy  
Sonia Chang-Diaz, Senate Chairwoman, Joint Committee on Cannabis Policy  
Katharine Doyle, Commissioner  
Jennifer Flanagan, Commissioner  
Britte McBride, Commissioner  
Shaleen Title, Commissioner  
Shawn Collins, Executive Director  
David Lakeman, Director of Governmental Affairs



1. How many standard applications and priority applications has the CCC received to date?

The Commission has received 210 fully submitted license applications from priority applicants and 268 fully submitted license applications from general applicants to date.

2. On which dates were they received ?

The dates these applications were received is publicly available through the Commission's Open Data Platform located here: <https://opendata.mass-cannabis-control.com/stories/s/Applications-and-Licenses/eteq-dp5h>

3. Where are these applications in the process of being licensed? If stalled in the process, any reason(s) why?

Some licensees have commenced operations—a list of these licensees can be found here: <https://mass-cannabis-control.com/licensing/>.

A list of all other applicants that have received provisional and/or final licensure are located here: <https://opendata.mass-cannabis-control.com/Licensing-and-Applications/Licenses-Awarded-by-Type/mye9-t9zc>.

Final licensees that have not received permission to commence operations from the Commission can be attributed to one of the following reasons:

- a. The licensee has not requested an inspection—an inspection request form is provided for in the notice the licensee receives when the Commission approves them for final licensure;
- b. The licensee has not certified that certain action items have been completed and that they are ready for an inspection; or
- c. The licensee has had an inspection and deficiencies were identified requiring the licensee to perform corrective action.

Provisional licenses that have not received a final license from the Commission can be attributed to one of the following reasons:

- a. The licensee has not requested an inspection—an inspection request form is provided for in the notice the licensee receives when the Commission approves them for provisional licensure;
- b. The licensee has not certified that certain action items have been completed and that they are ready for an inspection;
- c. The licensee has had an inspection and deficiencies were identified requiring the licensee to perform corrective action; or



- d. The licensee is constructing and/or remodeling the Marijuana Establishment facility where operations will occur.

Applications that have been reviewed, but not recommended for provisional licensure from the Commission, can be attributed to one of the following reasons:

- a. The applicant has not provided the required information in its application;
- b. The applicant has not demonstrated compliance with the Commission's regulations or applicable law;
- c. The Commission is awaiting municipal response as to the applicant's compliance with local ordinances or bylaws; or
- d. The Commission is awaiting background check and/or fingerprint results required for licensure pursuant to the Commission's regulations or applicable law.

Applicants that have been received, but not yet reviewed by Commission staff, can be attributed to one of the following reasons:

- a. License applications received by priority applicants are reviewed first pursuant to Commission regulations; and
- b. Substantial time is required to review license applications and provide notice to the applicants as to request for additional information and next steps.

- 4. How many priority applications have been approved by the CCC? Are these approvals open and running, if not, reasons why?

135 license applications have been approved by the Commission for, at a minimum, provisional licensure. A list of these licensees can be found here: <https://opendata.mass-cannabis-control.com/Licensing-and-Applications/Licenses-Awarded-by-Type/mye9-t9zc>.

A list of operational Marijuana Establishments can be located here: <https://mass-cannabis-control.com/licensing/>.

Final licensees that have not received permission to commence operations from the Commission can be attributed to one of the following reasons:

- a. The licensee has not requested an inspection—an inspection request form is provided for in the notice the licensee receives when the Commission approves them for final licensure;
- b. The licensee has not certified that certain action items have been completed and that they are ready for an inspection; or





- c. The licensee has had an inspection and deficiencies were identified requiring the licensee to perform corrective action.

Provisional licenses that have not received a final license from the Commission can be attributed to one of the following reasons:

- a. The licensee has not requested an inspection—an inspection request form is provided for in the notice the licensee receives when the Commission approves them for provisional licensure;
  - b. The licensee has not certified that certain action items have been completed and that they are ready for an inspection;
  - c. The licensee has had an inspection and deficiencies were identified requiring the licensee to perform corrective action; or
  - d. The licensee is constructing and/or remodeling the Marijuana Establishment facility where operations will occur.
5. Have there been instances where other priority applications or standard applications leapfrogged over an earlier, complete priority applicant?

No.

6. What is the timeline for license approval for a priority applicant?

Under the Commission's regulations, a provisional license will be granted or denied no later than 90 days once an application is deemed complete by staff. An application cannot be considered complete until all four packets of required information are submitted, a thorough staff review has occurred, and any requests for information have been fulfilled. Once that happens, the application is deemed complete, and the Commission notifies the applicant and the host municipality. Provisional consideration (resulting in a license approval or denial) therefore takes an average of 119.6 days from the date all four packets are submitted. The timeline includes the aforementioned staff review for completeness and the applicant's responsiveness to Commission requests for information if necessary.

7. What is the timeline for license approval for a standard applicant?

Under the Commission's regulations, a provisional license will be granted or denied no later than 90 days once an application is deemed complete by staff. An application cannot be considered complete until all four packets of required information are submitted, a thorough staff review has occurred, and any requests for information have been fulfilled. Once that happens, the application is deemed complete, and the Commission notifies the applicant and the host municipality. Provisional consideration (resulting in a license approval or denial) therefore takes an average of 181.7 days from the date all four packets are submitted. The timeline includes the aforementioned staff review for completeness and the applicant's responsiveness to Commission requests for information if necessary.





8. A list of the length of time it has taken for every priority applicant to be licensed or denied and how that compares to standard applicants.

Please see the attached spreadsheet titled “Priority vs General Approval Timelines 07/17/2019”.

9. Is there a process or avenue for a potential licensee to view or be notified where they are currently in the process of licensing?

An applicant or licensee can direct questions to the Commission’s Enforcement team at one of its two email addresses: [cannabislicensing@mass.gov](mailto:cannabislicensing@mass.gov) and [cannabisinspections@mass.gov](mailto:cannabisinspections@mass.gov). The Commission’s licensing system, Massachusetts Cannabis Industry Portal (MassCIP), will be developed in the coming months to allow applicants and licensees to view where they are in the licensing process.

10. How many inspectors are currently sent to conduct an onsite inspection and how long does the average inspection take?

It depends on the size of the establishment, the purpose of the inspection, and how prepared the establishment is for an inspection. For example, a pre-licensing inspection of a large, vertically integrated establishment may take five or six Investigations staff and one or two business days to complete. If the establishment is not in full compliance with regulations, additional inspections will have to be scheduled and conducted. A pre-licensing inspection of a small retail establishment can usually be accomplished by four members of Investigations staff in one business day. If the establishment is not in full compliance with regulations, additional inspections will have to be scheduled and conducted.

Unannounced inspections of licensed establishments also depend on the size of the establishment and the scope of the inspection.

Travel time to inspections should also be factored into the time required for an inspection. Many establishments are two to three hours’ drive time away from Boston.

11. How many inspectors are currently employed at the CCC? Does the CCC anticipate the hiring of additional inspectors?

There are nine Investigators and eight Compliance Officers that inspect Marijuana Establishments currently employed by the CCC.

12. Number of inspectors that were transitioned from the medical marijuana program at DPH and how many of those transitioned currently are employed by the CCC.

Ten Compliance Officers transferred from DPH to the CCC. Eight are currently with the



Commission.

13. How are the inspectors trained? Is there a continuing education available?

Newly hired Investigators receive classroom-based instruction administered by the CCC's Director of Investigations, who has Masters degrees in Human Resources-Training and Development and Education management. After initial training, the new Investigators are assigned to four weeks of training in the field under the guidance of a Peer Mentor, who is an experienced Investigator. Continuing training and education are offered to Investigations staff contingent on funding and availability of training.

14. Process for how a person/company in the process of getting licensed can communicate with the CCC and staff.

The Commission's Enforcement team has two email addresses for notifications and inquiries: [cannabislicensing@mass.gov](mailto:cannabislicensing@mass.gov) and [cannabisinspections@mass.gov](mailto:cannabisinspections@mass.gov). All notices that are sent out to applicants and licensees include language about directing questions to these email addresses.

15. Response times of the CCC and staff to issues, specific questions or general inquiries from the public, potential licensees and current licensees.

The Commission generally answers inquiries from the public within 48 hours. The vast majority of inquiries are answered the day they are submitted. For more complex cases regarding applicants and licensees, constituent cases are forwarded to relevant staff members for further review and investigation.

16. Amount of vacant staff positions the CCC currently has.

The Commission is actively recruiting for six positions, including Investigators and Associate Enforcement Counsel. The Commission continuously evaluates staffing needs and is proactively planning for future staffing needs.

17. Staff numbers transitioned from the DPH's medical marijuana program and if these employees still currently reside in the CCC's medical marijuana program.

All 22 staff of the medical marijuana program staff transferred from DPH to the Commission. Fifteen staff members currently reside in the CCC's medical marijuana program.

18. How many employees the CCC had prior to and now after the announcement of the move to the Worcester headquarters? Please include the DPH employees originally designated to transition to the CCC and how many did not transfer due to the move to Worcester, if applicable.



As of the announcement on April 3, 2018 the Commission had 13 staff members. At the time of your letter, the Commission has 60 staff members.

19. How many medical marijuana licenses are currently in the application process?

There are currently 63 Medical Marijuana Treatment Center license applications under review.

20. What is the timeline for medical marijuana license application process from applying to being approved?

From the inception of the program under DPH, an application has taken an average of 905 days from application to approval. It is important to note that the application process for the medical program includes two invitations to the next phases of the application process. These invitations essentially serve as intermediate approvals.

It is also important to highlight that the Commission is working to bring the medical application process in line with the adult use application process, in terms of both timeline and technology. This is a project that is already well underway through the current regulatory process and technological development.

21. Total number of meetings by the CCC since the start of the program. Total number of meetings where licensing process was discussed. Total number of meetings where a license approval was discussed.

Since the Commission's inception, there have been 69 public meetings of the full Commission, at which Commission business was discussed. The licensing process was discussed at 16 of those meetings. Twenty-six of the 69 meetings have had at least one license on the agenda for review.

22. Has the CCC created and implemented ethical guidelines for the commissioners and employees. If so, please supply. If not, why has none been implemented?

Link to our Enhanced Code of Ethics, as discussed and approved at the Commission's [public meeting](https://mass-cannabis-control.com/wp-content/uploads/2019/03/Enhanced-Code-of-Ethics.pdf) of November 1, 2018 : <https://mass-cannabis-control.com/wp-content/uploads/2019/03/Enhanced-Code-of-Ethics.pdf>

23. To the CCC's knowledge has any staff, counsel or commissioners been supplying advice to communities, licensees or other interested parties outside of their official capacity, whether they have let it be known or not that said person is acting or not acting in that capacity.

Commissioners may, outside of their official capacity, advise external parties, however, the Commonwealth's Conflict of Interest law, as well as the Commission's Enhanced



Code of Ethics, apply at all times.

24. If applicable, how many lawsuits by applicants against the CCC and the commonwealth have been officially filed?

Two lawsuits<sup>12</sup> have been filed by applicants in which the Commission is named, however, no lawsuits have been filed directly against the Commission. No decision has yet been made in CKR Natural Solutions & others v. City of Amesbury & others. The Mederi decision is attached.

25. Have there been any issues with registration cards for agents of a marijuana business? If so, what issues have arisen and are there steps to fix and prevent such issues?

Following transfer of the medical marijuana program, there was a backlog and, therefore, a delay in agent cards being delivered to agents. To address this issue, a member of the medical marijuana program's staff was assigned and dedicated to clearing the backlog. The Commission then implemented a schedule for approving agent registrations and the queue is cleared on a weekly basis.

26. Has the CCC received complaints due to any aspect of the agent registration card process and regulations?

The Commission has received inquiries regarding individual agent registrations and the process to register Marijuana Establishment agents. The inquiries are followed up on by the Licensing Department directly.

The Commission has also received inquiries about the requirement that some agents are required to carry multiple cards, as an agent card is required for every license under which the agent is working. The Commission is currently exploring a path forward that would require only one card per agent.

27. Is the fee for a patient registration card in discussion or finalized to be waived or removed? If so, what would be the loss of revenue for the Marijuana Regulation Fund? Any reasoning for the removal or waiver of the fees.

Yes.

The aggregate changes of all fees in the draft regulations do not result in a loss of revenue from the Marijuana Regulation Fund.

Removing patient fees will streamline the patient registration process at the staff level and reduce the financial burden on patients wishing to participate or renew participation

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<sup>1</sup> Mederi, Inc. v. City of Salem & others., Essex Superior Court Civil Action No. 1877CV01878 (2019)

<sup>2</sup> CKR Natural Solutions & others v. City of Amesbury & others, Essex Superior Court Civil Action No. 1977CV00474B (2019)



in the medical marijuana program.

28. Please include the CCC's opinion on where the M.G.L. states there is a legal mandate for the priority of social equity marijuana businesses to be licensed over any other type of marijuana business.

The Commission has not issued a legal opinion.

