

CANNABIS CONTROL APPEALS PANEL
NOTICE OF MODIFICATION TO THE TEXT OF THE
PROPOSED ADDITION OF
RULES 6000-6018
PROCEDURES TO APPEAL ADMINISTRATIVE ACTIONS AGAINST CANNABIS
LICENSEES OR APPLICANTS

Pursuant to the requirements of Government Code Section 11346.8(c) and Section 44 of Title 1 of the California Code of Regulations, the Cannabis Control Appeals Panel is providing notice of changes that have been made to the text of the proposed addition of Rules 6000-6018, Procedures to Appeal Administrative Actions Against Cannabis Licensees or Applicants.

The proposal to add Rules 6000-6018 was originally noticed to the public on August 31, 2018. The proposed additions were the subject of a hearing on October 17, 2018. At the hearing, changes to the text of the additions to Rules 6000-6018 were proposed and considered. Specifically, the Cannabis Control Appeals Panel has made the following changes to the proposed regulations:

Rules 6000-6003 are unmodified.

Rule 6004. Submitting the Record

Under subsection (a), change the required filing of the administrative record by the appellant from the original plus five copies to the original hardcopy plus one electronic version of the record. Staff anticipates reviewing administrative records and disseminating them to Panel members electronically. Requiring the appellant to submit five hardcopies of the administrative record is unnecessary and a waste of resources. Additionally, alternative language was included to cover situations where the licensing agency utilizes an informal hearing procedure or an emergency hearing procedure rather than a formal hearing at the Office of Administrative Hearings.

Under subsection (b), delete the word “audiotaped” and replace it with “recorded in a means other than transcription”. The purpose of this subsection is to ensure the Panel receives a transcription of the administrative hearing. By broadening the potential alternative ways an administrative hearing may be recorded (other than audiotaped), the modification anticipates alternative recordation techniques that may be utilized by administrative courts in the future. Additionally, the requirement that the transcription of any alternative recording be “a certified copy” will ensure the transcription accurately reflects the events of the hearing.

Under subsection (c), allow for service of the administrative record to be effectuated electronically, as provided in Rule 6005. Electronic service is the most efficient and cost-effective means of service currently available and provides proof of time of delivery and receipt.

Rule 6005 is unmodified.

Rule 6006. Filing of Briefs by Parties

Under subsection (d), change the deadline for parties to file a motion to waive the page length restrictions on their briefs. The modification, from 15 days to 10 days before the brief is due, will permit adequate time for the party filing the opposition brief to receive the opening brief, review it and then make an informed decision on whether it is necessary to seek a waiver. Because the opposition brief is due 15 days after service of the opening brief, without the modification there would be no time for the party filing the opposition brief to request a page length waiver.

Under subsection (d), correct a typographical error. Subsection “(e)” should have been referenced rather than subsection “(c)” to cite the provision that contains the filing deadlines for all briefs.

Rule 6007 is unmodified.

Rule 6008. Oral Argument

Under subsection (a), add two additional subsections relating to oral argument. Proposed subsection (a)(4) will make it explicit and clear that parties may reference only evidence that is contained in the administrative record. This is in accordance with Business and Professions Code section 26043(b) which states in pertinent part, “the panel shall not receive evidence in addition to that considered by the licensing authority.” Proposed subsection (a)(5) will make it explicit and clear that Panel members may ask questions of the parties without time constraints. This will ensure Panel members have all the necessary information about the appeal prior to deliberation.

Rules 6009 and 6010 are unmodified.

Rule 6011. Dismissal of Appeal

Under subsection (a), remove the requirement that the Panel issue an order that affirms the underlying licensing agency’s decision when an appeal is dismissed. There are several reasons why an appeal may be dismissed, some of which are purely procedural in nature. By affirming an underlying decision, the Panel takes a substantive position on the merits of the appeal. Affirming a decision that has been dismissed on procedural grounds is inappropriate and should not be mandated as originally proposed.

Under subsection (a)(3), correct a typographical error by deleting the repeated term “has been”.

Rules 6012 and 6013 are unmodified.

Rule 6014. Stay

Under subsection (b), add an additional subsection relating to the required showing by an appellant to receive a stay of the underlying agency determination pending the appeal with CCAP. Specifically, proposed subsection (b)(3) will require that “the stay is not detrimental to the health and welfare of the public.” This additional requirement will provide the Panel with authority to deny a stay request when an appellant can meet the first two requirements but further delay of the implementation of the licensing agency’s determination may harm the public. This requirement is similar to the one found in Code of Civil Procedure section 1094.5 that concerns administrative writs. When the Superior Court reviews any final administrative order, no such stay shall be imposed or continued if the court is satisfied that it is against the public interest.

Rule 6015. Settlements

Under subsection (a), change the Panel’s directive from “remand” to “dismiss” when a settlement has been reached by the parties. Once an administrative hearing has concluded and the licensing agency has issued its final determination, the licensing agency has up to 30 days to reconsider its determination. Once an appeal has been filed with CCAP, CCAP has jurisdiction over the appeal. If the parties then settle their dispute, the settlement agreement between them is the binding document that contains promises and performance obligations (one of which would be that the appellant dismiss the pending appeal with CCAP). It is appropriate for the Panel to effectuate the appellants request to dismiss the appeal rather than remand the matter back to the licensing agency.

Rule 2016 is unmodified.

Rule 6017. Form of Order

Under subsection (a), rephrase the possible delivery methods to cite Rule 6005 when delivery is effectuated electronically. This is not a substantive change.

Rule 2018 is unmodified.

A copy of the full text of the regulation with the proposed changes indicated is attached for your review. Additions to the originally proposed language appear in *italic double underlined text* and deletions are shown in ~~double-strikeout~~.

Any interested person may submit a written statement relating to the modified language during the public comment period from October 19, 2018 to November 5, 2018. The written comment period will close at **5:00 p.m. on November 5, 2018**. Submit written comments to:

Christopher Phillips, Chief Counsel
Cannabis Control Appeals Panel
801 Capitol Mall, 6th Floor
Sacramento, CA 95814

All written comments received by the Cannabis Control Appeals Panel by **5:00 p.m. November 5, 2018**, which pertain to the indicated changes, will be reviewed and responded to by the Panel’s staff as part of the completion of the rulemaking file. Please limit your comments to the modifications to the text, which appear either in *italic double underline* or in ~~double-strikeout~~.

Questions concerning the proposed amendment may be addressed to Christopher Phillips at (916) 322-6874, or at Christopher.Phillips@ccap.ca.gov, or at the address above. If Christopher Phillips is not available, questions concerning the proposed amendment may be directed to Phil Laird at (916) 653-4090.

Cannabis Control Appeals Panel
October 19, 2018

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 1. GENERAL
PROPOSED ADOPTION OF
RULE 6000. DEFINITIONS

6000. Definitions.

For purposes of this division:

(a) “Appellant” means any person who files an appeal with the Panel.

(b) “Days” means calendar days, unless otherwise stated.

(c) “Executive Director” means the executive director of the Panel.

(d) “Licensing authority” means a state agency responsible for the issuance, renewal, or reinstatement of a license, or a state agency authorized to take disciplinary action against a licensee, as defined in Business and Professions Code § 26001(aa).

(e) “Panel” means the Cannabis Control Appeals Panel of California.

(1) Any reference to the Panel’s “Sacramento office” means 801 Capitol Mall, Suite 500, Sacramento, CA 95814.

(f) “Party” means the licensing authority, the appellant, and any person, other than an officer or an employee of the licensing authority in his official capacity, who has been allowed to appear in the proceeding before the licensing authority.

(g) Unless otherwise stated, the words “appellant” or “party” include the attorney or other authorized agent of such person.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 1. GENERAL
PROPOSED ADOPTION OF
RULE 6001. TIME AND DATE CALCULATIONS

6001. Time and Date Calculations.

(a) The time provided by this division within which any act must be performed shall be computed by excluding the first day and including the last day, unless it is a Saturday, Sunday, or holiday, in which case the last day shall also be excluded.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 1. GENERAL
PROPOSED ADOPTION OF
RULE 6002. NOTICES TO AUTHORIZED AGENTS

6002. Notices to Authorized Agents.

(a) Whenever the Notice of Appeal indicates that a party is represented by an attorney or other authorized agent, such attorney or agent shall be entitled to a copy of all notices and decisions to which the party would be entitled.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 2. FILING OF APPEAL
PROPOSED ADOPTION OF
RULE 6003. TIMING AND CONTENTS OF NOTICE OF APPEAL

6003. Timing and Contents of Notice of Appeal.

(a) Any person aggrieved by the decision of a licensing authority as described in Business and Professions Code section 26043(a) may appeal the licensing authority's written decision to the Panel as follows:

(1) The appellant shall complete and submit the CCAP Form 6003, Notice of Appeal (New 04/18), which is hereby incorporated by reference, to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov.

(2) The Notice of Appeal must be received by the Panel within 30 days after the last day on which reconsideration of the underlying decision can be requested to the licensing authority pursuant to Government Code section 11521.

(A) Failure to submit the Notice of Appeal to the Panel within the time set forth in this subsection may result in dismissal of the appeal pursuant to section 6011.

(3) The appellant shall also serve a copy of the completed Notice of Appeal upon all parties to the proceeding. Such service shall be made by delivering or mailing a copy of the Notice of Appeal to each party, and proof of service shall be submitted to the Panel at the same time the Notice of Appeal is submitted pursuant to subsection (a)(1). The parties may stipulate in writing to provide service to one another via electronic mail, and such service shall be indicated on the proof of service.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 3. RECORD ON APPEAL
PROPOSED ADOPTION OF
RULE 6004. SUBMITTING THE RECORD

6004. Submitting the Record.

(a) From the date the Notice of Appeal is submitted to the Panel, the appellant shall have 60 days to obtain the complete underlying administrative record from the Office of Administrative Hearings, pursuant to 1 CCR 1038, *or if an informal or emergency hearing was conducted by the licensing agency pursuant to Government Code 11445.10, obtain the complete underlying administrative record from the licensing agency, and submit the original *hardcopy* and *one electronic version* ~~five copies~~ to the Panel at its Sacramento office. Failure to submit a complete administrative record within the time set forth in this subsection may result in dismissal of the matter pursuant to section 6011.*

(1) Notwithstanding the foregoing, if all parties to the appeal so stipulate in writing, and the Panel approves, the appellant may submit only those parts of the administrative record relevant to the issue being appealed. In such event, the Panel may still require submission of the complete administrative record at any time during the appeal.

(b) If the underlying administrative hearing was *recorded in a means other than transcription-audiotaped*, the appellant shall arrange to have ~~it~~ *a certified copy* transcribed prior to submission of the administrative record to the Panel. The complete transcript shall be included with the administrative record at the time of submission to the Panel in accordance with subsection (a).

(c) The appellant shall also serve a copy of the complete administrative record upon all parties to the proceeding. Such service shall be made by delivering or mailing a copy of the administrative record to each party or by electronic service in accordance with section 6005, and proof of service shall be submitted to the Panel at the same time the administrative record is submitted pursuant to subsection (a).

(d) An appellant may, for good cause, request an extension of the 60-day limit set forth in subsection (a). Such extensions shall be granted or denied by the Panel in its discretion, or the Panel may delegate this authority to its executive director. Alternatively, all parties may stipulate in writing to one extension of up to 20 days, which shall be granted by the Panel, or its executive director if so authorized, upon notice to the Panel of the stipulation.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 4. FILING BRIEFS
PROPOSED ADOPTION OF
RULE 6005. SERVICE AND FILING BY ELECTRONIC MAIL

6005. Service and Filing by Electronic Mail.

(a) Upon submission of a Notice of Appeal to the Panel, the appellant shall also complete and submit CCAP Form 6005, Certification of Email Address (New 04/18), which is hereby incorporated by reference, to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov.

(b) Upon receipt of service of the Notice of Appeal, all other parties to the appeal shall, within 30 days, complete and submit CCAP Form 6005, Certification of Email Address (New 04/18), to the Panel at its Sacramento office or by scanning and emailing the completed form to the Panel at appeals@ccap.ca.gov. At the same time, each party shall also serve a copy of their completed Form 6005, Certification of Email Address (New 04/18) on all other parties to the appeal, including the appellant.

(c) Once all parties to the appeal have submitted their CCAP Form 6005, Certification of Email Address (New 04/18), to the Panel, they may use each party's official email address, if one is provided, for service of correspondence, notices, pleadings, or any other documentation in connection with the appeal, unless a stipulation to the contrary has been agreed to.

(d) The Panel and its executive director may use each party's official email address, if one is provided, to send documents, notices, decisions, or any other correspondence to the party.

(e) Any party to an appeal that has submitted its CCAP Form 6005, Certification of Email Address (New 04/18) in accordance with subsection (a) or (b), may subsequently submit notices, pleadings, or any other documentation in connection with the appeal by electronic mail to the Panel at appeals@ccap.ca.gov unless instructed otherwise by the Panel or its executive director.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 4. FILING BRIEFS
PROPOSED ADOPTION OF
RULE 6006. FILING OF BRIEFS BY PARTIES

6006. Filing of Briefs by Parties.

(a) The appellant may file an opening brief, the respondent may file an opposition brief, and the appellant may thereafter file a reply brief.

(b) All briefs shall be typewritten or printed upon paper 8½ x 11 inches in size, and all copies must be legible. Only one side of the paper shall be used and the margins shall not be less than one inch on all sides of the page. The lines shall be double spaced. Headings shall be capitalized. An original of each brief shall contain a certification that copies have been served upon or mailed to each party or his or her attorney or agent. Parties may serve one another by electronic mail in compliance with section 6005.

(c) Briefs shall comply with the following length restrictions; however the page limitations set forth in this subsection do not include exhibits, appendices, tables of contents, cover or title pages:

(1) Opening briefs shall be no more than 20 pages in length.

(2) Opposition briefs shall be no more than 20 pages in length.

(3) Reply briefs shall be no more than 10 pages in length.

(d) Any party to the appeal may file a motion in accordance with section 6010 to request a waiver of the page length restrictions in subsection (c). Such motions shall be submitted to the Panel and served on all other parties at least ~~fifteen~~^{ten} (10) days before the moving party's brief is due as set forth in subsection (e) of this section. An opposition to the motion may be

submitted to the Panel and served on all other parties within five (5) days of the initial motion's service on the opposing party. The matter will be decided by the Panel without hearing.

(e) The opening brief shall be submitted to the Panel and served on all parties to the appeal within 30 days of the date the administrative record is served on the Panel and other parties pursuant to section 6004. Any opposition brief shall be submitted to the Panel and served on all parties within 15 days after the opening brief is served on the Panel and other parties. Any reply brief shall be submitted to the Panel and served on all parties within seven (7) days after the opposition brief is served on the Panel and other parties. Any party to the appeal may file a motion in accordance with section 6010 to request an extension of time within which to file a brief. Motions may only be granted by the Panel upon a showing of good cause.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 5. HEARINGS
PROPOSED ADOPTION OF
RULE 6007. OPTIONAL HEARING

6007. Optional Hearing.

(a) After all briefs have been submitted to the Panel pursuant to section 6006, the Panel shall make a preliminary decision in the appeal based on the record. Once the Panel has reached its preliminary decision, the executive director shall notify all parties that the Panel is ready to enter its final order in accordance with section 6016. Each party shall have 20 days from the date they are served with the notice to submit a written request for a hearing to the Panel.

(b) Notwithstanding subsection (a), the Panel may direct for a hearing to be conducted on the appeal even if no party requests a hearing.

(c) If requested by a party or directed by the Panel, a hearing date and location shall be set by the Panel's executive director and a notice shall be sent to all parties.

(d) After a date and location has been set for hearing by the executive director, requests by any party for a continuance and/or location change may be granted by the Panel only upon a showing of good cause. The Panel may delegate its authority to decide requests for continuances and location changes to its executive director.

(1) A party seeking a continuance or location change shall stipulate to an alternative date or location for the hearing with all other parties to the appeal, and then coordinate with the executive director to reschedule the date or location if the panel's schedule and docket permits. If the other party or parties will not stipulate to an alternative date or location, the party can submit a motion to the Panel requesting an alternative date or location in accordance

with section 6010. The other party or parties may submit an opposition to the motion to the Panel within five (5) days of the initial motion's service on the opposing party.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 5. HEARINGS
PROPOSED ADOPTION OF
RULE 6008. ORAL ARGUMENT

6008. Oral Argument

(a) In the event a hearing for the appeal or a motion is scheduled, and unless otherwise directed by the Panel:

(1) A party shall be allowed a maximum of 20 minutes for oral argument;

(2) Not more than one person on a side may be heard;

(3) The appellant, or moving party, shall have the right to present an opening statement and closing statement; however, both statements shall count towards the 20-minute total limit.

(4) No evidence, other than what is contained in the administrative record, shall be referenced by any party.

(5) Panel members may ask questions of any party at the conclusion of oral argument. Panel member questions and party responses will not count towards the 20-minute time limit.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 6. NEW DISCOVERED EVIDENCE
PROPOSED ADOPTION OF
RULE 6009. NATURE OF EVIDENCE AND SHOWING

6009. Nature of Evidence and Showing.

(a) A party may file a motion to remand the case back to the licensing authority in accordance with Business and Professions Code section 26044 on the grounds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced at the underlying hearing. In support of the motion, the party shall submit the following in the form of a declaration or affidavit:

(1) The substance of the newly-discovered evidence;

(2) Its relevancy and the part of the record to which it pertains;

(3) Names of witnesses to be produced and their expected testimony;

(4) The nature of any exhibits to be introduced;

(5) A detailed statement of the reasons why such evidence could not, with due diligence, have been discovered and produced at the underlying hearing. Merely cumulative evidence shall not constitute a valid ground for remand.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042, 26043, and 20644, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 7. MOTIONS
PROPOSED ADOPTION OF
RULE 6010. MOTIONS

6010. Motions.

(a) Unless otherwise provided for, all motions referenced in this Division shall be prepared and submitted as follows:

(1) Motions shall follow the formatting requirements set forth in section 6006(b).

(2) Motions shall be no more than 10 pages in length unless accompanied by a declaration showing good cause for additional pages, but in no case shall be more than 15 pages.

(3) Motions submitted to the Panel shall include proof of service that the motion was served on all parties to the appeal or their attorneys.

(b) Any party opposing a motion may submit their written opposition to the Panel within five (5) days of receipt of service of the initial motion. The opposition shall follow the same requirements described in subsections (a)(1) through (3).

(c) The Panel's executive director shall set a date and location for a hearing on the motion and send notice of the hearing to all parties to the appeal within 20 days of the deadline to submit the opposition described in subsection (b). Notwithstanding the foregoing, at any time after receiving the motion and opposition, the Panel may elect to rule on the motion without holding a hearing.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 8. DISMISSAL OF APPEAL
PROPOSED ADOPTION OF
RULE 6011. DISMISSAL OF APPEAL

6011. Dismissal of Appeal.

(a) The Panel may issue an order dismissing an appeal ~~and affirming of~~ the decision of the licensing authority:

(1) Upon appellant submitting to the Panel a request to dismiss the appeal;

(2) Upon motion of a party, or upon the Panel's own notice to the parties, that appellant has failed to perfect his or her appeal by failing to timely submit the Notice of Appeal or the administrative record to the Panel as set forth in sections 6003 and 6004;

(3) Upon certification by the licensing authority that reconsideration has been ~~has been~~ granted in the case after the Notice of Appeal has been submitted, and dismissal on this ground shall be without prejudice to the submission of a subsequent appeal in the same case.

(4) Upon a motion by the licensing authority or other party, or upon the Panel's own notice to the parties, where sufficient cause exists for dismissal. In such instance, the Panel's decision shall set forth with specificity the sufficient cause for the dismissal.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042, 26043, 26044, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 9. PANEL MEMBERS
PROPOSED ADOPTION OF
RULE 6012. DISQUALIFICATION OF PANEL MEMBERS

6012. Disqualification of Panel Members.

(a) A Panel member shall disqualify himself or herself and withdraw from any case in which the member cannot accord a fair and impartial hearing. Any party may request the disqualification of any member by filing an affidavit with the Panel before the submission of the case stating with particularity the grounds upon which it is claimed that a fair and impartial appeal cannot be accorded by the Panel member. The issue raised by the request shall be determined by the other members of the Panel. No member of the Panel shall withdraw voluntarily from any hearing, or be subject to disqualification, if this would prevent the Panel from acting in the particular case.

(b) An affidavit submitted to the Panel pursuant to this section shall become a part of the record.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Section 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 9. PANEL MEMBERS
PROPOSED ADOPTION OF
RULE 6013. ATTENDANCE OF PANEL MEMBERS

6013. Attendance of Panel Members.

(a) If a Panel member cannot attend a hearing where there will be oral testimony or argument, the remaining members of the Panel shall determine one other member to recuse himself or herself from the hearing in order to maintain an odd number of members unless to do so would prevent the Panel from acting in a particular case.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

CANNABIS CONTROL APPEALS PANEL OF CALIFORNIA
TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 10. STAYS AND SETTLEMENTS
PROPOSED ADOPTION OF
RULE 6014. STAY

6014. Stay.

(a) In any appeal where the underlying decision of a licensing authority is denial of a license renewal, or cancelation, suspension, or revocation of a license, and upon a motion from the appellant made pursuant to section 6010, the Panel may stay the effect of the underlying decision until the Panel enters its final order.

(b) Notwithstanding subsection (a), the Panel may only grant a stay upon a motion by the appellant that demonstrates:

(1) there is a substantial likelihood that the appellant will prevail in the appeal; and

(2) the appellant will experience immediate and irreparable harm if the stay is not granted;

and,

(3) the stay is not detrimental to the health and welfare of the public.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 10. STAYS AND SETTLEMENTS
PROPOSED ADOPTION OF
RULE 6015. SETTLEMENTS

6015. Settlements.

(a) Whenever any matter is pending before the Panel, and the parties to the matter agree upon a settlement, the Panel shall, upon the stipulation by the parties that such an agreement has been reached, ~~reman-~~ *dismiss* the matter to the licensing authority.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 11. ORDERS
PROPOSED ADOPTION OF
RULE 6016. TIME LIMIT FOR ENTRY OF ORDER

6016. Time Limit for Entry of Order.

(a) In all cases, the Panel shall enter its order within 90 days after the hearing on the merits is held in accordance with section 6007. If no hearing is conducted, then the Panel shall enter its order within 90 days of the executive director's notice to the parties that the Panel has reached a preliminary decision in accordance with section 6007(a).

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 11. ORDERS
PROPOSED ADOPTION OF
RULE 6017. TIME LIMIT FOR ENTRY OF ORDER

6017. Form of Order.

(a) Each order of the Panel on appeal from a decision of a licensing authority shall be in writing and shall be filed by delivering copies to the parties personally or by mailing copies to them by ~~electronic or~~ certified mail *or electronic mail pursuant to rule 6005*. Each such order shall become final upon being filed as provided herein, and there shall be no reconsideration or rehearing by the Panel.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.

TITLE 16. CALIFORNIA CODE OF REGULATIONS
DIVISION 43. CANNABIS CONTROL APPEALS PANEL
ARTICLE 12. EX PARTE COMMUNICATIONS
PROPOSED ADOPTION OF
RULE 6018. EX PARTE COMMUNICATIONS

6018. Ex Parte Communications.

(a) While an appeal is pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to the Panel from any party to the appeal without notice and opportunity for all parties to participate in the communication.

(b) Nothing in this section precludes a communication made on the record at a hearing.

(c) Notwithstanding subsection (a), the following communications are permissible:

(1) Communications that are required for disposition of an ex parte matter specifically authorized by statute.

(2) Communications concerning a matter of procedure or practice that is not in controversy.

Note: Authority cited: Section 26042, Business and Professions Code.

Reference: Sections 26042 and 26043, Business and Professions Code.