



Marijuana Control Board

Meeting Minutes

April 27, 2016

Third Judicial District

3601 C Street, Suite 880

Anchorage, Alaska

*Meeting minutes are 33 minutes fast (actual start time is 9:16am)

Board Members Present:

Bruce Schulte, Chair, Industry Member
Mark Springer, Vice Chair, Rural Member (telephonic)
Peter Mlynarik, Public Safety Member
Brandon Emmett, Industry Member
Loren Jones, Public Health Member (telephonic)

Staff Members Present:

Cynthia Franklin, Director
Sarah Oates, Records & Licensing Supervisor
John Calder, Administrative Officer
James Hoelscher, Investigator IV
Christina Thibodeaux, Business Registration Examiner

Legal Counsel Present:

Harriet Milks, Assistant Attorney General (telephonic)

Call to Order

[9:49:23 AM](#)

Mark Springer motions to adopt the agenda
Peter Mlynarik seconds the motion
No objection

[9:50:30 AM](#)

Director's Report

[9:51:39 AM](#)

December 1, 2015 Meeting Minutes[10:02:20 AM](#)

Loren Jones motions to approve the December 1, 2015 meeting minutes
Peter Mlynarik seconds the motion
Motion carries unanimously

February 11, 2016 Meeting Minutes[10:03:26 AM](#)

Brandon Emmett motions to accept the February 11, 2016 meeting minutes
Peter Mlynarik seconds the motion
Motion carries unanimously

Marijuana Mailbox[10:05:15 AM](#)

John Calder discusses the marijuana mailbox, unperfected objections, common difficult questions, and administrative challenges.

Timeline Update[10:30:30 AM](#)

Cynthia Franklin gives the board an update on a licensing timeline and suggests potential future meeting dates for the board to discuss later in the meeting.

Licensing Implementation Update[10:33:58 AM](#)

Sarah Oates gives the board an update on licensing numbers.

Cynthia Franklin informs the board, and Harriet Milks confirms, that she cannot deem applications complete until statutory language becomes effective that requires federal background checks so that the agency can verify that determine that applicants are not violating statutory prohibitions of licensing individuals with particular criminal histories. She additionally reminds the board that the periods for the 60-day local government protest and the 90-day board decision do not begin until the Director determines an application to be complete, not automatically at the end of the public notice period or when an applicant submits documents. Cynthia Franklin, Harriet Milks, and Bruce Schulte have additional discussion about obtaining federal criminal history reports and determining applications to be complete. Cynthia Franklin informs the board that she anticipates being able to deem applications complete within the next two weeks.

Harriet Milks confirms that the board can, by adopting a procedure, direct the Director to deem an application to be complete without having the statutory authority to obtain federal background checks. She provides particulars that need to be included and followed if they decide to do so.

Mark Springer tells the Chair that two weeks is a reasonable amount of time to wait. He additionally states that he thinks that he needs to give the Director and her staff a little bit more time to get things situated with the FBI, or give them time to draft a policy or procedure about how to handle this.

Bruce Schulte states that the timeline is blown and that the board will not make that statutory deadlines.

Harriet Milks tells the board that the board has not violated the timeline, as the deadlines start when an application has been deemed complete. She additionally clarifies that the work of this board is done during the publicly noticed meetings and not during media interviews with the Director.

Break

11:20:33 AM

Meeting Resumes

11:37:21 AM

Cynthia Franklin asks the board if they would like her to determine the applications to be complete without sending the fingerprint cards out for federal background checks, and states that she would do so if they requested. She additionally states that if she sends out the fingerprints now before having the statutory authority to send them out for federal background checks, she will be required to obtain a second set of fingerprint cards from each applicant to send out once the statute is enacted.

Peter Mlynarik states that his main concern is that there needs to be some method by which the board can deal with a license if a person swears on his/her application that he/she does not have a felony, and the criminal history report comes back indicating otherwise.

Harriet Milks informs the board of the procedures by which the board may summarily suspend a license if the criminal history report comes back indicating that an applicant has a prohibited criminal history.

Cynthia Franklin again requests direction from the board regarding when they would like her to determine an application to be complete.

Additional discussion continues between Bruce Schulte, Cynthia Franklin, and Harriet Milks regarding the legal authority for the board to require multiple sets of fingerprints to be sent out at different times to obtain both state and federal criminal history reports.

Brandon Emmett motions to adopt a board policy to direct the Director to determine an application to be complete without sending out the fingerprint cards for a federal background check, and to additionally direct the Director to send out the fingerprint cards for background checks once the legal procedures are in place for obtaining federal criminal history reports.

Mark Springer seconds the motion

Bruce Schulte states that this would only be changing the order in which license application processes happen; no license applications are being approved at this point.

Motion carries, 4-1 (Loren Jones votes No)

Sarah Oates gives the board an update on licensing matters, including technological updates, training, marijuana resources for the public, licensing challenges, and topics for board discussion.

Sarah Oates requests that the board give support, on the record, for the licensing team to cease "roll-backs" of applications and keep expectations of applications consistent with 3 AAC 306.025.

Brandon Emmett, Peter Mlynarik, Mark Springer, Loren Jones, and Bruce Schulte each independently state for the record that they support the staff's request.

Bruce Schulte requests that if there's a technical problem that is no fault of the staff or applicant, that staff work with applicants to get things done.

Sarah Oates requests that the board support the licensing staff setting a minimum deadline of two weeks for applications and other items to be included on meeting agendas.

Brandon Emmett, Peter Mlynarik, Mark Springer, and Bruce Schulte each state that they support the staff's request, for the record.

Loren Jones states that he has no opposition or comments about the request.

Cynthia Franklin requests that the board remove Legislative Updates from the agenda, as she covered it in her Director's Report.

[12:34:51 PM](#)

No objection from the board.

Lunch

[12:35:04 PM](#)

METRC Update

[1:36:03 PM](#)

James Hoelscher introduces the Anchorage investigators and informs the board that METRC is a great tool.

Scott Denholm, a representative for METRC, talks with the board about the system and training. Anchorage Investigator, Joe Bankowski, discusses his experiences with METRC and ways in which he believes the system will be beneficial to the board, staff, and licensees.

John Calder gives an update from project management.

James Hoelscher talks to potential and future licensees about the kind of open relationship that he and the Director anticipate the enforcement unit having with licensees. He additionally informs the public that the enforcement unit will be in charge of issuing marijuana handler permit cards.

Cynthia Franklin asks the board if they would be okay with the enforcement unit issuing the first marijuana handler permit cards the week of May 16, 2016.

No objection from the board.

Testing Update

[1:55:38 PM](#)

John Calder provides an update to the board regarding approval of testing facilities.

Cynthia Franklin informs the board that a policy may need to be made by the board at the June 9, 2016 meeting that would require testing facilities to raise their standards.

MARIJUANA HANDLER PERMIT COURSE PROVIDER APPLICATIONS

Bruce Schulte recuses himself from discussion of marijuana handler permit course provider applications due to potential conflict and turns the gavel over to Peter Mlynarik to chair this part of the meeting.

[2:07:29 PM](#)

Harriet Milks asks the board members to make ethical disclosures that should be added to old disclosures.

[2:08:56 PM](#)

Bruce Schulte reiterates that he is a Director of the Alaska Marijuana Industry Association and elaborates on his position with the organization.

Brandon Emmett discloses that he is also a Director of the Alaska Marijuana Industry Association and elaborates on his position with the organization. He additionally discloses that he intends on starting a marijuana industry consulting business, is an industry representative on the Fairbanks North Star Borough's marijuana workgroup. He also plans to hold at least one license.

Brandon Emmett recuses himself from discussion and voting of marijuana handler permit course provider applications due to potential conflict.

Mark Springer states that he is currently unaffiliated with anyone who is involved in the marijuana industry.

Loren Jones states that he is not affiliated or financially interested in any marijuana business, and discloses that he is on the assembly for the City & Borough of Juneau which will be reviewing and voting on actions on marijuana license applications.

Peter Mlynarik discloses that he is on the Kenai Peninsula Marijuana Task Force, a member of the Alaska Association of Chiefs of Police, and the Alaska Municipal League.

Bruce Schulte adds that he was previously an ex-officio member of the Anchorage Assembly's Marijuana Advisory Committee, and he eventually plans to apply for one or more marijuana licenses.

Harriet Milks advises that Bruce Schulte and Brandon Emmett may choose to leave the room during discussion of the course providers' applications. The other three board members state that they don't believe that it is necessary for the recused members to leave the room.

Cynthia Franklin reminds the board that Tab 13 "Marijuana Handler Permit" needs to be removed from the agenda, as only Form MJ-10 was submitted without curriculum.

[2:22:18 PM](#)

She additionally informs the board that she sent out emails to some applicants stating what kind of material the board is looking for with a course provider application. She adds that there is a requirement that there be some form of testing, and that a number of applicants submitted their applications with copies of tests and answers. She reminds the board and public that anything that is submitted to the staff will be presented to the board; that staff does not redact submissions, with the exception of Social Security Numbers. She adds that it makes sense for the applicants to provide the test with answers to show that they understand the material that needs to be taught, but that the test that is submitted with the applications should not be the actual test that is given.

"Alaska Cannabis Handler Certification Course"

[2:29:16 PM](#)

Mark Springer motions to approve the application in Tab 7

Loren Jones seconds the motion

Loren Jones states that he cannot find anywhere on the application where the individual who signed the application is required to put his/her name.

Cynthia Franklin acknowledges that she and staff have found this to be an issue, and that there is an additional field that needs to be added to the form to fix this. She suggests that the board ask questions of any applicants who may be at the meeting.

Mark Springer motions to table this application until the next meeting

No second

Original motion fails unanimously

"Alaska Marijuana Handler Certification Course"

[2:34:16 PM](#)

Mark Springer motions to approve the application in Tab 8

Loren Jones seconds the motion

Peter Mlynarik points out inaccuracies in the PowerPoint presentation along with a lack of questions in the test regarding AS 17.37.

Mark Springer amends his motion to approve this application with delegation to the Director to ensure accuracy of the presentation materials and test.

Motion carries unanimously

Peter Mlynarik directs Cynthia Franklin to make sure that the three slides are corrected and that the test has a question added regarding the penalties of AS 17.37.

“Alaska Marijuana Handler Certification Training – Marijuana Basics 101”

[2:42:18 PM](#)

Mark Springer motions to approve the application in Tab 9

Loren Jones seconds the motion

Mark Springer asks George Coleman if this is his program or someone else’s material that he’s presenting.

George Coleman, applicant, confirms that the material provided is his.

Loren Jones asks what kind of flexibility there will be for course providers to modify course information without approval by the board.

Cynthia Franklin states that all course provider applicants should know that they may not change their training material to remove information that was approved by the board.

Motion carries unanimously

“Alaska State Marijuana Handler Certificate Training Program”

[2:49:12 PM](#)

Mark Springer motions to approve the application in Tab 10

Loren Jones seconds the motion

Cynthia Franklin informs the board that a revised course description was emailed to the board this morning.

Mark Springer asks if applicant Jeremy Bufford is out of Portland.

Jeremy Bufford confirms.

Peter Mlynarik states that some of the information in the material is inaccurate or lacking substance, particularly regarding the legality of hash and concentrates, along with the claims about what’s covered by the Alaska Constitution. He also expressed concerns about language regarding driving under the influence.

Jeremy Bufford agrees to make any changes to his material that the board requests.

Loren Jones states concerns about the material in the course regarding medical information and whether or not it’s factual. He additionally states that he doesn’t like that the material provided has a heavy focus on “medical” properties or effects of marijuana, versus the information that the board is looking for a course provider to give.

Mark Springer agrees.

Motion fails unanimously

“Alaska Marijuana Handlers Permitting Course”

[3:01:52 PM](#)

Mark Springer motions to approve the application in Tab 11

Loren Jones seconds the motion

Peter Mlynarik states that he doesn’t think that the course is very structured, and he didn’t see any questions on the test regarding impairment or unlawful acts.

Mark Springer states that it looks like it’s just a copy of the statutes and regulations.

Loren Jones states that there’s not a lot of information about how the applicant will teach it.

Peter Mlynarik also comments that the only regulations that it seemed to cover were 3 AAC 306.700-755, and that it should cover all of 3 AAC 306.

Motion carries, 2-1 (Peter Mlynarik votes No)

Peter Mlynarik requests that the test questions cover all of the requirements and that the course material cover all of 3 AAC 306.

“Cannabis Handler and Marijuana Professional Certification Course”

[3:10:00 PM](#)

Mark Springer motions to approve the application in Tab 12

Loren Jones seconds the motion

Peter Mlynarik comments that he didn't see any questions regarding unlawful consumption or penalty for unlawful acts.

Naomi Hutchens informs the board that she's the applicant and on the line.

Mark Springer comments that this applicant does a good job of covering impairment.

Peter Mlynarik requests that on page 64 of her curriculum, that she clarify that the temporary license and ID cards being issued are state driver license and state ID cards.

Peter Mlynarik requests that the information regarding “marijuana clubs” be removed from page 67 of her curriculum.

Motion carries unanimously

Peter Mlynarik requests that the Director ensure that the changes regarding “marijuana clubs” and temporary license and ID cards are made.

“Marijuana Handler Permit Instruction”

[3:17:18 PM](#)

Mark Springer motions to approve the application in Tab 14

Loren Jones seconds the motion

Peter Mlynarik comments that the test lacks questions about impairment or unlawful acts.

Loren Jones comments that there are a lot of questions, and that he assumes that the curriculum would cover the answer to those questions. It's unclear how the applicant will teach or provide the information, and he's struggled with determining whether the information provided could be considered a curriculum.

Mark Springer comments that there's no reflection of content in the material provided, which is troublesome.

Ronda Marcy informs the board that she is present in the room.

Mark Springer asks Ms. Marcy if she has any material prepared other than what's in the packet and whether or not she has things available online.

Ronda Marcy confirms that she does have more materials that she would be willing to submit.

Motion carries unanimously

Peter Mlynarik requests that the Director ensures that all of the questions in the test reflect what's actually in the requirements and that there is something other than test questions provided for the curriculum.

“Marijuana Handler's Card”

[3:23:45 PM](#)

Mark Springer motions to approve the application in Tab 15

Loren Jones seconds the motion

Loren Jones comments that what is provided is really broad; that it's a great outline, but he isn't exactly sure how this would be taught or presented.

Cynthia Franklin informs the board that Ms. Cole sent her a link to the online course.

Kim Cole informs the board that she is present in the room.

Peter Mlynarik comments that it's a little light on how to identify an impaired person, and that he didn't see any test questions regarding identifying impairment or penalties.

Motion carries unanimously

Peter Mlynarik requests that the Director ensures that there is good information on how to identify an impaired person and that any test would have questions that would cover all categories required.

“Marijuana Handlers Permit”

[3:27:44 PM](#)

Mark Springer motions to approve the application in Tab 16

Loren Jones seconds the motion
Loren Jones comments that this doesn't seem to be very specific to Alaska.
Peter Mlynarik commented that it was heavy on checking IDs, and that the meat of the material seems to be lacking.
Mark Springer comments that it lacks information about impairment.
Loren Jones comments that this comes from a company out of the state of Washington, and he doesn't see any evidence that there will be a local contact.
Motion fails unanimously
Cory Wray tells the board that he worked with CHARR and TAPS to craft his curriculum.
Cynthia Franklin makes the statement that there's nothing in the regulations that prohibits an applicant from making changes to his/her material and reapplying.

“Strainwise University”

[3:34:30 PM](#)

Mark Springer motions to approve the application in Tab 17
Loren Jones seconds the motion
Mark Springer comments that the information provided looks more like a course catalog than anything else, and that he doesn't see a handler's card course in the material or a curriculum.
Loren Jones states that he doesn't believe that this is a curriculum that will provide what the board is looking for.
Peter Mlynarik doesn't believe that the applicant met the requirements.
Motion fails unanimously

“Tetrahydrocannabinol Handling Course (THC)”

[3:37:33 PM](#)

Mark Springer motions to approve the application in Tab 18
Loren Jones seconds the motion
Loren Jones comments that he will not support this in any way, as there's not enough information here for the board to make a determination.
Mark Springer and Peter Mlynarik echo Mr. Jones's concern.
Motion fails unanimously

Break

[3:39:23 PM](#)

Peter Mlynarik hands the gavel back to Bruce Schulte to chair the rest of the meeting.

[3:53:13 PM](#)

Proposed Regulation Projects

[3:53:28 PM](#)

Peter Mlynarik introduces a draft regulation that would add two subsections to 3 AAC 306.700 regarding prohibition of issuing marijuana handler permits to individuals with certain criminal histories and requiring background checks and would add a new section in Article 8 that gives the board authority to suspend or revoke a marijuana handler permit.

Cynthia Franklin clarifies with the board that the legal procedure here would be to have the board vote whether or not to open a regulations project regarding marijuana handler permits, and that this draft regulation itself would be considered at the next board meeting if the board votes to open a regulations project.

The board members discuss how this could affect the industry.
Brandon Emmett voices concerns.

Harriet Milks states that she thinks the board will run into the same problem with this requirement as they did with the criminal background check through the FBI for license applicants. A requirement for a federal background check for permit applicants would require statutory authority.

Cynthia Franklin states that she believes it's possible to open a regulations project that could require a criminal history report be submitted with a permit application, but that the board would have to give specifics regarding what the staff would be doing with the report.

Loren Jones comments that this is something that the board should look at and see what's similar with the alcohol statutes; he supports a regulations project being opened with the Department of Law.

Bruce Schulte asks the Director how we stand budget-wise and how this would impact that. Cynthia Franklin states that the procedure for opening a regulations project is sending an email, and that a small change to a regulation would be a small cost.

Bruce Schulte comments that he doesn't have a problem with putting out a regulations project and getting some feedback from the Department of Law.

Peter Mlynarik voices concern that there's no current method in the regulations to suspend or revoke a permit.

Peter Mlynarik motions to open up a regulations project to further develop marijuana handler permit requirements.

Brandon Emmett seconds the motion

Motion carries unanimously

On-site Consumption Endorsement Draft Regulation

[4:12:58 PM](#)

Cynthia Franklin presents the staff's draft language to the board.

Peter Mlynarik presents his draft language to the rest of the board.

Bruce Schulte comments that we are the first state to go in this direction, and the board should proceed with caution.

Bruce Schulte presents his draft language to the rest of the board and recommends that the board use the staff's draft as a starting point and add or amend language as desired.

Bruce Schulte commented that he was not anticipating that dabbing would be in the initial regulation.

Brandon Emmett commented that the board should have a conversation about allowing dabbing, and that he would support conservative limits on dabbing but not prohibiting it.

Bruce Schulte comments that setting a THC limit could be a defensible way of allowing consumption of concentrates.

Peter Mlynarik voices concern about being able to accurately measure an amount so small.

The board discusses transaction limits.

Cynthia Franklin asks Harriet Milks if the board could use the staff's draft as a template and have the board agree on changes with a single vote on the draft as changed without having to vote on each individual change.

Harriet Milks believes this is possible, as long as the record is reasonably clear.

The board agrees to add the section of Peter Mlynarik's draft labeled "Labeling" to the staff's draft.

The board agrees to add the section of Peter Mlynarik's draft defining "marijuana consumption area" and "retail marijuana store premises" to the staff's draft.

The board discusses whether or not to allow an outdoor area for the on-site consumption premises and agrees that the current regulations regarding a retail marijuana store's premises do not prohibit it.

The board discusses the procedures for expanding the premises of a retail establishment to include the consumption area and agrees that the current regulations contemplate procedures for expanding or altering a licensed premises.

Loren Jones voices concern regarding the section of the staff's draft that would allow tobacco to be consumed on the premises and regarding requirement of a local government to assume responsibility for monitoring compliance of conditions recommended by the local government. Cynthia Franklin informs the board that this requirement is already in both the marijuana regulations and alcohol statutes regarding conditions on licenses.

The board agrees to remove the language allowing tobacco consumption from the draft (3 AAC 306.365(f)(4)).

The board agrees to replace "HVAC" to "ventilation" in 3 AAC 306.365(f).

The board discusses 3 AAC 306.365(i) of the staff's draft and agrees to leave it in.

The board discusses allowable quantities of marijuana and marijuana product sold in a single transaction for consumption on the premises.

The board agrees to add "of THC" after "10 mg" in 3 AAC 306.365(f)(2).

The board agrees to change the language of subsection (f) to make it clear that the amounts allowable in (1), (2), and (3) are for consumption on the premises.

Brandon Emmett motions to accept the staff's draft, as modified, to put out for public comment.
Peter Mlynarik seconds the motion
Motion carries unanimously

Board Administration Draft Regulation

5:22:12 PM

Cynthia Franklin informs the board that this draft is an exact copy of what's in the alcohol statutes.

Peter Mlynarik motions to accept the draft to put out for public comment.
Brandon Emmett seconds the motion
Motion carries unanimously

Future Marijuana Control Board Meeting Dates

[5:24:27 PM](#)

The board agrees on July 7, 2016 in Fairbanks and September 7, 2016 in Nome.
The board confirms that the board is still meeting in June 9, 2016 in Anchorage.

Executive Session

Harriet Milks informs the board that no action can be taken off of the record.

Board enters into Executive Session to discuss operations

[5:33:12 PM](#)

Mark Springer motions to enter into the executive session for the purpose of discussing operational matters with the Director
Peter Mlynarik seconds the motion
Motion carries (4-0, Brandon Emmett absent)

Board Exits Executive Session

[5:47:15 PM](#)


Mark Springer motions to exit executive session and resume the regularly-scheduled meeting
Peter Mlynarik seconds the motion
No objection

Adjourn

[5:47:41 PM](#)

Peter Mlynarik motions to adjourn
Brandon Emmett seconds the motion
No objection

Minutes reviewed and approved by:



Cynthia A. Franklin
Director



Sarah D. Oates
Program Coordinator