



**Marijuana Control Board  
Meeting Agenda**

**\*Subject to change due to viral emergency**

**Friday April 10, 2020**

**Third Judicial District**

**April 10, 2020 at 1:00 pm**

**Call-in Number: 1-800-315-6338, code 69176#**

All times are approximate.

● **ADMINISTRATION**

**1:00 pm**

**A. Call to Order**

*1:03 pm*

**B. Roll Call**

*Loren Jones, Public Health Member and Chair*

*Nicholas Miller, Industry Member*

*Christopher Jaime, Public Safety Member*

*Bruce Schulte, Public Member*

*Casey Dschaak, Rural Public Member*

*Glen Klinkhart, Interim Director*

*Carrie Craig, Records and Licensing Supervisor*

*Jane Sawyer, Regulations Specialist*

*Joan Wilson, Assistant Attorney General*

● **EMERGENCY MEETING TO DISCUSS MCB BOARD'S RESPONSE RELATED TO COVID19 MATTERS**

*Loren Jones states that public testimony will be taken at the end of the meeting for items not on the agenda.*

**Board Governance Disclosure:**

*Casey Dschaak has no conflicts.*

*Bruce Schulte has no conflicts.*

*Christopher Jaime has no conflicts.*

*Nick Miller is a member of the AMIA board regarding these issues. He chose to listen to get industry perspective.*

*Loren Jones has no conflicts.*

*Joan Wilson says there is no issue with Nick Miller's disclosure.*

*Loren Jones summarizes the last meeting and reviews the emergency declarations from Governor's office and how it will affect the industry. He speaks to Joan Wilson's, Jane Sawyer's and Nick Miller's emails with applicable documents. Loren Jones turns the meeting over to Joan Wilson.*

*Joan Wilson sees the process as three-fold regarding the board's consideration of the emergency regulations. The first is to review the draft findings of the emergency and see if the board agrees and motions to adopt them. The next thing to consider is the topics identified in 3 AAC 306.995. Does the board wish to address the issues which the industry has raised, with the purpose to protect public health, not to secure financial revenue? It would be measured by protecting public health mitigating the amount of contact between licensees and the public or other issues like transportation. The last issue is coordinated process in the Department of Law and to ensure that she and the board has adequately addressed the emergency. The timing of the process is expected to be 2 to 3 days. If changes are made, they may need to have another quick board meeting for the board to adopt them as final and the notice can be given within 24 hours. Emergency regulations are good for 120 days.*

*Loren Jones asks the board members for questions/comments. Nick Miller and Bruce Schulte have no questions/comments and they have reviewed the documents.*

*Christopher Jaime asks about wording in a previous email from Joan and she states that was an error. He has read the draft and agrees with the majority, up to 11 and 12. He asks if they are establishing an emergency, are they finding the emergency as far as health mandates as it pertains to the public in general or specifically marijuana regulations.*

*Joan says they would be taking the declaration the Governor made, which is paraphrased 1 through 10, and then figuring out whether those mandates causes the board to believe, even if the business qualifies as an essential business, they can go farther to protect the public to minimize the spread of Covid-19 by putting additional measures in place. Paragraphs 11 and 12 says what they are going to do to migrate.*

*Christopher Jaime understands, but thinks 11 and 12 should be a separate document.*

*Joan Wilson reviewed the drafting manual. As long as the board agrees with the findings of the legislature and the Governor she does not see a problem with including that in their findings. There are two choices: to adopt the findings in one document or the second is to have a very brief second, single document that says in the first paragraph that the Governor and the legislature has made a declaration of emergency and the steps MCB is taking.*

*Christopher Jaime supports separating the paragraphs into separate documents.*

*Loren Jones asks about #11, he would object based under 17.38 that the board has no authority over medical marijuana. There are very strict regulations that medical benefits of marijuana cannot be addressed or advertised. This board oversees recreational marijuana. Joan Wilson agrees. The social*

*distancing requirements would work for most licensees who believe they operate as a critical business and states she will delete that language.*

*Loren Jones asks to roll #1 through #10 into one statement and #11 and #12 would be separated, but is not sure how that would look. Joan Wilson suggest creating a new paragraph that would summarize the Governor's declaration and mandates, then she would add that the MCB board believes these additional emergency findings are applicable, then add paragraphs #11 and #12.*

*Bruce Schulte wants additional clarification from Christopher Jaime regarding the concern with paragraphs #1 through #10. #11 and #12 are okay as separate paragraphs to vote on separately. Christopher Jaime and Loren Jones explain that the paragraphs should be separated into two documents.*

*Loren Jones suggests inserting a statement between paragraphs #10 and #11 that clarifies the Board's furtherance of #1 through #10. Christopher Jaime supports this suggestion.*

***Bruce Schulte motions to adopt paragraph #11 as presented. Nick Miller seconds.***

*Bruce Schulte would like to strike out the last sentence of the paragraph regarding healthcare to say would "qualify as" – which was discussed earlier.*

***Christopher Jaime is opposed. Motion passes, 4-1.***

*Christopher Jaime wishes to know what "many marijuana businesses" means specifically. Joan Wilson kept that as general as possible because she didn't know how many licensees could qualify and abide by social distancing requirements regarding the number of employees and the size of the premises. All license types could potentially qualify. **Christopher Jaime is opposed. Motion passes, 4-1.***

***Bruce Schulte motions to adopt paragraph #12 as presented. Nick Miller seconds for discussion.***

*Nick Miller wants to discuss all the issues that were the subject of the second document that was emailed to the board members, decide what they want to do and then amend paragraph #12.*

*Nick Miller's first topic is to allow hand offs for transfers of products at the airport or a similar location – does not see anything in regulations that prohibits this action. Loren Jones takes this as a form of a motion and assumes it has been seconded because it was a subject of prior discussion. There is a discussion around the transportation companies and whether they are licensed or not.*

*James Hoelscher expands on Casey Dschaak's questions regarding transportation. Christopher Jaime suggests it becomes part of the regulations. Nick Miller clarifies that 3 AAC 306.750 covers Christopher Jaime's concerns. He believes this is more of a policy or enforcement guidance instead of a regulation project. Joan Wilson concurs that what he is proposing is not prohibited and doesn't believe a regulations project is needed – an advisory would be appropriate. James Hoelscher says that Enforcement doesn't have an issue either way as long as the licensee understands.*

*Loren Jones asks if there are any objections to allowing this type of handoff. There are none. He agrees that is how the board wants staff to operate. They will decide the language later.*

*Nick Miller's second topic for discussion is stopovers. He is asking for the consideration of allowing people to overnight with product wherever they are staying. This would limit the amount of interaction the transporter spends in the retail store with employees and customers.*

*Christopher Jaime thinks this is a safety issue and it does not need to be changed. Nick Miller understands Jaime's concerns. He says he uses his Anchorage store as a hub for other retail stores in the Southeast and he has taken deliveries (since suspended this practice) for certain business located throughout the state that he would not have taken a delivery from that courier as a courtesy.*

*Christopher Jaime says it is a business opportunity. Casey Dschaak states that he isn't sure how this is related to the health crisis declaration. Nick Miller expands and provides an example. Stopping to rest is a necessary stop, mentioned in regulations, and he is just asking that it be allowed for the transporter to keep the product with them instead of finding a licensee who would hold onto it for the duration of the rest stop.*

*Loren Jones speaks about the Governor's mandates regarding traveling to other communities. Should not be unnecessary travel from community to community by any modes of transportation. He thinks this is a regulatory change that should be looked at but doesn't believe this delivery issue is essential even if the businesses are essential.*

*Discussion around submitting travel plans.*

*2:22 pm: Break*

*2:30 pm: Reconvened*

*Loren Jones asks for any further discussion on stopovers. There are none. **Christopher Jaime and Loren Jones are opposed. Motion passes, 3-2.***

*Nick Miller's third topic is about manifests and transports to be checked as luggage, like firearms.*

*Casey Dschaak is unclear on the board's authority to influence another company to take it as luggage. Loren Jones explains they wouldn't have the authority but if they allowed it and the company's policies allowed it, it could go. The company would have the right to say no.*

*Bruce Schulte is in support of this change.*

*Christopher Jaime says that they are using the pandemic as a reason to change regulations, why not go through the regular process?*

*James Hoelscher says that checking in undetermined, large amounts of marijuana not secured by the transporter and handled by someone without a marijuana handler card and who could be under 21 years of age, doesn't fall in line with the Board's adoption of the Cole Memo. It also creates more of an issue than solving issues. Underage, lost or stolen product – out of transporters control. If the Board allows this, there will possibly be huge consequences.*

*Nick Miller explains the reasoning, it lessens the number of trips the transporter would have to take. The marijuana would not be handled like regular luggage, they would be checked in at the TSA oversize counter where it taken and locked up. Additionally, these are only temporary measures. He*

*also reminds everyone that weapons and alcohol is checked in luggage and that is not what they are asking for.*

***Casey Dschaak, Christopher Jaime and Loren Jones are opposed. Motion fails, 2-3.***

*Nick Miller's fourth issue for discussion is curbside/walkup delivery. This would allow for better assistance to meet the social distancing requirements to include well marked boundaries, lighting, camera views. The public has been asking if the employees could bring the product out to them in their vehicles after calling in the order. Nick Miller wishes to allow licensees to expand the premises to include parking spaces.*

*Bruce Schulte is in support in principle as a temporary measure.*

*Christopher Jaime puts it back on the businesses by limiting the number of people going into the premises.*

*James Hoelscher points out training for marijuana handlers and there is a concern to bringing to car when minors may be inside the car or they may be intoxicated. The Board has already allowed window service and that have been successful however he agrees with Christopher Jaime. There are safety issues.*

*Nick Miller says that by providing the service they are better meeting the requirements set forth by the Governor.*

*Loren Jones has the same concerns as James Hoelscher – can they put the right sidebars in there?*

*Casey Dschaak asks if the implications of the vote will mean that every local governing body have to decide to allow for this? What is the timing? Loren Jones agrees with him. There are zoning issues and conditional use permits that may be required.*

***Casey Dschaak and Christopher Jaime are opposed. Motion passes, 3-2.***

*Nick Miller's fifth issue to discuss is using commercial transport – would like the board to consider allowing businesses to use commercial transport carriers to transport marijuana products.*

*Casey Dschaak comments that this makes sense especially considering the amount of our state that is off the road system.*

***Christopher Jaime is opposed. Motion passes, 4-1.***

*Nick Miller additionally wants clarification regarding packaging. He says it appears that the supply chain for marijuana is in jeopardy – most are made in China. If a package is not available and a manufacturer wanted to put that product in a similar package that met all the regulation requirements is that a request that could go to the Director (with delegated authority) for temporarily approval or is it just the Board that can approve?*

*Director Klinkhart says he has not been given that authority, unless it was done prior to his start date. Jane Sawyer says that change is done through the operating plan change and the Director does have that authority for temporary approvals. James Hoelscher reaffirms Jane's statement.*

*Loren Jones discusses the Emergency Regulation Joan Wilson wrote that would go to the Lieutenant Governor. Loren asks if they would permit a sale if a car had a minor in it – can they write that into the regulation? Can they request verification? Joan Wilson says it is a reasonable requirement but can't guarantee it.*

*Nick Miller isn't as concerned about minors being in the vehicle. The reason why minors are not allowed on the premises is because the board didn't want the minors to see or smell the marijuana. When the product is being delivered to the car, it will be packaged in accordance to the regulations.*

*Joan Wilson states that the ABC Board did not discuss the subject of minors being in the vehicle for curbside pickup. James Hoelscher says that with alcohol, it isn't a requirement to id everybody in the vehicle or in the store – it is the store's policy.*

*Loren Jones asks how far can the licensee extend the video surveillance? Nick Miller would expect the guidance/regulation/advisory they set out would say it meets the same current requirements. Purchaser may not be in the camera view if in passenger seat. In Anchorage, if you park at a retail establishment you are on camera.*

*Joan Wilson asks if that is an operating plan approval or broad approval? Loren Jones suggests the licensee submit a temporary operating plan with details, waive fees and the Director will give temporary approval – add to the regulation. Joan Wilson mentions municipality law.*

*Nick Miller ask Joan if it has to be a regulation change or could the Board put it on record? Joan says it would not need a regulation change and she recommends that staff puts out advisory for handoff.*

*Loren Jones mentions stopovers and Joan asks is it a necessary stop? Advisory or regulation? Loren suggests that Joan and Nick work on that.*

*Paragraph C can be removed. Joan will fix the language to marijuana in paragraph D. The emergency regulation will become effective with the Lieutenant Governor's signature for 120 days.*

*Director Klinkhart says they wanted to set a limit. Within video surveillance. A good definition should be addressed in the operating plan change.*

*Loren Jones says the Board will need another meeting. Joan Wilson requests at least 72 hours beginning Monday, therefore the meeting would be Wednesday, the 15<sup>th</sup> at 11:00 am with no public testimony.*

*Loren Jones talks about Jane Sawyer's request to extend the local governing body's protest time by 30 additional days. Does this need to go through the Governor's office? To work it into the reg language. Will be discussed in full on Wednesday.*

*Jane Sawyer clarifies relocation language and the regulation reference. Nick Miller asks if the same request was made to alcohol. Jane answers. Not emergency. Nick Miller asks how will affect renewal*

*season? Jane explains. Nick Miller asks to consider 60 or 90 days per the requests from local governing body. Loren Jones says to include and decide later if need to strike it. Bruce Schulte is concerned this may need public comment.*

*3:50 pm: Public Comment*

*Kerby Coman is present on the phone and addresses action by the Board about public comment. He states that today's agenda was unclear. The Director's authority wasn't closed last meeting and surface to surface contact wasn't discussed and should be considered.*

*Colleen Howard, licensee, is present on the phone and asks about drive thru aspect with curbside. Loren Jones says this will be addressed on Wednesday.*

*3:53 pm: Public comment closed*

*3:54 pm: Adjourned*