

Alabama Medical Cannabis Commission Meeting

Minutes

July 10, 2023

The Alabama Medical Cannabis Commission met on July 10, 2023, in the RSA Dexter Conference Room. The meeting was called to order by Chairman Steven Stokes at 1:00 P.M.

Mr. James Harwell led the Commission's invocation. The roll was taken with a quorum present. Commission members present for the meeting were Dr. Steven Stokes, Mr. Rex Vaughn, Dr. Sam Blakemore, Mr. Dwight Gamble, Dr. Angela Martin, Dr. Eric Jensen, Ms. Loree Skelton, Judge Charles Price, Ms. Taylor Hatchett, Mr. James Harwell, Dr. Jerzy P. Szaflarski, and Mr. Dion Robinson. Dr. William Saliski was absent from the meeting.

Chairman Stokes presented the minutes from the June 12, 2023, Commission meeting. A motion to approve the minutes was made by Mr. Vaughn, seconded by Ms. Hatchett, and received unanimous approval by the Commission.

Chairman Stokes also presented the minutes from the June 16, 2023, Commission meeting. A motion to approve the minutes was made by Mr. Harwell, seconded by Dr. Jensen, and received unanimous approval by the Commission.

During Chairman Stokes' opening remarks, he thanked members for their efforts over the last few months and also recognized that several members had served on the legislative medical cannabis advisory committee prior to legislation's passage. He discussed the testimonials provided at the advisory committee's public hearings and detailed the conversation he had with Dr. Martin concerning the compassion that he believes the Commission should carry forward for patients.

The Commission moved into staff reports. Director McMillan made introductory remarks concerning the subsequent staff reports and addressed criticism that the Commission has faced from disappointed applicants and the press. He reiterated his belief that the application process was fair and that the stay imposed by the Commission on June 16, 2023, was necessary to address the tabulation errors identified. He announced that the accounting firm KPMG has been engaged to retabulate the application scores.

Director McMillan then recognized Attorney William Webster, legal counsel, to provide a legal update. Mr. Webster discussed the court filings and the temporary restraining order (TRO). He explained that the TRO issued by Judge Anderson overlaid the stay issued by the Commission in June. Mr. Webster added that there are legal issues pending before the Court, including issues that were raised in prior litigation and newly raised issues. Mr. Webster concluded by stating that the Court intends to address these issues after the Commission has received audited scoring data and voted to award licenses.

Mr. Daniel Autrey was then recognized to provide an administrative update. To introduce the next presenters, Mr. Autrey referenced and read a section in the enabling legislation (§20-2A-2)

that details the legislative intent and findings. He emphasized that the staff is continuing to prepare for an operational program that includes licensees and patients.

Mr. Autrey then asked Mr. Scott Absher to provide an update on the development of AMCC's compliance division. Mr. Absher discussed the work that has been done to generate inspection procedures, inspection forms, technology, and other documents necessary to regulate business licensees. He also discussed compliance-related job opportunities and equipment necessary to the program. In closing, Mr. Absher discussed the various inspections that are provided by the statute and administrative rules.

Ms. Brittany Peters was then recognized to update members on the development of the physician, patient, and caregiver registry system. She noted that the Alabama Board of Medical Examiners' (BME) rules do not allow for physicians to become registered until the Commission issues at least one cultivator, processor, secure transporter, and dispensary license. She explained that although the business licensing process is still underway, the physician's registry is ready for production. Ms. Peters concluded by reviewing the other components of the registry that are under development, such as the design of the patient/caregiver cards, customer service and call center services.

Chairman Stokes also recognized Mr. Mark Jackson (Executive Director of the Medical Association) to update members on physician engagement in the program. Mr. Jackson noted that the physician's online curriculum program had launched and that approximately 60 physicians had completed the online coursework.

With the conclusion of staff reports, Chairman Stokes moved to discuss the decision item to ratify the stay issued by AMCC at its meeting on June 16, 2023. Chairman Stokes requested that Mr. Webster provide an explanation of the decision item. Mr. Webster explained that in recent court filings, litigants have questioned the Commission's authority to hold an emergency meeting. He suggested that out of an abundance of caution the Commission should ratify and affirm the stay it voted to implement at the emergency meeting held on June 16, 2023. A motion to ratify and affirm the stay was made by Mr. Gamble, seconded by Mr. Harwell, and received approval by the Commission. Ms. Skelton and Judge Price voted against the motion.

Chairman Stokes then asked for each Commission member to share their perspective and opinion on the current path of the Commission's program.

Dr. Blakemore expressed he believed that the Commission should hold firm to the licensing process that it has developed over the past two years. He noted that the decisions have not been easy and that he hopes that those involved in the process would give the Commission some leeway in implementing the program. In closing, he emphasized the importance of providing medical cannabis products to patients.

Mr. Vaughn began his remarks by revisiting the work of the legislative advisory committee and discussed Dr. Szaflarski's knowledge and role on the committee as well. He agreed with Dr. Blakemore's comments and reflected on the Commission's accomplishments. He stated that he

strongly disagreed with the allegations that the evaluation process was flawed. He expressed that the tabulation errors identified in the calculation of score data was not reason to change the evaluation method. In closing, he thanked the staff and evaluators for their efforts and expressed optimism to get the program back on course.

Mr. Gamble agreed with his fellow Commission members and explained that the Commission sought to have a fair, honest, and equitable process to select licensees. He explained that by selecting the University of South Alabama (USA) the Commission was able to utilize academics as well as other business individuals to review the applications. He expressed that while it was unfortunate that a tabulation error occurred, he believes that the process of utilizing academics and USA should remain the Commission's course of action.

Mr. Harwell agreed with the statements made by the other Commission members and began his remarks by commending the staff and Director McMillan. He expressed that in his opinion the Commission should continue to utilize the plan and stay the course.

Ms. Hatchett shared that as a mother she teaches her children to acknowledge mistakes and take corrective efforts to address them. Through her personal testimony she stated that she believes the Commission has done the right thing by owning up to the tabulation errors. She also suggested that the Commission should continue to utilize the current application evaluation method.

Ms. Skelton stated that she appreciated her fellow Commission members' thoughts and positions but that she had a differing view on the evaluation method utilized. She stated that her opinion is that the statute requires the Commission to take a more active role in the evaluation of applications. She expressed that she had not been provided adequate information or time to make an informed decision on items before the Commission. Ms. Skelton stated that based on her independent review of pending litigation she believes the Commission is in a different legal position than described by Mr. Webster. She stated that having another independent consultant verify the score data will not provide the information necessary to properly make licensing decisions. In her remarks she suggested that the Commission should reverse course and negotiate with litigants to resolve pending legal matters and avoid possible delays by future litigation.

Judge Price acknowledged the comments made by other Commission members and noted the importance of the evaluation process. He shared that in his review and knowledge of the enabling statute that the spirit of the law was to provide Alabamians with an opportunity to participate in this industry. Judge Price also stated that he believes the Commission members are capable of making determinations and decisions related to the licensing process.

Dr. Martin suggested that while there were not necessarily errors with the evaluation and selection process, she feels that a slower and more methodical approach is needed. She also indicated a preference for Alabama-based businesses.

Dr. Szaflarski also expressed that the Commission should not rush the process of evaluating and selecting licensees. He stated that Commissioners have the responsibility to review applications, and he supports the use of external evaluators if they have the requisite qualifications and experience in the areas they are evaluating.

Dr. Jensen expressed support for the evaluation process that was used. He stated that the statutorily imposed deadlines required the Commission's work to be rushed. In conclusion, Dr. Jensen stated that it would be helpful to receive additional information on the evaluators.

Chairman Stokes recognized Ms. Skelton to make a motion. Ms. Skelton deferred to Judge Price. Chairman Stokes then recognized Judge Price to make a motion. Judge Price moved that the Chairman appoint a committee of six Commission members to review and evaluate the 38 integrated facility applicants within 30 days, recommend 10 such applicants to the full Commission, and the Commission would then award licenses to 5 of the 10 finalists recommended by the committee. The motion was seconded by Ms. Skelton. After discussion on the motion, Chairman Stokes called the question and requested a roll call vote. The motion failed by a vote of 7-4.

Ms. Skelton made a motion to pause the involvement of independent consultants and for the Commission to work with the plaintiffs' attorneys to seek resolution of the pending litigation and minimize future protracted litigation. The motion failed due to lack of a second.

There being no further business, a motion to adjourn was made by Dr. Blakemore, seconded by Mr. Vaughn, and unanimously approved by the Commission. The meeting adjourned at 2:26 P.M.