

PHILIP B. SCOTT
GOVERNOR



State of Vermont
OFFICE OF THE GOVERNOR

June 14, 2023

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Today I'm allowing H.270, *An act relating to miscellaneous amendments to the adult-use and medical cannabis programs*, to become law without my signature.

I'm concerned this bill repeals the sunset of the Cannabis Control Board (CCB), a change which appears minor, but in fact has substantive consequences for the principle of separation of powers.

I understand there is a need for an alternative structure for regulating controlled substances that remain federally illegal so that we do not compromise federal funding. However, when removing the sunset on the CCB, the statutory authority of the CCB needs to be clarified to ensure constitutionality and accountability to the governor.

Like the Department of Liquor and Lottery, the CCB exercises the police powers of the governor. It has investigators and enforcement agents. It has substantial rulemaking authority which affects the rights and obligations of licensees. The CCB is not a legislative body, nor is it quasi-judicial. The Legislature has no authority to delegate the Constitutional power of the governor to faithfully execute the laws to an entity that is now permanently independent of the executive branch and is, therefore, not accountable to the people of Vermont. Constitutionally, the CCB must be accountable to the governor as part of the Executive Branch.

My concerns have nothing to do with the capabilities of the current CCB. I believe my appointees have done a thorough job starting up and regulating the legal cannabis marketplace in Vermont. However, the current law establishes the CCB as an "independent commission" with its members vetted through a nominating board made up primarily of legislators who submit candidates to the governor. Once appointed, CCB members may only be removed for cause by the other two CCB members. The CCB has added staff, taken over the regulation of medical cannabis and the medical registry, and grown to be an approximately 22-member department. As an independent entity, the CCB regulates a multi-million-dollar industry with no oversight. Again, while I have complete confidence in the current CCB, this lack of oversight creates the risk for future mismanagement, conflicts of interest and other harmful impacts.


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Fortunately, current law does not “notwithstanding” applicable law which makes clear that the members of the CCB serve at the pleasure of the governor. For this reason, I’m letting this bill go into law without my signature because I’m confident the members of the CCB, and hopefully the Legislature, will work with me to pass legislation to make the modifications necessary to clarify the statutory authority of the CCB is constitutional.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip B. Scott", with a long horizontal flourish extending to the right.

Philip B. Scott
Governor

PBS/kp