



Bureau of Cannabis Control

California Department of Consumer Affairs

Performance Audit

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July 3, 2019

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Final Report—Bureau of Cannabis Control Performance Audit

The California Department of Finance, Office of State Audits and Evaluations, has completed its performance audit of the California Department of Consumer Affairs, Bureau of Cannabis Control (Bureau).

The enclosed report is for your information and use. The Bureau's response to the report findings and our evaluation of the response are incorporated into this final report. This report will be placed on our website.

A detailed Corrective Action Plan (CAP) addressing the findings and recommendations is due from the Bureau within 60 days from receipt of this letter. The CAP should include milestones and target dates to address all findings. The CAP should be sent to: OSAEReports@dof.ca.gov. After the initial CAP is submitted, it should be updated every six months thereafter, until all planned actions have been implemented. The appropriate individual or mailbox the Bureau has designated will receive reminders when the updates are due to Finance.

If you have any questions regarding this report, please contact Sherry Ma, Manager, or Mindy Patterson, Supervisor, at (916) 322-2985.

Sincerely,

Original signed by Rebecca G. McAllister for:

Cheryl L. McCormick, CPA
Chief, Office of State Audits and Evaluations

cc: Ms. Alexis Podesta, Secretary, California Business, Consumer Services and Housing Agency
Mr. Christopher Shultz, Chief Deputy Director, California Department of Consumer Affairs

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EXECUTIVE SUMMARY

In accordance with Business and Professions Code (BPC) Division 10, Chapter 19, section 26191, the California Department of Finance, Office of State Audits and Evaluations, conducted a performance audit of the California Department of Consumer Affairs (DCA), Bureau of Cannabis Control (Bureau). The audit objectives were to:

1. Determine the effectiveness of the Bureau's enforcement programs.
2. Determine the actual costs of the program.

The Bureau is the lead agency in regulating commercial cannabis licenses for medical and adult-use cannabis in California and is responsible for licensing retailers, distributors, testing laboratories, microbusinesses, and cannabis events. The Bureau's mission is to protect the public and consumers through various regulatory, licensing, enforcement, and disciplinary activities.

Since its establishment in 2016, the Bureau has developed a structural foundation for California's first cannabis regulatory program, which includes adopting and implementing operational regulations, hiring personnel, implementing an online licensing and enforcement system, and developing licensing and enforcement processes and procedures. However, the Bureau does not have a comprehensive management strategy established and documented that identifies mission critical activities aligned with workload and available resources, or performance measures. Further, standardizing and enhancing the use of its database system, Accela, will provide opportunities for the Bureau to establish and monitor performance metrics and appropriately respond as necessary.

With one headquarters office, one field office, and only 75 of the 219 authorized positions filled, the Bureau has been effective in establishing a structural foundation for implementing and monitoring cannabis regulatory activity through its enforcement programs. However, the current status and location of personnel is not sustainable to provide effective and comprehensive oversight of cannabis activities throughout California. Continuing to fill vacant positions and opening additional field offices will enable the Bureau to strengthen its cannabis regulatory and licensing responsibilities.

During fiscal years 2016-17 and 2017-18, cannabis program expenditures totaled \$6,774,577 and \$14,876,055, with revenue received of \$0 and \$1,092,250, respectively. Due to the program's infancy and initial establishment of its structural foundation, the Bureau has incurred expenditures higher than revenue. Expenditures of the program will continue to increase with the hiring of additional personnel and field office expansion; however, revenues are projected to increase as the program becomes more established and additional annual licenses are issued. Although fiscal controls are established, to ensure overall costs are accurate, complete, and supported, and to ensure the Cannabis Control Fund's solvency, the Bureau should strengthen its fiscal management and monitoring activities.

The Findings and Recommendations noted within this report are intended to assist the Bureau in strengthening the effectiveness of its enforcement programs and fiscal management.

BACKGROUND, SCOPE, AND METHODOLOGY

The Bureau, an entity within DCA, was created through a series of bills enacted by the California State Legislature during 2015 and 2016. The legislation, known as the Medical Cannabis Regulation and Safety Act (MCRSA), established the state’s three cannabis licensing authorities—the Bureau, the California Department of Food and Agriculture (CDFA), and the California Department of Public Health (CDPH)—and created California’s framework for the licensing, regulation, and enforcement of commercial¹ medicinal cannabis activities.² See Figure 1 below for further information on the individual licensing authorities.

In November 2016, California voters approved Proposition 64, the Adult-Use Marijuana Act (AUMA), which legalized the growth, possession, and use of cannabis for non-medicinal purposes for adults 21 years of age or older, with certain restrictions. AUMA also legalized the sale and distribution of cannabis through a regulated business as of January 1, 2018.³

Chapter 27, Statutes of 2017 (SB 94) integrated MCRSA with AUMA to create the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)⁴ and created a single regulatory system governing the medical and adult-use cannabis industry in California.⁵ Under MAUCRSA, the Bureau became the lead agency in regulating and licensing commercial cannabis businesses. A timeline of the cannabis-related legislation is shown in Appendix A.

Figure 1. California Cannabis Licensing Authorities



* Statewide program to record inventory and movement of cannabis and cannabis products from cultivation to sale.

Source: *Who Does What Fact Sheet* at <http://calcannabis.cdfa.ca.gov/>

¹ Commercial refers to legalized market versus illegal market.

² Excerpts from <https://cannabis.ca.gov>.






³ Ibid.

⁴ MAUCRSA is codified under Business and Professions Code sections 26000 through 26231.2.

⁵ Excerpts from <https://cannabis.ca.gov>.

The Bureau is responsible for issuing licenses to retailers, distributors, testing laboratories, microbusinesses, and cannabis events. See Figure 2 for detailed descriptions of the license activity types. CDFA is responsible for issuing licenses to cannabis cultivators and CDPH is responsible for licensing cannabis product manufacturers.

Figure 2. Cannabis License Activity Types and Definitions

| Retail | Distribution | Testing | Microbusiness | Cannabis Event |
|--|--|---|---|--|
|  |  |  |  |  |
| Sells cannabis goods to the public at its premises or by delivery. Can be both storefront and non-storefront retailer. | Transports cannabis goods, arranges for testing of cannabis goods, and conducts quality assurance reviews of cannabis goods. | Laboratory that performs tests of cannabis and cannabis-manufactured goods. | Allows a licensee to cultivate, distribute, manufacture, and retail cannabis. | Allows an event organizer license to sponsor or participate in cannabis trade shows. |

Source: <https://www.bcc.ca.gov>

BPC, Division 10, Chapter 4, section 26040 established the Cannabis Control Appeals Panel (Appeals Panel). The Appeals Panel provides quasi-judicial administrative review of licensing decisions made by the three licensing authorities. The Appeals Panel consists of five members: three are appointed by the Governor, one by the Senate Committee on Rules, and one by the Speaker of the Assembly. Each member must be a resident of a different California county. The Appeals Panel meets as necessary, typically every month.⁶

All commercial cannabis operators are required to obtain annual licenses to operate legally in California. To issue annual licenses, the Bureau had to develop and adopt regulations that prescribe the rules and requirements governing its cannabis program. To meet its statutory deadline to begin issuing commercial cannabis licenses by January 1, 2018, the Bureau exercised the emergency rulemaking process authorized by SB 94 and California Code of Regulations (CCR), Title 16, Division 42. These rules allowed for temporary licenses to be issued between January 1, 2018 and December 31, 2018.

A temporary license is a conditional license that allows a business to engage in commercial cannabis activity for a period of 120 days, with extensions for additional 90-day periods if the licensee has applied for an annual license. Temporary license holders are subject to the same rules and regulations as those holding annual licenses. Application and license fees are required for annual license holders but were not required for temporary license holders.

To prevent gaps in licensure between the expiration of the temporary license and approval of the annual license, Chapter 857, Statutes of 2018 (SB 1459)⁷ authorized the issuance of provisional cannabis licenses. SB 1459 does not require a separate application process for provisional licenses and allows issuance at the sole discretion of the licensing authority. A provisional license is effective for 12 months and is available for issuance through the end of 2019. To obtain a provisional license, the applicant must have submitted a completed application, provide evidence that a California Environmental Quality Act (CEQA) compliance is underway, and the applicant must hold or have held a temporary license for the same premises and commercial cannabis activity for which the provisional license may be issued. Provisional licenses are subject to the annual application and license fees.

⁶ Excerpts from www.ccap.ca.gov.

⁷ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1459

ORGANIZATIONAL STRUCTURE

To achieve its mission of protecting California consumers by providing a safe and fair cannabis marketplace through regulatory oversight, licensure, enforcement, and disciplinary activities, the Bureau established four operational units: Administration, Legal, Licensing, and Enforcement. Currently, most cannabis regulatory and administrative activities are performed at the Bureau's headquarters located in Rancho Cordova, California, and one field office, North Coast Regional Office, located in Eureka, California.

Administration Unit

The Administration Unit is responsible for cashiering services such as the receipt and processing of fees received for all three licensing authorities, procuring and managing contracts, and other miscellaneous business services. Additionally, the Administration Unit collaborates with DCA's Office of Administrative Services' (OAS) for human resources and fiscal activities such as recruitment and hiring, and accounting and budgeting activities. Further, DCA's Office of Information Services (OIS) provides information technology support for the Bureau.

Legal Unit

The Legal Unit serves as the Bureau's in-house counsel that assists with drafting regulations and legislation, researching and editing existing legislation, interpreting federal law related to cannabis, and providing legal guidance as needed. Additionally, the Legal Unit includes a team of environmental staff that analyze the applicant's compliance with CEQA, which requires identification and mitigation of environmental impacts at licensed locations.⁸

Licensing Unit

The Licensing Unit is responsible for processing all commercial cannabis license applications. Licensing staff review the applications and other required documents to ensure the applications meet the requirements of CCR Title 16, Division 42.⁹ Additionally, the Licensing Unit collaborates with local governments to understand its local cannabis ordinances and the impact of statewide cannabis legislation on its operations.

Enforcement Unit

The Enforcement Unit is charged with ensuring licensed commercial cannabis entities, which includes retailers, distributors, testing laboratories, microbusinesses, and cannabis events, comply with applicable laws and regulations. To meet its responsibilities, the Enforcement Unit is divided into four specialties—complaints, investigations, laboratories, and safety assurance and financial enforcement (SAFE),¹⁰ as shown in Table 1.

Table 1. Enforcement Unit Oversight Activities

| Complaints | Investigations | Laboratories | SAFE |
|---|--|---|---|
| Process complaints and determine jurisdiction of the complaint. | Conduct inspections of licensee's premises. Conduct investigations of complaints about licensees, licensed products, and licensed activities. | Perform inspections of licensee laboratories to ensure products for sale are reasonably safe and meet required health standards. Review laboratory testing data packages and investigate failed batches. | Conduct investigations to ensure packaging and labeling comply with regulations. Ensure distributors, testing laboratories, and microbusinesses comply with document requirements. |

Source: Excerpt from Bureau Duty Statements

⁸ Bureau's Accomplishments and Activity document.

⁹ https://www.bcc.ca.gov/law_regs/cannabis_order_of_adoption.pdf

¹⁰ The SAFE Unit was not operational as of January 31, 2019.

Complaints

Complaints staff is responsible for processing public complaints involving retailers, distributors, testing laboratories, microbusinesses, and cannabis events within California. The public can file a complaint against any licensed or unlicensed commercial cannabis activity or entities in California with the Bureau.¹¹ Complaints are received through several methods including online via the Bureau's website, U.S. Postal Service mail, e-mail, telephone, and in-person. Upon receipt, complaints are triaged to determine the responsible authority, which is dictated by the type of complaint, as shown in Table 2. Complaints not under the Bureau's jurisdiction are forwarded to the appropriate responsible party.

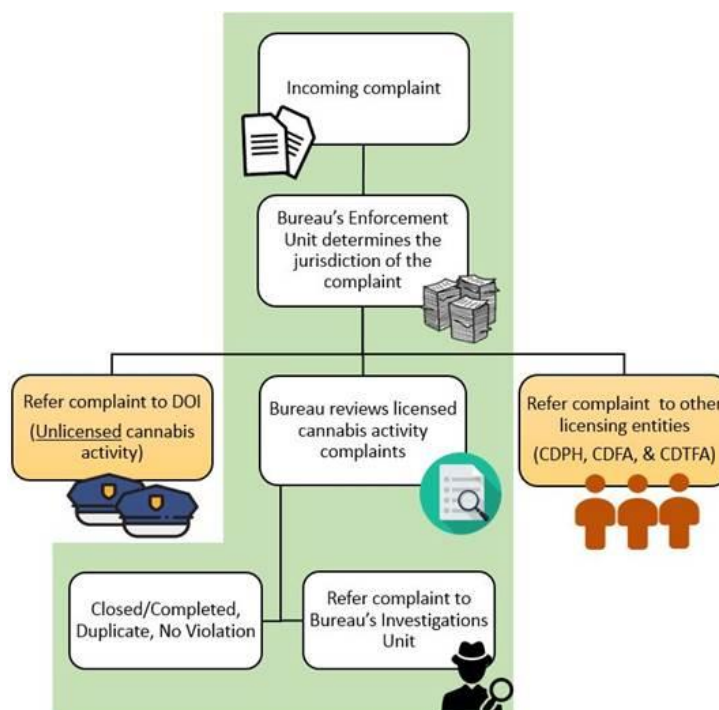
Table 2. Jurisdiction of Complaints

| Type of Complaint ¹² | Responsible Authority |
|--|---|
| Activities related to commercial cannabis for licensed retailers, distributors, microbusinesses, testing laboratories, and cannabis events | Bureau |
| Activities related to cannabis manufacturers | CDPH |
| Activities related to cannabis cultivators | CDFA |
| Activities related to cannabis taxes | California Department of Tax and Fee Administration (CDTFA) |
| Activities related to unlicensed cannabis activity | DCA's Division of Investigations Unit (DOI) |

Source: Bureau's Complaint Unit Reference Desk Manual

Because the Bureau's investigators are not peace officers, complaints involving unlicensed activity or unlicensed entities are referred to the Cannabis Enforcement Unit (CEU), within DCA's DOI. The CEU is a law enforcement agency that employs peace officers to conduct criminal and administrative investigations, obtain and execute search warrants, and make arrests in California.¹³ Figure 3 illustrates the Bureau's complaint process.

Figure 3. Bureau's Complaint Process



Source: Based on information provided by the Bureau

¹¹ https://bcc.ca.gov/consumers/file_complaint.html

¹² A complaint may be referred to multiple authorities, determined on a case-by-case basis.

¹³ <https://dca-division-of-investigations.blog/about>

Investigations

Investigations staff perform onsite inspections of licensee premises and investigations related to licensee complaints, which include, but are not limited to, identifying, gathering, assembling, evaluating, and preserving statements, affidavits, search warrants, and other evidence for use in administrative actions. Additionally, the staff are responsible for issuing Notices to Comply for violations of the regulations, maintaining control of voluntarily surrendered products, referring cases to other enforcement agencies, and working with the other agencies tasked with overseeing and regulating cannabis in California.

Laboratories

Laboratories staff review the results of laboratory scientific data packages, conduct onsite inspections of licensed laboratories to ensure facilities meet the premise requirements and have the capabilities to perform required testing, and assist in investigations of licensed laboratories. MAUCRSA requires cannabis or cannabis products to undergo inspection and testing before being offered for retail sale. Licensed laboratories perform a series of tests on batches of cannabis or cannabis products to ensure compliance with CCR Chapter 6, Division 42, Title 16.

SAFE

SAFE was staffed with only one investigator that was working in investigations and was not operational as of January 31, 2019. The Bureau envisions SAFE to be staffed by a mix of special investigators and auditors who are responsible for ensuring cannabis packaging and labeling comply with regulations and reviewing business records. Further, it is envisioned that SAFE will provide training to local law enforcement on cannabis laws, regulations, and investigative techniques.

Bureau management stated that some of the monitoring activities designated for SAFE are currently being performed as part of enforcement inspections. These activities include verifying product packaging and ensuring licensees have the ability to track sales transactions.

Licensing and Enforcement Information System

The Bureau utilizes Accela as its licensing and enforcement tracking system. Accela is a cloud-based software that allows limited public access to select cannabis license and licensee information. The software allows online access to apply and search for a license, pay license application fees, and file complaints on licensed or unlicensed commercial cannabis activity within California.

Financial Management System

To manage its financial information, the Bureau used the California State Accounting and Reporting System (CalSTARS), the State's legacy accounting system, before transitioning to the Financial Information System for California (Fi\$Cal) in 2017-18.

SCOPE AND METHODOLOGY

In accordance with BPC Division 10, Chapter 19, section 26191, the California Department of Finance, Office of State Audits and Evaluations, conducted a performance audit of the Bureau. The audit objectives were to:

1. Determine the overall effectiveness of the Bureau's enforcement programs.
2. Determine the actual costs of the program.

Enforcement programs within Objective 1 include the Bureau's licensing and enforcement activities, while the costs of the program within Objective 2 include revenue and expenditure activity. Audit methodologies were applied to processes, procedures, and transactions during July 1, 2016 through January 31, 2019, unless otherwise noted in the Results section or Appendix C. CDPH, CDFA, DOI, and the Appeals Panel's roles and responsibilities were outside the scope of this audit and; therefore, audit procedures were not performed on these four entities. Also, our review of provisional licenses was limited to gaining an understanding of the Bureau's review process.

Except as discussed in the following paragraph, we conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Finance and the Bureau are both part of the State of California's Executive Branch. As required by various statutes within California Government Code, Finance performs certain management and accounting functions. Under generally accepted government auditing standards, performance of these activities creates an organizational impairment with respect to independence. However, Finance has developed and implemented sufficient safeguards to mitigate the organizational impairment so reliance can be placed on the work performed.

Since its inception in 2016, the Bureau has developed a structural foundation for California's first legalized medicinal and adult-use cannabis marketplace and regulatory program. This required the Bureau to create a cannabis program that protects the public and consumers by January 1, 2018, when adult-use cannabis sales became legal. As of January 31, 2019, the Bureau has implemented various regulatory, licensing, enforcement, and disciplinary activities, including adopting and implementing operational regulations, implementing an online licensing and enforcement system, recruiting and hiring personnel, developing processes and procedures, performing outreach and educational events, issuing licenses, processing complaints, and performing licensee inspections and investigations.

Based on the infancy of the program and the operational work performed, the Bureau's enforcement programs were effective, but not comprehensive enough to provide sufficient regulatory and licensing oversight of commercial cannabis activities throughout California.

Additionally, in the first two years of the Bureau's operation, program expenditures exceeded revenues. Expenditures will continue to rise as investments in personnel and capital assets increase with staff hiring and field office expansion. Revenues have not met budget projections due to the limited number of annual licenses issued through January 2019. However, revenues are projected to increase as more annual licenses are issued.

The following sections detail the Bureau's accomplishments and opportunities to strengthen the effectiveness of its enforcement programs and fiscal management.

THE BUREAU'S STRUCTURAL FOUNDATION

To develop its structural foundation, the Bureau embarked on an aggressive outreach campaign to quickly understand the cannabis industry by participating in meetings and discussions with regulatory personnel from other states, soliciting input and developing lines of communication with local government officials and other stakeholders, and holding pre-regulatory public meetings. Additionally, the Bureau hosted the 2016 Western States Cannabis Meeting which served as a forum for state regulators to share information about cannabis operational challenges and best practices. Figure 4 summarizes the Bureau's outreach activities.

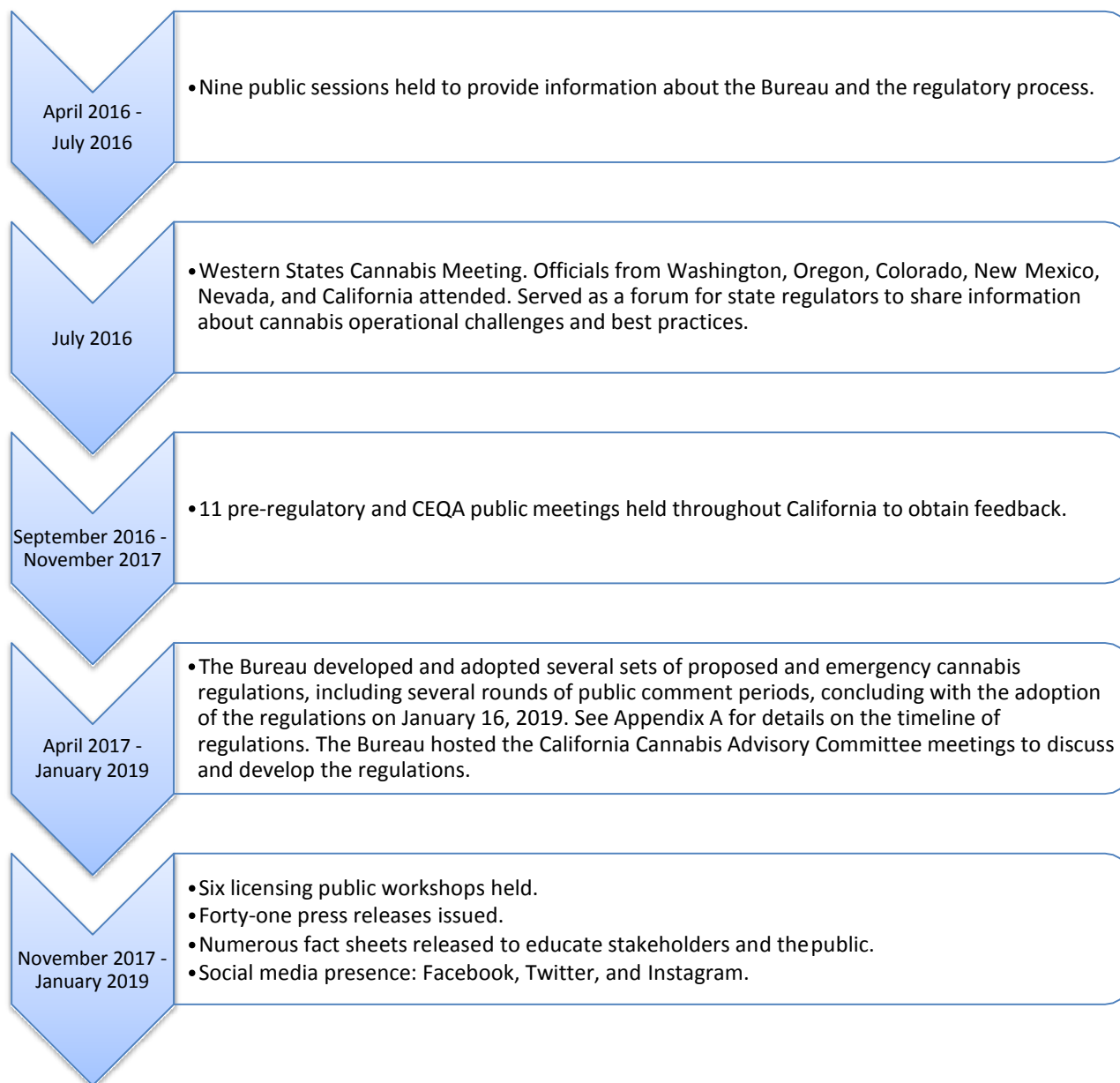
The Bureau was required to comply with CEQA prior to implementing its cannabis program.¹⁴ The Bureau adopted the CEQA findings on November 14, 2017, and the findings concluded the Bureau's cannabis program would not have any significant effects on the environment.

Between April 2017 and January 2019, the Bureau developed and adopted several sets of proposed and emergency cannabis regulations,¹⁵ which included public comment periods. The adopted regulations govern how the Bureau will enforce the cannabis statutes and program.

¹⁴ Public Resources Code section 21000 et seq.

¹⁵ Bureau's Accomplishments and Activity document.

Figure 4. Bureau Outreach Activities



Source: Bureau of Cannabis Control

The Bureau established four operational units to meet its regulatory and licensing oversight responsibilities. The Bureau defined each unit's roles and responsibilities and drafted personnel duty statements. In February 2016, the Bureau began recruiting and hiring to fill its authorized positions. As of January 31, 2019, the Bureau has filled 75¹⁶ (35 percent) of its positions with a majority of the filled positions being within the Licensing Unit. The Bureau indicated both short and long-term staff goals are established and continually reassessed based on current identified workload. Additionally, the Bureau holds regular meetings with DCA to discuss staff planning. See Appendix B for a summary of vacant and filled positions. Delays in hiring were primarily due to insufficient office space until December 2017, when the Bureau opened its headquarters in Rancho Cordova, and a stringent hiring process to ensure the most qualified candidates are selected. Further, because the Bureau was unable to anticipate the volume of license applicants,

¹⁶ The Bureau filled 74 positions at headquarters and one position in its North Coast Regional Office.

it had difficulty determining its resource needs. Moreover, when the Bureau began issuing temporary licenses, many local governments were still developing the local cannabis programs, and were unable to provide the necessary approvals to applicants.

In addition to its headquarters office, the Bureau's structural foundation plans include establishing five field offices to provide services within various geographical regions in California. In July 2018, in accordance with BPC section 26210.5, the Bureau opened its first field office in Eureka, known as the North Coast Regional Office.¹⁷

The North Coast Regional Office is shared with the other two cannabis licensing authorities, CDFA and CDPH, as well as the California State Water Resources Control Board.¹⁸ At field offices, individuals can pay application and license fees, submit license applications, and have questions answered in-person.¹⁹ The Bureau continues to collaborate with DCA and the California Department of General Services (DGS) to identify additional field office locations, with the Burbank area currently being considered as the next location. The Bureau is also actively working with DGS to open a Sacramento field office as the current location will not accommodate both Sacramento headquarters and field office staff once hiring is complete. See Finding 5 for the impact unopened field offices has on operations.

The Bureau has developed policies and procedures for each of the Bureau's four operational units. Desk manuals and checklists have been created to aid Bureau staff in ensuring its activities are in compliance with statutes and adopted regulations, and are consistently applied.

Cash collection, accounting, and reporting mechanisms for cannabis activity have also been developed and implemented including establishing appropriate accounts and processing procedures within CalSTARS and Fi\$Cal.

Additionally, as noted in the Background section, the Bureau utilizes Accela as its licensing and enforcement tracking system. The system can be accessed through the Bureau's website and was placed into operation in December 2017. In conjunction with staff's utilization of Accela, the Bureau also documents its licensing and enforcement activities with hardcopy files. However, the Bureau states it has been working on transitioning to only using Accela. See the Licensing and Enforcement Information System section, and Findings 7 and 8 for opportunities to enhance the Bureau's use of Accela.

The Bureau's structural foundation includes established and implemented communication channels internally, and externally with CDFA, CDPH, DOI, and local governments. The Bureau has collaborated with all three licensing authorities to establish appropriate lines of authority for regulating and enforcing the various types of cannabis activities. However, as described in Finding 6, the Bureau can strengthen its communication with these entities. Additionally, the Bureau plans to develop and staff a Local Liaison Unit to establish and cultivate communications and relationships with the local governments, since one-third of the state's jurisdictions allow for commercial cannabis activity. The Local Liaison Unit will be available to assist with Bureau license application reviews and provide guidance to local governments for implementing a commercial cannabis regulatory system within the respective area.

Over the last three years, the Bureau has been effective in establishing a structural foundation for implementing and monitoring cannabis regulatory and licensing activity. However, opportunities exist for the Bureau to strengthen its structural foundation. These opportunities include

¹⁷ BPC section 26210.5, required the Bureau to establish an office in the County of Humboldt, County of Trinity, or County of Mendocino by July 1, 2018.

¹⁸ The California State Water Resources Control Board approves portions of the agriculture license application.

¹⁹ Bureau's April 12, 2019 Press Release.

establishing a strategic plan, and implementing and monitoring a staff training plan, as noted in Finding 1.

Finding 1: Develop Comprehensive Strategic and Training Plans

Establish a Strategic Plan

The Bureau does not have a documented strategic plan. Strategic planning is important to an organization because it assists in the communication of organizational goals, establishes priorities, focuses energy and resources, and is a tool to evaluate progress. As of January 31, 2019, the Bureau did not have a comprehensive management strategy established and documented that identified mission critical activities aligned with workload and available resources. Since the Bureau is a newly-established entity with plans to expand operations throughout California, the need for a comprehensive strategic plan, which should include performance goals and measurements, is critical to ensure an effective and efficient program, as defined in Figure 5. Because the Bureau has focused its efforts on establishing licensing and enforcement regulations, documentation of a strategic plan has not been a priority. See Findings 2 and 4 relating to the development of performance metrics.

Figure 5.
Program Effectiveness and Efficiency

- **Program effectiveness** relates to the extent to which a program is achieving its goals and objectives. It is the responsibility of the management to ensure program activities are effectively designed, implemented, and achieving strategic goals and other intended results.
- **Program efficiency** relates to the costs and resources used to achieve program results. It is the responsibility of the management to achieve the optimal relationship between output of services/products and the resources used to produce them in terms of quantity and process time.

Implement and Monitor Comprehensive Staff Training Plans

The Bureau has not established a comprehensive training plan for each operational unit and is not collectively and individually monitoring each staff's training requirements. When interviewed, Bureau staff attested they have attended various trainings; however, evidence of training, such as certificates of completion or sign-in sheets, did not exist. Without documentary evidence of training attendance, the Bureau cannot be assured that staff receive the appropriate training.

Because the Bureau is in its early stages of operations, establishing and implementing a workforce development and succession plan, that includes a standardized training plan specific to each job function, is critical due to the expected increase in personnel over the coming year. With the anticipated opening of additional field offices, creating an established training plan is key to ensuring all staff obtain a uniform understanding of operational policies and procedures, and consistently implement responsibilities and duties across the organization. See Finding 8 for inconsistent practices observed.

Government Code (GC) sections 11816 and 13401 require agency heads to establish and maintain effective systems of internal controls to provide the basic foundation upon which a structure of public accountability is built and state resources are adequately safeguarded, monitored, and administered; including the development of a Strategic Plan and identification of performance measures therein. Additionally, DCA's 2018 Annual Report states each DCA bureau is expected to maintain its own strategic plan that outlines its mission, vision, and goals.²⁰ Further, state entities should take a proactive and strategic approach to recruiting, developing, and retaining a skilled and diverse workforce to meet current and future organizational needs; including developing position specific training plans. Effective February 23, 2017, the California

²⁰ https://www.dca.ca.gov/publications/2018_annrpt.pdf

Department of Human Resources (CalHR) prescribed the requirement for state organizations to develop and maintain a workforce and succession plan.²¹

Recommendations:

- A. With the assistance of DCA's Solid Training and Planning Solutions Unit, develop, document, and implement a strategic plan that includes:
 - Establishing clear and measurable goals.
 - Identifying key operational priorities.
 - Aligning workload priorities with available resources.
 - Developing methods to monitor and measure program performance.
- B. Develop a workforce development and succession plan utilizing CalHR's State of California Workforce Planning and Succession Planning Models. Include within these models a comprehensive staff training plan that contains training requirements for all positions. Maintain training attendance evidence for all staff such as certificates of completion, sign-in sheets, agendas, and training documents. Periodically assess the training plan and make changes as necessary. Monitor the training plan to ensure all staff are meeting training requirements.

PROCESSING AND ISSUANCE OF LICENSES

The Licensing Unit processes and issues the following five license activity types: retail, distribution, testing, microbusiness, and cannabis events. The unit is staffed with analysts and scientists that review and approve license applications. As of January 31, 2019, 32 of the 81²² authorized positions (40 percent) within the Bureau's Licensing Unit were filled.

To process licenses, the Bureau created application forms for each of the five license types. The forms include detailed instructions and describe required documents such as premise diagrams and financial information. To achieve a consistent and comprehensive license review process and aid staff in ensuring compliance with statutes and adopted regulations, the Bureau developed a licensing desk manual and checklist. The comprehensive desk manual includes application intake procedures, detailed instructions on the processing of the different license types, a catalog of e-mail templates, and the responsibilities assigned to each Licensing Unit position.

The Licensing Unit uses Accela to store information such as license applications, premise diagrams, and other supporting documentation and analysis, in conjunction with hardcopy files. However, during our review of license applications, we observed the electronic files in Accela did not contain the same documents as the hardcopy files, as noted in Finding 8.

Temporary License

The Bureau issued temporary commercial licenses between January 1, 2018 and December 31, 2018. Under the temporary license requirements, applicants were required to provide proof of local government authorization, detailed premises information, and various other documents. See Figure 6 for a partial listing of the temporary license requirements. No application or license fees were required for temporary licenses.

Figure 6.
Temporary License Requirements
(Partial Listing)

- Local Jurisdiction Authorization
- Premise Diagram
- Legal Right to Occupy
- Right to Use

Source: Excerpt from the Bureau's License Checklist

²¹ <http://www.calhr.ca.gov/state-hr-professionals/Pages/workforce-planning.aspx>

²² The Bureau filled 32 positions at headquarters and zero in its North Coast Regional Office.

License applications were accepted online beginning December 2017, with the Bureau receiving 1,401 temporary license applications during the first month. During 2018, 6,622 applications were received, 4,033 temporary licenses were issued, and 2,591 applications were either denied or withdrawn due to the unresponsiveness of the applicant or lack of local government authorization, as identified in Table 3. In addition to assistance provided by legal and executive management, the Bureau required mandatory overtime to meet the December 31, 2018 statutory issuance deadline.

Table 3. Summary of Temporary License Applications Processed as of December 31, 2018

| Temporary Applications Received | Temporary License | | |
|---------------------------------|----------------------|--------|-----------|
| | Issued ²³ | Denied | Withdrawn |
| 6,622 | 4,033 | 2,062 | 527 |

Source: Bureau's Accela Database

Provisional License

The majority of the Bureau's temporary licenses were issued in November and December 2018, resulting in expiration dates beginning April 2019, unless 90-day extensions were approved. As noted in the Background section, SB 1459 authorized the Bureau to issue provisional licenses to prevent lapses between temporary license expiration and annual license issuance. As of March 2019, no provisional licenses had been issued.

Annual License

Annual license requirements²⁴ are significantly more comprehensive than temporary licenses, and require the applicant to submit documents including financial and ownership information, labor compliance, permits, and operation procedures. See Figure 7 for detailed information on the specific documents required.

Unlike temporary licenses, annual license applicants are required to pay application and license fees. The application fee is \$1,000, while license fees range from \$200 to \$300,000, depending on the license type and an applicant's estimated gross revenue. Annual licenses expire 12 months after issuance and must be renewed annually to remain active.

As of January 31, 2019, 1,677 annual license applications had been received and 20 licenses were issued. Of the applications received, 429 applications were either duplicates or withdrawn, as shown in Table 4, while the remainder were in the process of being reviewed. No applications had been denied.

**Figure 7.
Annual License Requirements²⁴**

- Local Jurisdiction Approval
- Legal Right to Occupy
- Premise Diagram
- Business Formation Documents
- Limited Waiver of Sovereign Immunity
- CEQA Compliance
- Labor Peace Agreement
- Financial Information Documents
- Surety Bond
- Ownership Information
- Sellers Permit
- Transportation Procedures
- Inventory Procedures
- Security Procedures
- Cal-OSHA Compliance
- Individual/Employer Identification Number(s)

Source: Excerpt from Bureau's Application Forms

²³ Includes the issuance of separate licenses for medicinal and adult-use as well as renewals or extensions of previously approved temporary licenses.

²⁴ Each annual license applicant must provide the items shown in Figure 7. However, additional information is required based upon the type of license requested. See Bureau's website for further information, www.bcc.ca.gov.

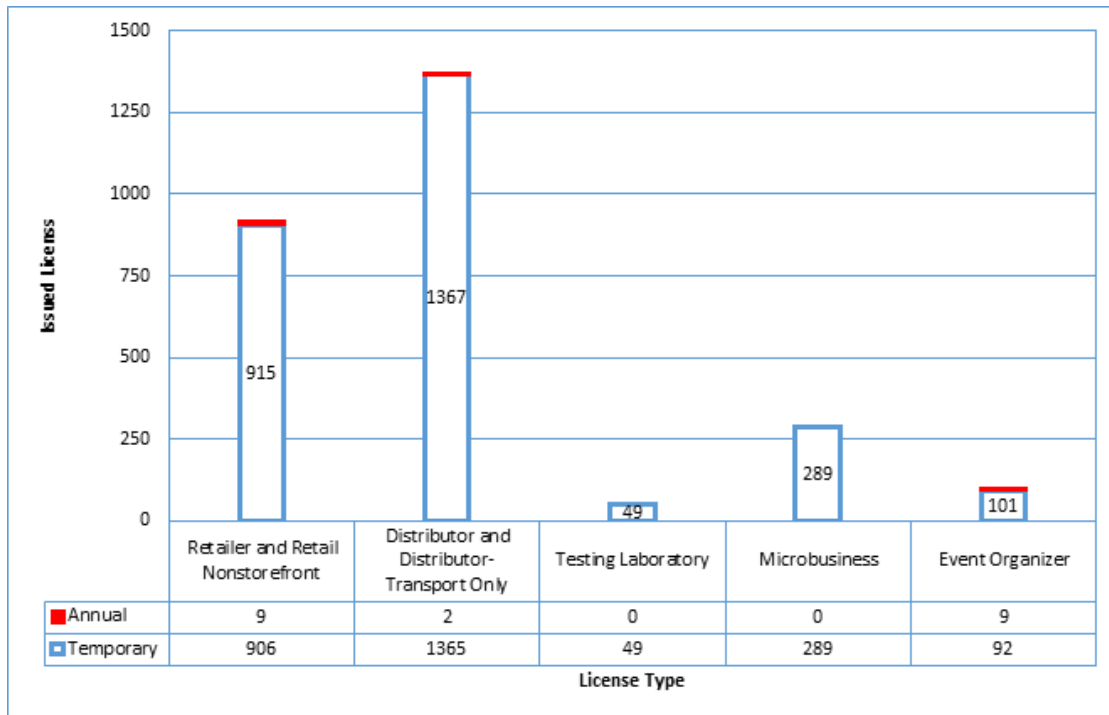
Table 4. Summary of Annual License Applications Processed as of January 31, 2019

| Annual Applications Received | Annual License | | |
|------------------------------|----------------|--------|-------------------------|
| | Issued | Denied | Duplicates or Withdrawn |
| 1,677 | 20 | 0 | 429 |

Source: Bureau's Accela Database

Of the five license types, distributor licenses represent 50 percent of the total active temporary and annual licenses issued as of January 2019, with the majority of licenses issued in Los Angeles County. See Figure 8 for the total active temporary and annual licenses issued by type, and Figure 9 for individual counties with active licenses as of January 31, 2019.

Figure 8. Active Temporary and Annual License by Type as of January 31, 2019



Source: Bureau's Accela database

Figure 9. Active Temporary and Annual Licenses by County as of January 31, 2019



Source: Bureau's Accela Database

With 1,228 annual applications to process as of January 31, 2019, the Bureau has prioritized processing applications for temporary license holders before license expiration. If an annual license cannot be issued prior to the temporary license expiration date, the Bureau has the option to issue a provisional license as previously discussed. Similar to the temporary license workload, the Bureau is using voluntary and mandatory overtime to process the annual applications received. For example, licensing staff were required to work 16 hours of overtime²⁵ during May and June. The Bureau continues to actively recruit additional staff as annual applications are received daily and renewals of existing licenses will also require processing.

Although the Licensing Unit has a comprehensive structural foundation with documented policies and procedures, the Bureau has not established license processing goals for each license application type, hindering its ability to align workload with available resources and determine its future resource needs.

To strengthen its ability to timely issue licenses, the Bureau should establish performance metrics, collect and analyze available data to determine resource needs, actively recruit licensing staff, and improve documentation of the license application review process to eliminate duplicative work, as noted in Findings 2 and 3.

²⁵ Mandatory overtime in May and June was required to be completed on a weekend.

Finding 2: Implement Performance Metrics for Processing Licenses and Continue Filling Vacancies

Establish Performance Metrics

The Bureau has not established baseline performance metrics for its license processing workload. Specifically, the Bureau does not centrally track the time it takes from the receipt of a license application to its final disposition, e.g. approved or denied, or the time it takes an applicant to respond to questions from licensing staff. Tracking the receipt of an application through its disposition will enable the Bureau to collect and analyze data for efficiencies such as the identification of license activity types requiring more staff time. Additionally, the Bureau can use this data to evaluate the number and location of personnel needed, and align workload with available resources. Further, identifying license applicant response times will enable the Bureau to assess existing policies, processes, and procedures for future enhancements or efficiencies.

Due to its infancy, the Bureau does not have sufficient data to establish or measure performance metrics; however, the Bureau should establish preliminary processing goals. Although the Bureau is able to gather limited data from Accela, it has not analyzed this information to establish preliminary performance metrics. By establishing preliminary goals, the Bureau will be able to monitor and evaluate processes, determine if existing resources are being properly managed and allocated appropriately, and assess its need for additional resources. Once more comprehensive data is available, the Bureau will be able to reevaluate preliminary goals and resource needs; establish permanent performance metrics; review existing regulations, processes, and procedures; and make changes as necessary. Additionally, with performance metrics, the Bureau will be able to provide the public with estimated processing timeframes by license type.

Continue to Actively Staff Vacant Positions

Based upon its evaluation of existing data and establishment of processing goals, the Bureau should assess its resource needs and prioritize efforts to staff vacant positions within its Licensing Unit. To process temporary and annual license applications, the Bureau has relied on Licensing Unit staff to work voluntary and mandatory overtime. As of January 31, 2019, the Bureau maintained a combined 47 percent vacancy rate within its Licensing Unit headquarters and operational field office, with an overall 60 percent vacancy rate including unopened field offices. Although overtime has assisted the Bureau in addressing its need to process cannabis license applications, this practice is not a viable long-term solution. Continuous overtime may negatively impact the Licensing Unit through decreased employee morale, increased employee turnover, and ineffective work production such as processing errors.

GC sections 11816, 13401, and 13403 require agency heads to establish and maintain effective systems of internal controls including the development of a Strategic Plan and identification of performance measures therein. Further, state entities should take a proactive and strategic approach to recruiting, developing, and retaining a skilled and diverse workforce possessing qualities commensurate with their responsibilities to meet current and future organizational needs.

Recommendations:

- A. Develop a performance measurement system for the license review process that includes cycle times for intake, applicant's time to respond to questions, and license issuance or denial. Performance metrics should be interrelated to the Bureau's mission and vision, strategic objectives, and strategic initiatives. Assess and monitor license processing times and make changes to policies, processes, and procedures, as needed.
- B. Using available data and considering processing goals and metrics, align workload with available resources and evaluate the number and location of additional staff resources needed. Continue recruiting efforts to staff vacant positions and periodically assess workload resource needs using relevant data.

Finding 3: Improve License Application Review Process Documentation

When Bureau staff review license applications, they are not required to provide a written analysis to document their review. Although the Bureau uses a review checklist, the checklist does not provide sufficient detail to enable a secondary reviewer to understand how the initial reviewer reached their conclusions. During discussions with the Bureau, we noted the secondary reviewer was replicating the analysis to reach the same outcome. Because annual license applications require more documents to review, it is essential staff document their analysis to expedite the secondary review process.

GC sections 13401 and 13403 require agency heads to establish and maintain effective systems of internal controls. Elements of a satisfactory internal control system include an effective system of internal review and monitoring systems and processes to facilitate recommendations for efficiencies. Efficiencies may be attainable via the consolidation or restructuring of potentially duplicative or inefficient processes or practices.

Recommendation:

- A. Update policies and procedures, including desk manuals and checklists, to require staff to sufficiently document the analysis performed. Ensure staff receive training on the updated documentation requirements and perform follow-up monitoring to ensure consistency.

LICENSE ENFORCEMENT

The Enforcement Unit allocates its workload into four specialty areas: complaints, investigations, laboratories, and SAFE. The unit, led by an Assistant Chief, is staffed with scientists, investigators, and auditors, whose activities ensure licensed commercial cannabis entities comply with applicable laws and regulations. As of January 31, 2019, 15 of the 68²⁶ (22 percent) authorized positions were filled.

Complaints

The Bureau received its first public complaint in December 2017. As of January 31, 2019, 5,680 complaints had been received and 3,232 complaints were resolved and closed by the Bureau, or referred to another responsible authority for resolution, as shown in Table 5.

²⁶ The Bureau filled 15 positions at headquarters and zero in its North Coast Regional Office.

Table 5. Complaints Received as of January 31, 2019

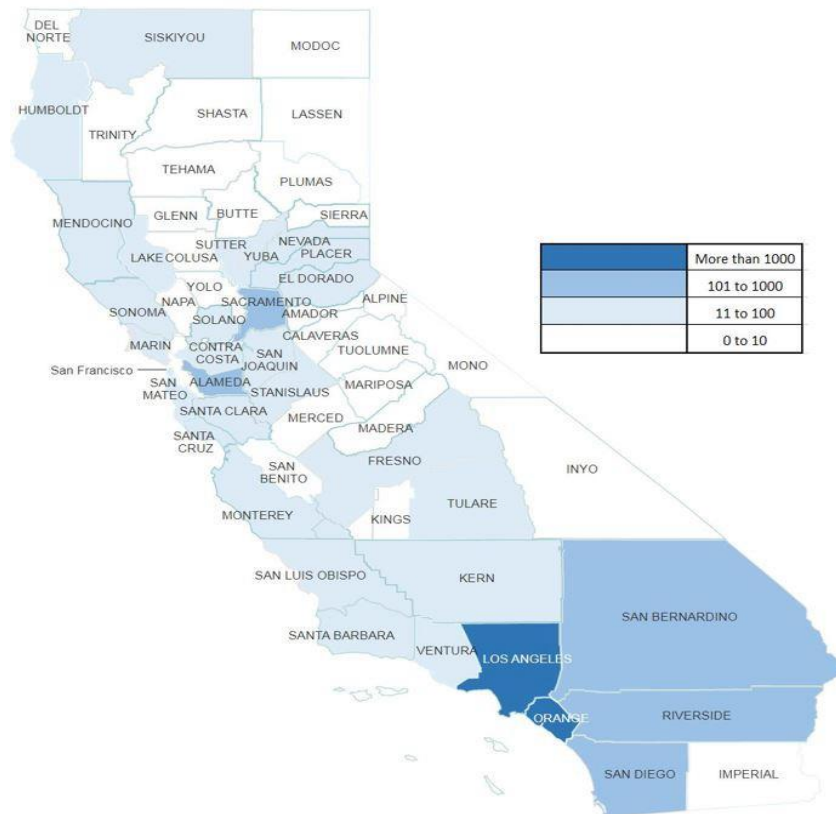
| Complaint Status | Amount |
|--|--------------|
| Resolved/Closed ²⁷ | 2,582 |
| Referred to Bureau's Investigations Staff | 39 |
| Referred to Other Licensing Entities | 140 |
| Referred to DOI | 471 |
| Total Processed | 3,232 |
| In Progress | 2,448 |
| Total Number of Complaints Received | 5,680 |

Source: Bureau's Accela Database

The complaints specialty area is nearly fully staffed with seven of eight office technician and analyst positions filled. The Bureau currently reviews and responds to all complaints received. Complaints determined to be under the Bureau's purview are prioritized by the potential impact on the public, with public health and safety related complaints categorized as the most serious. On average, the 3,232 total processed complaints were processed within 33 days of receipt. However, a backlog of in-progress²⁸ complaints totaling 2,448 remains, with 559 complaints greater than six months old. On average, from November 2018 through January 2019, the Bureau received 36 complaints daily.

A majority of the complaints received are located in Los Angeles County. Figure 10 depicts the locations of the complaints received by geographical region.

Figure 10. Complaints by County²⁹ as of January 31, 2019



Source: Bureau's Accela Database

²⁷ Includes 1,928 duplicates that were closed.

²⁸ Complaints in which a review has not been started or is in process.

²⁹ Data used to identify complaints by location is limited due to the information reported on the complaint form. The total number of complaints represented on the map is approximately 5,502.

The Bureau has a formalized complaint and complaint resolution process based on the types of complaints received. The Bureau has developed clearly defined duty statements and desk manuals to assist staff in performing reviews such as processing the receipt of a complaint; monitoring the dedicated complaints e-mail account; and reviewing, approving, and documenting a complaint's resolution. Also, supervisory review is performed for each complaint's recommended referral.

The Bureau has implemented the use of Accela to analyze and review complaints, in conjunction with maintaining hardcopy files for each complaint. See the Licensing and Enforcement Information System section, and Findings 7 and 8 for additional details on the Bureau's use of Accela and opportunities for enhancement.

The Bureau has established communication methods and timeframes to timely share complaint referrals and status updates with DOI. Additionally, the complaints and investigations staff have developed a cohesive rapport that enables both specialty areas to effectively perform its respective tasks.

Although the Bureau has developed a robust complaint review process that ensures all complaints are processed; opportunities exist for the Bureau to enhance the effectiveness of its mission of consumer protection, by performing a risk assessment of complaints received to process the most critical complaints first, and establishing performance metrics to measure its progress, as noted in Finding 4.

Finding 4: Implement Risk Assessment and Performance Metrics for Complaints Processing

Implement a Risk Assessment Process for Complaints

The Bureau performs a review of each complaint received that is under the Bureau's jurisdiction. Although the Bureau initially screens the complaints for public health and safety, it has not developed a comprehensive risk assessment process to prioritize all complaints received to ensure that resources are effectively and efficiently used to achieve a timely resolution. For example, a prioritization of the remaining population of complaints is not performed. All complaints are reviewed despite being vague or lacking sufficient information to process. As previously discussed, the Bureau's in-progress complaints totaled 2,448, or 43 percent of the total complaints received as of January 31, 2019. Seven of the in-progress complaints date back to December 2017, and 559 are greater than six months old. Receiving an average of 36 complaints daily, further compounds the already significant backlog. Without implementing changes to the current complaint review process, high priority complaints may not be resolved timely while the complaints backlog will continue to increase.

Establish Performance Metrics

The Bureau has not established baseline performance metrics for its complaint workload. With performance metrics, the Bureau can measure its progress and determine if resources are being properly managed and allocated appropriately. Bureau management indicated the data necessary to measure performance is currently being gathered and is considering improvements to Accela to better track complaint data.

GC sections 11816, 13401, and 13403 require agency heads to establish and maintain effective systems of internal controls to ensure state resources are adequately safeguarded, monitored, and administered; including the development of a Strategic Plan and identification of performance measures therein. Elements of a satisfactory internal control system include an effective system

of internal review and monitoring systems and processes to facilitate recommendations for efficiencies. Efficiencies may be attainable via the consolidation or restructuring of potentially duplicative or inefficient processes or practices.

Recommendations:

- A. Develop a comprehensive risk assessment model to identify and prioritize all complaints. Document the risk assessment and ensure the assessment directly links to the Bureau's mission and vision, strategic objectives, and strategic initiatives.
- B. Develop a performance measurement system for the complaint process to ensure resources are used efficiently and effectively, and allocated properly. Performance metrics should include cycle times for complaint intake and closing, and referrals to other entities. Performance metrics should be interrelated to the Bureau's mission and vision, strategic objectives, and strategic initiatives.
- C. Ensure the risk assessment model and performance measurement system are communicated to staff and relevant policies and procedures are modified accordingly.

Investigations

Inspections and investigations can be initiated by public complaints or by the Bureau, if there are concerns that a licensee is not operating in accordance with regulations, or there is a suspicion of a potential violation, as described in Figure 11.

Investigations staff consists of five investigators³⁰ who perform inspections and investigations of entities licensed under the Bureau's jurisdiction. The Bureau also works collaboratively with DOI on complaints that require law enforcement involvement since DOI staff possess peace officer status. The investigations specialty area had three investigator and one office technician positions vacant as of January 31, 2019.

The Bureau has developed clearly defined duty statements for its investigations staff. In addition, the Bureau has developed and implemented the use of inspection checklists and formally adopted a set of licensee disciplinary guidelines to ensure consistent disciplinary actions are performed throughout the state.

Accela is used to document investigations, in conjunction with hardcopy files. Inspections are manually tracked in an Excel spreadsheet; however, we noted inconsistencies with the hardcopy files supporting the spreadsheet. See the Licensing and Enforcement Information System section and Finding 7 for opportunities to enhance the Bureau's utilization of Accela.

According to the Bureau, 824 licensee inspections were conducted and 120 investigations were initiated as of January 2019.

Figure 11.
Inspections and Investigations

- **Inspections** is the visual observance of a licensee's compliance with regulations; and does not have to be initiated by a complaint or known violation. Inspections can be part of an investigation or performed independently.
- **Investigations** are formal examinations or research of a licensee; typically initiated from complaints received or knowledge of possible violations. Investigations can include an inspection of the licensee, internet research, reviewing product testing, etc.

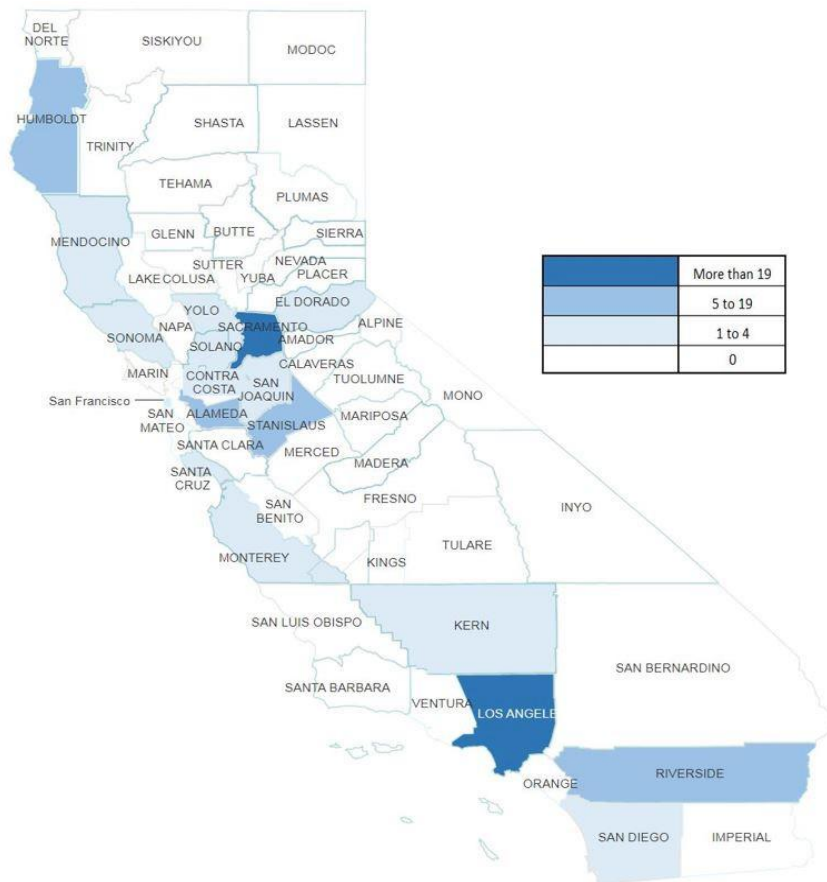
³⁰ One of the five investigators is from the SAFE specialty area.

Inspection and investigation teams generally consist of at least three staff members and typically include two to three investigators and a supervising investigator. The number of team members is primarily to ensure the safety of the team throughout the inspection or investigation process.

When performing inspections or investigations, investigations staff cited challenges in executing its duties since licensees may hold additional licenses issued by the other licensing authorities, unbeknownst to the staff. When this situation occurs, investigations staff attempt to contact the other licensing authorities to verify licensure status; however, because no central contact has been established, oftentimes there was no response, as noted in Finding 6. Licensure information is critical for the Bureau to properly regulate licensee activities as insufficient information may delay the Bureau’s ability to perform its enforcement responsibilities.

Further impacting its ability to perform inspections and investigations is the limited number of operational field offices. As of January 31, 2019, all investigators resided at the Bureau’s headquarters in Rancho Cordova. If, during the course of an investigation, a licensee surrenders cannabis products, investigations staff must return to headquarters to process the surrendered product. Of the 120 investigations the Bureau initiated, 37 were for licensees located in Los Angeles County, a 6-hour drive from Rancho Cordova, and almost half of these investigations resulted in surrendered product. Having to return to Rancho Cordova after evidence has been surrendered impacts the ability to continue to perform additional investigations or inspections in the area. See Figure 12 for localities in which investigations were performed.

Figure 12. Locations of Investigations Performed



Source: Bureau's Accela Database

The Bureau has adopted disciplinary regulations and has been focused on educating licensees on cannabis program requirements. As part of its disciplinary actions, the Bureau may issue verbal warnings and Notices to Comply. Additionally, the Bureau may issue Cease and Desist Letters to individuals engaging in unlicensed activity and has the authority to issue fines and penalties. No formal disciplinary actions had been taken as of January 31, 2019.

Laboratories

Laboratories staff includes scientists that specialize in inspecting testing laboratories and reviewing test results. The scientists also assist investigations staff with inspections and investigations when complaints regarding licensed laboratories are received. As of January 31, 2019, two of the eight authorized positions were filled.

Initially, 66 testing laboratories were licensed; however, 4 licenses were revoked due to noncompliance with regulatory requirements such as lack of equipment or the facility was not operational. Thirteen testing laboratories did not renew their licenses, or their licenses were surrendered or canceled. The remaining 49 testing laboratories have active licenses and were inspected by the Bureau.

Testing laboratories submitted more than 33,000 certificates of analysis (COA) (Figure 13) as of January 31, 2019, which the Bureau's laboratories staff must review to ensure required tests were performed and products meet regulatory specifications. Additionally, the laboratories staff may also obtain and review data packages which capture the workflow and results of samples tested. The laboratories staff utilize a checklist to document their review and is retained on the Bureau's shared drive.

Figure 13.
Certificate of Analysis is a document issued by the licensed laboratory that provides assurance that a regulated product meets its product specification.

The Bureau has developed policies and procedures for laboratory compliance, evidence handling, and field inspections. The Bureau has not implemented the use of Accela to document laboratories staff work, except for when an inspection results in an investigation. An Excel spreadsheet is used to track COA results and inspections, and inspection checklists that do not result in an investigation are maintained in hardcopy files. See the Licensing and Enforcement Information System section and Finding 7 for opportunities to enhance the Bureau's utilization of Accela.

Although the investigations and laboratory specialty areas have a comprehensive structural foundation with documented policies and procedures, the enforcement program is restricted geographically with the limited number of enforcement staff and field offices, and inability to retrieve licensure information from other licensing authorities, as noted in Findings 5 and 6.

Finding 5: The Bureau's Ability to Monitor Licensees is Impacted by Staff Vacancies and Unopened Field Offices

Of a total of 68 authorized Enforcement Unit positions, only 15 have been filled and only one field office has been opened as of January 31, 2019. With the existing number of Enforcement Unit staff and only one field office, the Bureau's ability to process complaints, perform inspections and investigations, and review and inspect testing laboratories is severely impacted. The Bureau acknowledges that complaints have increased over time and anticipates the volume to continue to rise. Bureau staff indicated the majority of investigations are complaint-driven; therefore, a correlation can be inferred that the number of investigations will continue to rise. To effectively protect the public, it is imperative the Bureau actively continues to fill vacancies and open additional field offices. Bureau management has been active and selective in its recruiting and

hiring efforts for additional staff and is working with DCA and DGS on plans to open additional field offices.

GC sections 13401 and 13403 require agency heads to establish and maintain effective systems of internal controls to provide the basic foundation upon which a structure of public accountability is built and state resources are adequately safeguarded, monitored, and administered. Additionally, state entities should take a proactive and strategic approach to recruiting, developing, and retaining a skilled and diverse workforce possessing qualities commensurate with their responsibilities to meet current and future organizational needs.

Recommendation:

- A. Continue recruiting efforts to fill vacant positions and working with DCA and DGS to locate and open additional field offices.

Finding 6: Establish Central Contact Among Licensing Authorities

Enforcement Unit staff's ability to process complaints, and perform investigations and inspections is negatively impacted by its inability to verify a licensure status from the other licensing authorities. To properly regulate a licensee, Enforcement Unit staff must be aware of all licenses held by a licensee; otherwise, a licensee may be erroneously reported as being out of compliance. Enforcement Unit staff stated a central contact from the other licensing authorities has not been established. Establishing a central contact for each authority will increase the operational effectiveness of the cannabis program.

SB 94 identifies the Bureau as the lead agency in regulating commercial cannabis licenses for medical and adult-use cannabis in California. GC sections 13401 and 13403 require agency heads to establish and maintain effective systems of internal controls including communication. Effective systems of communication are essential to providing proper oversight of the cannabis program.

Recommendation:

- A. Work collaboratively with CDFA and CDPH to create a communication plan to coordinate efforts among the licensing authorities and establish a central contact person to exchange accurate and timely cannabis license information.

Licensing and Enforcement Information System

The Bureau implemented the Accela database system in December 2017 to process, review, and track license applications; report, record, and track complaints and investigations; as well as provide public access to select license information and pay fees. The Bureau developed, documented, and implemented procedures, and provided training to assist with the navigation and usage of Accela. The Bureau has also worked to ensure safeguards for confidentiality and security are developed and established.

The adoption of Accela by the Bureau was a significant undertaking that required coordination and assistance from various departments such as DCA, DGS, the California Department of Technology, and a financial institution. Per Bureau management, enhancements to the database have regularly been made in both the licensing and enforcement modules to improve work flows. However, opportunities exist to improve the utilization of Accela as referenced in the Processing and Issuance of Licenses and License Enforcement sections above; and to ensure Accela is used consistently throughout the Bureau, as noted in Findings 7 and 8.

Finding 7: Continue to Enhance Data Elements within Accela

To assist the Bureau with its performance metrics, and ability to effectively allocate resources and monitor progress, the Bureau should continue its efforts to enhance the data elements collected within Accela. As noted in the Processing and Issuance of Licenses and License Enforcement sections, we identified opportunities for improvement within the Accela licensing, complaints, and investigations modules.

In the Processing and Issuance of Licenses section, we recommended the Bureau establish licensing baseline performance metrics to track the approval or denial time of an applicant. Although the Bureau already tracks the intake and issuance/denial date, the Bureau does not centrally track the time it takes an applicant to respond. The Bureau acknowledges the response times of the applicants can vary widely, hence, maintaining data on the response times will aid in establishing its performance metrics.

Additionally, when a complaint is received from the public, a record identification number is created in Accela. If a complaint is forwarded to the Bureau's investigations specialty area, the investigations staff do not use the same identification number as the original complaint, and instead create a new record identification number in Accela. The two record identification numbers are not linked within Accela so tracing an investigation to the original complaint is not feasible. Enhancing Accela to connect the complaint with the investigation would strengthen the Bureau's ability to determine the number of complaints that result in an investigation.

Further, the licensee inspections are recorded on Excel spreadsheets, and are not entered into Accela. As of January 31, 2019, the inspections spreadsheet indicated 824 inspections were performed. The spreadsheet includes the licensee name, license type, city, violations noted, actions taken by the Bureau (such as verbal warnings), and dates and times of the inspection. However, during a review of 73 inspections, the Bureau was able to provide only 35 inspection checklists, which were for retailers, microbusiness, and laboratory entities. The Bureau does not have an inspection checklist for distributors. Without a checklist, there is no evidence to support an inspection was performed. With a future increased workforce at the Bureau, maintaining a spreadsheet to record inspections with hardcopy files is cumbersome and prone to error. Rather, the inspection data should be captured in Accela. Beginning March 1, 2023, and annually thereafter, BPC section 26190 requires the Bureau to report the number and outcome of inspections performed. Given that additional field offices will be opening, the geographical disparity between the offices makes it necessary to maintain all inspection data in one central location to ensure effective oversight.

GC sections 13401 and 13403 require agency heads to establish and maintain effective systems of internal controls. The elements of a satisfactory internal control system include a technology infrastructure to support the completeness, accuracy, and validity of information processed.

Recommendations:

- A. Develop a field within the licensing module to include response times by the applicants, if feasible.
- B. Develop and implement a process to establish a relationship between the complaint and investigation files within Accela.
- C. Develop and implement processes to capture all licensee inspections and laboratory testing workload within Accela. Documents supporting the results of the work should be added to each Accela file.

- D. Ensure staff are trained on the new processes and implement review procedures to verify information input into Accela is complete and accurate.

Finding 8: Inconsistent Documentation of Enforcement Data

During reviews of the license and investigation files, both hardcopy and electronic, data entry procedures and data entered into the Accela database were inconsistent as follows:

- During our review of license applications, we observed 2 of 30 temporary application files in Accela did not contain the same documents as the hardcopy files. Bureau staff do not ensure all hardcopy supporting documents for a license application are uploaded into Accela. Without all documents being uploaded, the Bureau may not be able to support the final conclusions of a license application review.
- We noted 26 of 120 investigations did not include an address for the entity under investigation in Accela. Further, we noted inconsistent data entry in Accela relating to license names, product descriptions, and cases where evidence was self-quarantined. In seven of nine investigation cases that resulted in self-quarantined products, the associated case files in Accela did not contain notes that the licensee chose the self-quarantine option.

Without consistent information in Accela, management is unable to obtain reliable information and reports from the database. Bureau staff was aware that not all documents were uploaded to the database but could not explain the omissions. Implementing procedures to correct these deficiencies will assist the Bureau with future reporting requirements to the Legislature. For example as noted above, BPC section 26190 requires the Bureau to submit to the Legislature an annual report on its activities beginning March 2023. The report shall include items such as financials, number of licensees, average time for processing applications, number of appeals, number of complaints by geographical region, number and type of enforcement activities, and penalties.

GC sections 13401 and 13403 require agency heads to establish and maintain effective systems of internal controls. The elements of a satisfactory internal control system include a technology infrastructure to support the completeness, accuracy, and validity of information processed and an effective system of internal review.

Recommendations:

- A. Update policies and procedures to verify license application documents are uploaded into Accela. Ensure staff receive training on the revised Accela policies and perform follow-up monitoring to ensure consistency.
- B. Strengthen documentation procedures for Accela data entry and update policies and procedures as necessary. Ensure staff are trained on the new procedures and a review process is in place to verify staff input fields accurately and completely including the licensee name, location (including the city and county), any product descriptions, and information on whether a licensee has self-quarantined products.

PROGRAM REVENUE AND EXPENDITURES

Chapter 688, Statutes of 2015 (AB 243)³¹ created a \$10 million legislative appropriation for an advancement of funds to begin the activities of the Bureau, which must be repaid by January 2022. The Bureau also received General Fund loans of \$24 million in 2016-17 and \$86 million in 2017-18. These loans were primarily used to fund personnel salaries and benefits, indirect administrative costs, facilities operations, and consultation and professional costs. These costs are recorded in the Cannabis Control Fund (Fund 3288)³², which is a shared fund between the Bureau, CDFA, CDPH, and the Appeals Panel. The Bureau is the administering agency and is responsible for fund oversight. See Table 6 and 7 for revenues received and expenditures incurred during July 1, 2016 through January 31, 2019.

Revenue

The Bureau has established processes to ensure fees are properly received, secured, and accurately reported. The Bureau has developed, documented, and implemented policies and procedures for its Administration Unit, which includes mail processing; cash, check, and credit card intake and depositing processes; vault and safe access; the recording of payments in Accela; and preparation of cash and check intake logs and cash collection reports. The Bureau works collaboratively with OAS to ensure amounts received are properly recorded in the accounting records. Additionally, the Bureau receives cash payments on behalf of CDFA and CDPH, and has established roles and responsibilities among the three licensing authorities for the receipt of fees.

The primary source of revenue is from application and license fees. Budgeted revenue projections for the Bureau were \$201 million through June 30, 2019;³³ however, the Bureau has only collected \$2 million as of January 31, 2019. As identified in Table 6, revenues collected as of January 31, 2019 are significantly lower than the budgeted projections. As mentioned in the Processing and Issuance of Licenses section, the Bureau approved 4,033 temporary licenses of which 1,687 were approved by December 31, 2018. However, no application or license fees were collected as legislation did not require fees for temporary licenses. Further, as of January 2019, only 20 annual licenses had been issued. With more than 1,200 annual applications to process, the Bureau anticipates revenue to increase due to the collection of annual license fees which are based on the applicant's expected gross sales.

Table 6. Cannabis Control Fund Revenue as of January 31, 2019³⁴

| Description | Total | 2018-19 ³⁵ | 2017-18 ³⁶ | 2016-17 ³⁷ |
|-----------------------|---------------------|-----------------------|-----------------------|-----------------------|
| Revenue | | | | |
| Application Fees | \$ 1,718,000 | \$ 637,000 | \$ 1,081,000 | \$ 0 |
| License Fees | 299,200 | 289,200 | 10,000 | 0 |
| Renewal Fees | 1,250 | 0 | 1,250 | 0 |
| Other Fees | 137 | 137 | 0 | 0 |
| Total Revenues | \$ 2,018,587 | \$ 926,337 | \$ 1,092,250 | \$ 0 |

Source: DCA Fi\$Cal Reports and Bureau's Accela Database

³¹ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB243

³² This fund originated as the Medical Marijuana Regulation and Safety Act Fund, but the title was later changed.

³³ 2018-19 Governor's Budget for Fund 3288.

³⁴ Table does not reflect the \$120 million the Bureau received in General Fund loans.

³⁵ The reported amounts are from July 1, 2018 through January 31, 2019.

³⁶ As of March 2019, DCA has not finalized and closed their accounting records in Fi\$Cal.

³⁷ The Bureau did not receive revenue during the initial establishment of its organization.

Expenditures

When the Bureau receives invoices for expenditures, it reviews, approves, and notates the appropriate general ledger expenditure account on the document. The document is then forwarded to OAS for final processing and payment.

In addition to the 219 positions authorized at the Bureau, 85 positions were authorized for Bureau activities performed by DCA staff.³⁸ These positions are located at DCA headquarters within OAS (Accounting, Human Resources, and Budgets), OIS (Information Technology), and DOI (CEU) units. Because these are DCA-appropriated positions, expenditures are incurred initially in the Consumer Affairs Fund (Fund 0702), and are allocated to the Bureau via a monthly Plan of Financial Adjustment (PFA)³⁹ to the Indirect Distributed Costs account.

Indirect distributed costs consist of Bureau-designated staff from OIS and DOI as well as OAS centralized service costs, e.g. Administrative Services Division, Communications Division, Program and Policy Review Division, and other qualified indirect costs. Two cost allocation methods are used to distribute these departmental costs. Costs from OIS and DOI positions are 100 percent allocated to the Bureau based on actual costs incurred. The OAS centralized service costs are allocated based on budgeted authorized positions.

For the period July 1, 2016 through January 31, 2019, the Bureau incurred \$37,854,037 in total expenditures, as noted in Table 7. The primary expenditures were for personnel costs incurred by the Bureau and indirect distributed costs, which total \$29,504,333 and account for 78 percent of the Bureau's expenditures. Additionally, in 2016-17 and 2017-18, approximately \$2 million was expended on consulting and professional services that were incurred by CDPH and CDFA to begin implementing their respective cannabis programs. Other significant expenditures include the Bureau's rent for its Rancho Cordova headquarters and North Coast Regional Office, and the purchase of furniture and equipment.

Table 7. Cannabis Control Fund Expenditures as of January 31, 2019

| Description | Total | 2018-19 ⁴⁰ | 2017-18 ⁴¹ | 2016-17 |
|--|----------------------|-----------------------|-----------------------|---------------------|
| Expenditures | | | | |
| Personnel and Benefits | \$ 11,171,839 | \$ 4,919,985 | \$ 4,714,040 | \$ 1,537,814 |
| General/Miscellaneous Office Expense | 548,223 | 134,582 | 252,721 | 160,920 |
| Facilities Operations | 3,059,576 | 908,068 | 1,547,058 | 604,450 |
| Consulting and Professional Services | 3,103,458 | 31,237 | 35,807 | 3,036,414 |
| Indirect Distributed Costs ⁴² | 18,332,494 | 10,126,888 | 7,343,676 | 861,930 |
| Consolidated Data Center | 415,296 | 69,698 | 29,701 | 315,897 |
| Information Technology | 258,182 | 5,123 | 4,185 | 248,874 |
| Capital Asset Purchases | 851,360 | 0 | 851,360 | 0 |
| Non-Capital Asset Purchases | 107,953 | 7,824 | 91,851 | 8,278 |
| Other – Penalties | 5,656 | 0 | 5,656 | 0 |
| Total Expenditures | \$ 37,854,037 | \$ 16,203,405 | \$ 14,876,055 | \$ 6,774,577 |

Source: DCA CalSTARS and Fi\$Cal Reports

³⁸ Budget Change Proposals for 2015-16, 2016-17, 2017-18, and 2018-19.

³⁹ PFA is a plan proposed by a state department to allocate costs paid from one fund or appropriation to other funds or appropriations.

⁴⁰ The reported amounts are from July 1, 2018 through January 31, 2019.

⁴¹ As of March 2019, DCA has not finalized and closed its accounting records in Fi\$Cal.

⁴² The 2018-19 expenditures includes PFAs totaling \$10.1 million for estimated personnel costs.

Establishment of the Bureau's regulatory and licensing program required significant startup funding, and because of the program's newness, the overall costs for this program remain relatively high with anticipated revenue yet to be fully realized. To ensure overall costs are accurate, complete, and supported, and to ensure the fund's solvency, the Bureau should strengthen its fiscal management and monitoring activities.

Finding 9: Improve Fiscal Management and Monitoring of the Cannabis Control Fund

Equitableness of DCA's Cost Allocation Indeterminate

Review of Fund 3288 expenditures identified \$18,332,494 of indirect distributed costs. Although DCA maintains a written cost allocation plan for its boards and bureaus, the 2017-18 and 2018-19 Distributed Cost Methodology does not adequately describe the unique allocation methods applicable to the Bureau. As noted above, DCA staff indicated certain costs [OIS and DOI (CEU)] are allocated 100 percent to the Bureau, while other costs (OAS centralized services) are allocated based on authorized positions.

To validate the costs allocated, numerous discussions with DCA were held, and supporting documentation was requested. However, requested information was not provided until after the draft report had been issued and was not sufficient to support DCA's description of its cost allocation plan. Specifically, documents provided did not enable the verification of allocated costs to source records. Further, the 2018-19 PFAs were used as advances from Fund 3288 to Fund 0702 based on percentages of the budgeted appropriation and were not regularly reconciled to actual costs, which could misstate the 2018-19 indirect distributed cost expenditures.

Additionally, per discussions with DCA, OAS staff may work on multiple board and bureau activities; however, staff do not maintain timesheets identifying hours spent on each entity or use another viable method to identify work performed. Without timesheets or another means to track staff activity, DCA cannot support the positions allocated 100 percent to Fund 3288 are performing equitable work on Bureau-related activities.

Without a written cost allocation plan, verification of allocated costs to source documents, performance of regular PFA reconciliations, or the identification of staff activities performed by position, the equitableness of the costs allocated to the Bureau could not be determined.

State Administrative Manual (SAM) section 9203 requires departments to document its cost allocation procedures and methodology in a cost allocation plan that contains detailed information regarding the costs being allocated, the allocation methodology, the frequency of allocation, rationale for selecting the allocation base, how often the allocation base will be evaluated to determine its accuracy, and the anticipated changes in the bases used to allocate costs. Additionally, SAM section 9205 states entities may track employee time for allocation purposes if they are not spending 100 percent of their time on a program.

Increase Communication Between Licensing Authorities

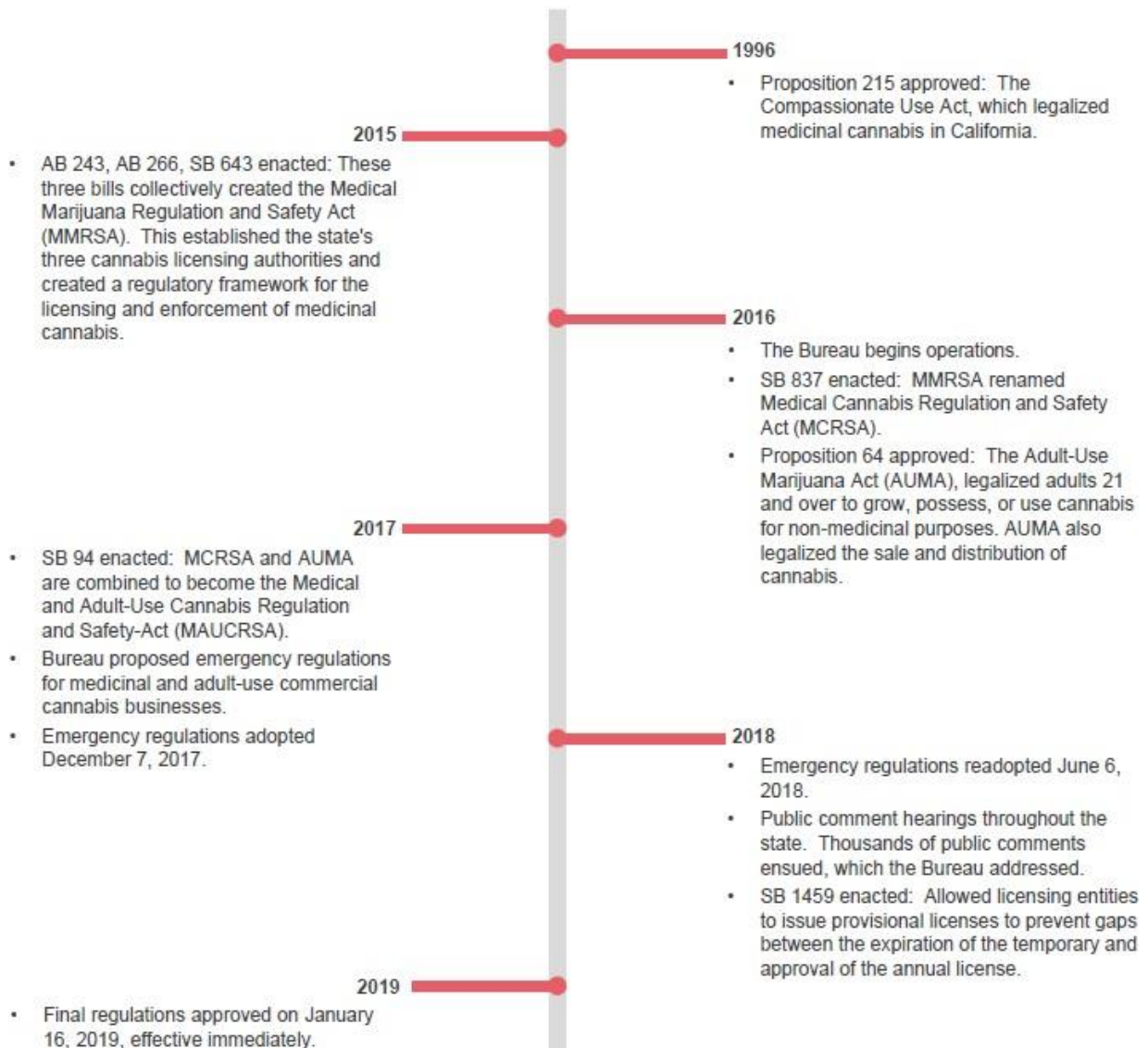
As previously mentioned, Fund 3288 is a shared fund among the Bureau, CDFA, and CDPH. All three licensing authorities use this fund to record revenue and expenditures related to its program responsibilities. Although periodic communication occurs with CDFA or CDPH, the frequency is not sufficient to appropriately monitor the fund's solvency. For example, discussions were not held regarding plans to hire more personnel, open new office locations, or upcoming technological projects to determine the availability of future fund expenditures. Opportunities exist to improve communication to more appropriately administer and monitor the shared fund and reduce risks to the fund's integrity.

SAM section 6401 states the fund administrator has ultimate responsibility over the fund as well as outlines the responsibilities of the shared fund administrator and the data that needs to be maintained. This includes completing year-end closeout of the fund, performing monthly reconciliations, ensuring the accuracy of the fund data, ensuring a prudent reserve is maintained, reviewing data from other fund users for reasonableness, and providing letters of support or opposition to fund participants when they ask for a determination of the fund's sufficiency to support an expenditure proposal.

Recommendations:

- A. DCA's cost allocation plan should be evaluated to determine whether costs are equitably allocated to the Bureau. Revise cost allocation plan as needed.
- B. Ensure a clear audit trail is established and documentation is maintained detailing the allocation process used. The audit trail should facilitate the tracing of allocated costs from the written methodology to source records.
- C. Ensure regular reconciliations of PFAs are conducted.
- D. Develop and implement a method to identify staff activities performed by position. Periodically analyze actual time expended on Bureau activities is equitably allocated to Fund 3288. Revise cost allocation plan as needed.
- E. Collaborate with the licensing authorities to improve communication related to revenue and expenditures to facilitate monthly reconciliations of the fund and monitor fund solvency.

California's Cannabis Regulation Timeline



**Bureau of Cannabis Control
Organizational Summary of Positions
As of January 31, 2019**

| Bureau of Cannabis Control | | | |
|---|--|--|--|
| Executive | | | Legal |
| Authorized: 13 Filled: 6 Vacant: 54% | | | Authorized: 15 Filled: 9 Vacant: 40% |
| Unit/Location | Enforcement | Licensing | Administration |
| Headquarters | Authorized: 40 Filled: 15 Vacant: 63% | Authorized: 53 Filled: 32 Vacant: 40% | Authorized: 26 Filled: 12 Vacant: 54% |
| North Coast Field Office | Authorized: 7 Filled: 0 Vacant: 100% | Authorized: 7 Filled: 0 Vacant: 100% | Authorized: 7 Filled: 1 Vacant: 86% |
| Unopened Field Offices | Authorized: 21 Filled: 0 Vacant: 100% | Authorized: 21 Filled: 0 Vacant: 100% | Authorized: 9 Filled: 0 Vacant: 100% |
| Total | Authorized: 68 Filled: 15 Vacant: 78% | Authorized: 81 Filled: 32 Vacant: 60% | Authorized: 42 Filled: 13 Vacant: 69% |
| Authorized: 219 Filled: 75 Vacant: 66% | | | |

Source: Bureau organization charts as of January 31, 2019

DETAILED METHODOLOGIES PERFORMED

In planning the audit, we gained an understanding of the Bureau's operations and information technology systems related to the Licensing, Enforcement, and Administration Units by reviewing prior audit reports, interviewing key personnel, and identifying relevant criteria. We conducted a risk assessment, including evaluating whether key internal controls relevant to our audit objectives, such as the Bureau's governance structure, methods of reviewing and approving license applications and complaints, monitoring of licensee activity, and revenue and expenditure accounting processes, were properly designed, implemented, and operating effectively. Our assessment included interviewing and observing Bureau employees and analyzing relevant documentation and reports. Deficiencies in internal controls identified during our audit and determined to be significant within the context of our audit objectives are included in the results section of this report.

We assessed the reliability of data from Accela, Inc., the Bureau's licensing and enforcement database that we considered significant within the context of our audit objectives. We assessed the reliability of the data as it relates to the volume of complaints, licensee application information, and employee records. We gained an understanding of the relevant modules within Accela by observing process flows related to system operations and security protocols. Additionally, we reviewed and placed reliance on the 2018 Independent Service Auditor's Report published December 20, 2018 by A-Lign Assurance on Accela's security, availability, and confidentiality controls.⁴³ We tested key data for completeness and accuracy. We determined that the data was sufficiently reliable to address the audit objectives.

Further, due to the state's retirement of CalSTARS and DCA's 2017-18 incomplete conversion to the state's new accounting system, Fi\$Cal, we performed other analytical procedures to gain assurance the financial records were complete and accurate including tracing data to supporting documents.

Based on the results of our planning, evaluation of internal controls, and data reliability assessment, we developed specific methods for gathering evidence to address the audit objectives. Our methods for addressing each audit objective are detailed in the Table of Methodologies on the following page.

⁴³ The 2018 Independent Service Auditor's Type 2 SOC 2 Report was for the period of December 1, 2017 through November 30, 2018.

Table of Methodologies

| Audit Objectives | Methods |
|--|--|
| Determine the effectiveness of the Bureau's enforcement programs. | |
| <p>Evaluated the Bureau's current status of implementing a regulatory framework for licensing and enforcement of medical and adult-use cannabis in California.</p> | <ul style="list-style-type: none"> • Interviewed executive management and staff to gain an understanding of the Bureau's strategic goals, mission, and vision of the program. • Identified relevant statutes and regulations related to the implementation and enforcement of medicinal and adult-use cannabis. • Verified adopted regulations agreed to statutes by performing a side-by-side analysis. • Reviewed documentation supporting the Bureau's goals, mission, and milestones achieved to determine alignment with legislative requirements. • Obtained an understanding of the Bureau's efforts to develop regulations and solicit feedback from stakeholders and the public. • Reviewed the Bureau's documented policies and procedures for licensing and enforcement activities to determine its alignment with legislative requirements. • Obtained an understanding of the Bureau's outreach and awareness efforts to educate local governments, the public, and other stakeholders of the regulations. • Reviewed documents evidencing outreach efforts such as press releases, social media, Cannabis Advisory Meeting minutes, and the Bureau's website. • Interviewed executive management to gain an understanding of its recruiting, hiring, and onboarding efforts. Obtained organizational hierarchy and personnel documents to determine authorized and filled positions. • Interviewed staff to determine status of field office openings. • Identified the communication efforts between CDPH, CDFA, DOI, and the Bureau to determine the level of collaboration relating to licensing and enforcement activities. |
| <p>Evaluated the current status of the Bureau's ability to issue commercial cannabis licenses for retailers, distributors, testing laboratories, microbusinesses, and special events in accordance with cannabis regulations and Bureau policies and procedures.</p> | <ul style="list-style-type: none"> • Identified and obtained an understanding of the types of licenses the Bureau issues by interviewing Licensing Unit staff. • Reviewed Licensing Unit policies, procedures, and checklists to determine whether existing practices comply with regulations. • Identified applicable legislative requirements for the issuance of temporary, provisional, and annual licenses. • Obtained an understanding of the temporary, provisional, and annual license application process. Interviewed Licensing Unit staff to determine its application review procedures. • Inquired with management regarding training efforts provided to ensure staff are adequately knowledgeable about state and local regulations. • Reviewed personnel documents to determine the number of Licensing Unit staff as of January 31, 2019. Determined reasonableness of workload and resources. • Reviewed Accela-generated custom reports to determine license application workload and status. • Evaluated whether 30 temporary and annual application reviews were appropriately approved or denied based on regulation criteria. |

| Audit Objectives | Methods |
|--|--|
| <p>Evaluated the current status of the Bureau’s ability to monitor licensees.</p> | <ul style="list-style-type: none"> • Obtained an understanding of the enforcement monitoring activities performed by the Bureau and DOI such as inspections, investigations, disciplinary actions, and evidence handling by interviewing Enforcement Unit personnel. • Reviewed the Enforcement Unit’s policies, procedures, and checklists to determine whether existing practices comply with regulations. • Identified the Enforcement Unit’s inspection and investigation selection process by interviewing key personnel. • Reviewed personnel documents to determine number of Enforcement Unit staff as of January 31, 2019. Determined reasonableness of workload and resources. • Reviewed a spreadsheet of inspections performed and Accela-generated custom reports related to investigations to determine enforcement workload and status of investigations. • Evaluated whether licensee monitoring activities were supported by reviewing selected monitoring activities reported. Selection included inspections, investigations, and COAs, to verify reported monitoring activities occurred. • Reviewed documents and data entered into Accela to determine whether the reported number of inspections and investigations conducted were performed and properly documented. • Reviewed 23 COAs to determine whether the reported COA activity and results were accurate. • Conducted onsite field inspections with Enforcement Unit personnel for three licensed authorities to verify documented monitoring procedures were followed. |
| <p>Evaluated the current status of the Bureau’s ability to process and review complaints for licensed and unlicensed entities.</p> | <ul style="list-style-type: none"> • Identified and obtained an understanding of the types and methods of complaints received by interviewing complaints staff. • Reviewed Enforcement Unit complaints policies, procedures, and checklists to determine whether practices comply with regulation. • Interviewed Enforcement Unit complaints staff to determine the processes and performance metrics established for reviewing and forwarding complaints to the appropriate responsible authority. • Inquired with Enforcement Unit complaints staff regarding any training obtained related to the disposition of complaints. • Reviewed personnel documents to determine number of Enforcement Unit complaints staff as of January 31, 2019. Determined reasonableness of workload and resources. • Obtained an Accela-generated custom report identifying complaints by county to assess potential enforcement workload by geographical location. • Selected 22 complaints for review. Selection included consideration of all complaint classifications such as referrals to DOI, CDPH or CDFR, or retained within the Bureau’s investigations or complaints specialty areas of the Enforcement Unit. |
| <p>Determine the actual costs of the program.</p> | |
| <p>Determined whether the Bureau’s 2016-17 and 2017-18 revenue and expenditures in fund 3288 are accurate, complete, supported, and in</p> | <ul style="list-style-type: none"> • Interviewed DCA and Bureau budget and accounting staff to gain an understanding of the processes and procedures established for tracking and recording revenue and expenditures. • Reviewed cashing and account reconciliation procedures and cash deposit manuals. |

| Audit Objectives | Methods |
|---|---|
| <p>compliance with state and Bureau policies.</p> | <ul style="list-style-type: none"> • Observed process flows with Bureau staff related to the receipt, recording, reporting, and allocation of fees received. • Obtained and reviewed 2016-17, 2017-18, and July 1, 2018 through January 31, 2019 CalSTARS and FI\$Cal financial activity records for Fund 3288. Verified reported license and application fees agreed to revenue data in Accela. • Interviewed DCA to obtain an understanding of the methods used for allocating indirect costs. Reviewed indirect cost allocations for 2016-17, 2017-18, and July 1, 2018 through January 31, 2019 and traced to applicable Budget Change Proposals. • Selected significant revenue transactions and traced to supporting documents. Selection included cash, check, and credit card transactions. • Selected significant expenditure categories that were 10 percent or greater than total expenditures for the fiscal year. Verified whether expenditures were authorized, supported, and properly recorded, by reviewing documents such as timesheets, invoices, general ledger detailed transactions, FI\$Cal budget to actuals reports, trial balance reports, and labor distribution reports. Further, expenditure selection also considered qualitative factors such as the transaction period and staff reporting unit. |

The following criteria was used during the performance of the above methods (listed in alphabetical order):

- Business and Professions Code sections 26000 through 26231.2
- California Code of Regulations, Title 16, Division 42, Bureau of Cannabis Control
- California Government Code, Title 2, Division 3, Part 1, Chapter 8.1, Strategic Planning and Performance Reviews
- California Government Code, Title 2, Division 3, Part 3, Chapter 5, The State Leadership Accountability Act
- CalHR Statewide Workforce Planning
- Bureau Cashiering Process Manual
- Bureau Complaint Unit Desk Manual
- DCA's 2018 Annual Report
- Bureau Disciplinary Guidelines dated October 2018
- Bureau Enforcement Unit Desk Manual

Executive Office

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June 26, 2019

Cheryl L. McCormick, CPA, Chief
Office of State Audits and Evaluations
California Department of Finance
915 L Street, 6th Floor
Sacramento, CA 95814

Dear Ms. McCormick:

The Department of Consumer Affairs (DCA) and the Bureau of Cannabis Control (Bureau) respectfully submit this response to the Department of Finance, Office of State Audits and Evaluations' Performance Audit of the Bureau, Report Number 19-111-050 (Audit). The Bureau is one of the three state commercial cannabis licensing authorities; this Audit exclusively evaluates the Bureau and the centralized services provided by DCA to the Bureau.

The Audit period was from July 2016 through January 2019. As the first licenses issued by the Bureau became effective January 1, 2018, this period essentially examines initial program development and the first year the Bureau's regulatory program was operational. The Bureau appreciates the Audit's recognition of the work it has accomplished, which states "[s]ince its establishment in 2016, the Bureau has developed a structural foundation for California's first cannabis regulatory program, which includes adopting and implementing operational regulations, hiring personnel, implementing an online licensing and enforcement system, and developing licensing and enforcement processes and procedures," and understands that "[t]he Findings and Recommendations noted within this report are intended to assist the Bureau in strengthening the effectiveness of its enforcement programs and fiscal management." (Executive Summary.)

BACKGROUND

The laws related to commercial cannabis have evolved significantly over the last few years. Although medicinal cannabis was legalized when voters passed Proposition 215 in 1996, medicinal cannabis was primarily regulated at the local level and there was no statewide framework for the licensing, regulation, and enforcement of commercial medicinal cannabis activity.

In late 2015 and early 2016, the Medical Cannabis Regulation and Safety Act (MCRSA) was established through a series of bills passed by the legislature, creating California's first regulatory system for cannabis at the state level. (Bus. & Prof. Code, § 19300 et seq.) The MCRSA established the Bureau of Cannabis Control (known in that legislation as the Bureau of Medical Cannabis Regulation) under the California Department of Consumer Affairs (DCA) and created California's first framework for the licensing, regulation, and enforcement of commercial medicinal cannabis activity.

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) was established with the passage of Proposition 64, a voter initiative, in November 2016. The AUMA legalized the non-medicinal adult use of cannabis; established California's framework for the licensing, regulation, and enforcement of commercial nonmedicinal cannabis activity; and set a date of January 1, 2018, for the Bureau to start issuing licenses.

In June 2017, the California State Legislature passed a budget trailer bill, Senate Bill 94, that integrated MCRSA with AUMA and created the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). (Bus. & Prof. Code, § 26000 et seq.) Under MAUCRSA, a single regulatory system governs the cannabis industry (both medicinal and adult-use) in California. Under MAUCRSA, the Bureau is charged with the licensing, regulation, and enforcement of the following types of commercial cannabis businesses: distributors, retailers, microbusinesses, temporary cannabis events, and testing laboratories. MAUCRSA mandated that the Bureau begin issuing licenses on January 1, 2018.

Despite the timing limitations posed by the new law, having become effective in late June 2017, the Bureau began issuing licenses for medicinal and adult-use cannabis activities in December 2017, including retail, distribution, microbusiness, testing laboratories, and cannabis events, pursuant to the Bureau's emergency regulations which were effective on December 7, 2017.

On June 6, 2018, the Bureau readopted its emergency regulations with modifications. On July 13, 2018, the Bureau issued a Notice of Proposed Rulemaking and began a 45-day comment period on the proposed regulations. After holding a series of public hearings during summer 2018, the Bureau submitted its proposed regulations for review by the California Office of Administrative Law (OAL) on December 3, 2018. The Bureau's regular rulemaking regulations were subsequently adopted on January 16, 2019.

ORGANIZATIONAL STRUCTURE

With the enactment of MAUCRSA and the preceding bills, the Bureau has the authority to create, issue, renew, discipline, suspend, or revoke licenses for commercial cannabis retail, distribution, microbusinesses, testing laboratories, and cannabis events. The Bureau also has the authority to collect fees in connection with these activities. As the Bureau's licensing process was developed through the regulatory process, the Bureau has been able to move forward with the licensing and enforcement of medicinal and adult-use cannabis. In furtherance of these objectives, the Bureau's organizational structure is intended to ensure that the mandates of MAUCRSA and its implementing regulations are appropriately implemented.

As of the 2018-2019 fiscal year, the Bureau's headquarters is comprised of several units including: the Executive Office; the Legal Unit; the Administration Unit; the Licensing Unit; and the Enforcement Unit. In addition to the Bureau's headquarters operations, the Bureau recently opened its first office in Eureka. A brief description of each of these functions is found below.

Administration Unit

The Bureau's Administration Unit provides the leadership, support, resources, and services that enables the Bureau to carry out its duties under MAUCRSA. The Bureau's Administration Unit's duties include overseeing activities relating to budgets, personnel, procurement, contracts, cashiering, and business services.

Legal Unit

The Bureau's Legal Unit provides legal guidance and support to all Bureau operations. This includes, but is not limited to, enforcement matters, contracts, open meeting requirements, document and information requests, local ordinance interpretation, and any legal issues that arise in the Bureau's operations. The Bureau's attorneys conduct research in complex and emerging areas of law, provide advice on a broad range of legal issues, draft and review legal documents and responses, liaison with the Attorney General's Office regarding Bureau matters, provide legal support to the licensing and enforcement units, and respond to public inquiries for information and interpretation of the Bureau's regulations.

The Bureau's Legal Unit includes environmental staff that comprise the Bureau's California Environmental Quality Act (CEQA) team. The Bureau's CEQA team is responsible for determining the type and scope of environmental review required for each annual license application, gathering and reviewing documents submitted by applicants and local jurisdictions, and preparing project-specific determinations to ensure that they meet the requirements under CEQA. The CEQA team also provides programmatic assistance in the development and implementation of regulations, policies, and procedures to mitigate environmental impacts.

Licensing Unit

The Bureau's Licensing Unit reviews and evaluates applications for commercial cannabis licensure. The Bureau's licensing staff review each application for licensure, including supporting documentation to ensure that applicants satisfy the licensure requirements of MAUCRSA and the Bureau's implementing regulations. The Bureau's licensing unit also houses a Local Liaison team, which provides statewide coverage to handle regional issues and serve as the point of contact for local jurisdictions regarding commercial cannabis activities in the respective jurisdictions. The Local Liaison team obtains and maintains all local jurisdictions' ordinances and regulations relating to cannabis as well as other information required by statute or regulation, then distributes this information to Bureau staff.

Enforcement Unit

The Bureau's Enforcement Unit is responsible for ensuring that commercial cannabis licensees comply with applicable laws and regulations. In furtherance of this effort, the Enforcement Unit is comprised of four teams with different functions: complaints, investigations, testing laboratories, and Safety Assurance and Financial Enforcement (SAFE). The complaints team processes complaints and identifies the jurisdiction of the complaint. The investigations team conducts inspections of licensed premises and investigates complaints about Bureau licensees and licensed activities. The testing laboratories team performs inspections of licensed testing laboratories to ensure the testing laboratories are complying with the regulations and accurately testing cannabis goods and reporting the results. The testing laboratories team also reviews laboratory testing data packages and investigates failed batches. Finally, the SAFE team conducts investigations that ensure compliance by licensees with packaging and labeling laws and regulations. The SAFE team also ensures that Bureau licensees comply with commercial cannabis tax laws and regulations.

Bureau Field Offices

In addition to the Bureau's headquarters, the Bureau is currently authorized to establish four field offices, with 69 authorized positions, to provide services within various geographical regions in California. In July 2018, in accordance with Business and Professions Code section 26210.5, the Bureau opened its first field office in Eureka, known as the North Coast Regional Office.

Authorized Positions

The Bureau currently has 219 authorized positions, a stark contrast with the 9.7 authorized positions allocated to the Bureau for Fiscal Year (FY) 2015-2016.

LICENSING SYSTEM DEVELOPMENT (ACCELA)

The Bureau worked diligently to develop a technology solution to be able to begin issuing licenses by the statutory deadline. Once a contractor was in place, the Bureau moved forward with building its system. The high-level timeline below illustrates the implementation of the Bureau's statutory and regulatory requirements via its technology solution, Accela:

April 1, 2017 – September 30, 2017

Bureau management determined the functional scope that had to be in place to meet the Bureau's statutory requirement to begin issuing licenses on January 1, 2018. The focus for development was on full application and licensing functionality to support processing of temporary and annual licenses. Enforcement functionality would also be included but would be the subject of more targeted development in subsequent periods.

Bureau staff completed development and system testing of all functionality targeted for deployment in support of the Bureau's statutory mandate to begin issuing licenses on January 1, 2018. This included functionality to support accepting online applications and complaints, application processing, license issuance, and payment processing. During this period the Bureau staff refined functionality continuously in alignment with changing statutes and regulations.

October 1, 2017 – December 31, 2017

Bureau staff conducted user acceptance testing, which led to correction of identified system defects and implemented enhancement requests as necessary. Bureau management planned for the support needed from all staff to facilitate successful system launch on December 7, 2017. Bureau staff made final determinations on what online applications would be available once the licensure system went "live" and developed training guides and external user help guides to assist in a successful launch.

January 1, 2018 – September 30, 2018

The Bureau implemented maintenance releases to address defects or enhancement requests. Each maintenance release involved design and testing of the scope of system updates included in the maintenance release. Implementing enforcement functionality and improving existing licensing functionality was the focus of this period. Bureau staff further developed training guides and external help guides based on feedback.

One significant maintenance effort included the combination of the adult-use and medicinal cannabis license types into a single license type for many of the license types within the Bureau's regulatory scope. This effort required significant development, testing, and training to facilitate implementation of this change.

October 1, 2018 – Ongoing

The Bureau continues to enhance the functionality and address defects within Accela. This includes changes necessary to implement new statutory and regulatory provisions.

AUDIT RESULTS

The Audit recognizes many accomplishments of the Bureau as it built its program and implemented its program during the first operational year of licensure, essentially the time period for which the Audit was conducted. In the results, the Audit states that "[a]s of January 31, 2019, the Bureau has implemented various regulatory, licensing, enforcement, and disciplinary activities, including adopting and implementing operational regulations, implementing an online licensing and enforcement system, recruiting and hiring personnel, developing processes and procedures, performing outreach and educational events, issuing licenses, processing complaints, and performing licensing inspections and investigations." (Results.)

In many instances the Bureau does not necessarily disagree with the Audit's recommendations; however, the findings appear to be based on assumptions that may not have considered all the factual information or were not feasible during the first operational year. The Bureau's responses attempt to provide a broader understanding of the Bureau's operations and the reasons therefore.

Unlike most state government programs, the Bureau was simultaneously starting from the ground up on multiple fronts, which ideally would have been developed consecutively. The first Bureau staff member started in February 2016 in an empty corner at the DCA Headquarters building. The Bureau then had to commence hiring its first staff, locating office space, entering into contracts for basic equipment and services, creating internal Bureau processes, conducting a California Environmental Quality Act study, developing regulations, conducting a Standardized Regulatory Impact Assessment related to the anticipated economic impacts of its regulations, designing an online system, conducting necessary outreach to understand the industry, collecting cash for all three licensing authorities, performing review of temporary and annual license applications, conducting inspections, answering hundreds of public inquiries received in its public email, and other operational activities. As the Bureau was moving forward, its authority and the statutory requirements for the regulatory program were consistently evolving. However, the Bureau was still required to begin issuing licenses by January 1, 2018. The Bureau met this mandate early and began issuing licenses in December 2017. Throughout the first year of licensing, the Bureau has consistently met and exceeded its statutory mandates, such as making a determination on all temporary license applications received before its authority expired on December 31, 2018.

Finding 1: Develop Comprehensive Strategic and Training Plans

Recommendations:

- A. *With the assistance of DCA's Solid Training and Planning Solutions Unit, develop, document, and implement a strategic plan that includes:*
 - *Establishing clear and measurable goals.*
 - *Identifying key operational priorities.*
 - *Aligning workload priorities with available resources.*
 - *Developing methods to monitor and measure program performance.*

- B. *Develop a workforce development and succession plan utilizing CalHR's State of California Workforce Planning and Succession Planning Models.*

Include within these models a comprehensive staff training plan that contains training requirements for all positions. Maintain training attendance evidence for all staff such as certificates of completion, sign-in sheets, agendas, and training documents. Periodically assess the training plan and make changes as necessary. Monitor the training plan to ensure all staff are meeting training requirements.

Establish a Strategic Plan

The Audit accurately indicates that the Bureau does not have a formal strategic plan document, and that the Bureau has focused on establishing its licensing and enforcement programs. The Bureau's management strategy has been, and continues to be, to meet its constantly changing statutory mandates. The Bureau's regulatory authority and statutory requirements for licensure have changed significantly multiple times each year the Bureau has been in existence.

Initially, the Bureau was created to regulate medical cannabis in California. In June 2016, approximately six months after the Bureau came into existence, the primary statute governing the Bureau's regulatory responsibilities changed; hence requiring changes in all areas of its program development. Four months later, in November 2016, the voters passed Proposition 64, which legalized adult-use cannabis and went into effect immediately. It also statutorily required the Bureau to begin issuing licenses approximately 13 months from the time of the November 2016 election. The Bureau was now tasked with developing two separate regulatory systems, one for adult-use and one for medicinal-use, each with significant differences. The Bureau then had to change its program development to capture two regulatory programs. Seven months later, in June 2017, cannabis regulation in California again changed dramatically when legislation was passed repealing the medicinal cannabis statutes that the Bureau was implementing, merging medicinal and adult-use cannabis into one regulatory system. This required the Bureau to withdraw its pending medicinal cannabis regulations, stop drafting its separate adult-use regulations, and start drafting new regulations to implement the combined system contained in the new law. The Bureau necessarily had to adjust its developing processes and licensing system to ensure compliance with the numerous changes prescribed in the law. However, the Bureau was still statutorily required to begin issuing licenses within approximately six months from the passage of the new law, which merged the two commercial cannabis regulatory systems.

Accordingly, the Bureau's management has had to constantly evaluate and revise the Bureau's operations by setting goals based on its statutory mandates

and implementing plans to meet those goals. These plans were communicated to staff from managers to guide operations, and management regularly evaluated the Bureau's progress toward the identified goals. If progress toward a particular goal was insufficient, Bureau management adjusted the Bureau's plan to ensure that the goal was met in a timely fashion. However, because the Bureau was establishing a new program in an industry that had never been regulated with constantly changing mandates, establishing a meaningful and sufficiently-detailed strategic plan, with appropriate performance measures, has not been feasible.

Although no documentation has occurred in the form of a formal strategic or management plan, the Bureau has met all of its statutory mandates on time through the management's identified goals and implementation plans. For example, in order to meet the statutory mandate to begin issuing licenses by January 1, 2018, the Bureau had to complete its CEQA evaluation for its regulatory program; draft and adopt regulations; develop the licensing system to begin accepting applications; and develop licensing processes and materials. All of this was accomplished in time for the Bureau to begin issuing licenses in December 2017, ahead of the statutory deadline. The Bureau also conducted extensive outreach activities; initiated enforcement activities; collected cash payments for all three licensing authorities; and opened its headquarters and Eureka offices, among other things.

The Bureau agrees that a strategic plan can be a valuable management tool. As the Bureau explained during the Audit, it does intend to develop a strategic plan during the early part of the 2019/2020 fiscal year, at which time the Bureau will have 18-months of operational experience to assist with the strategic plan's creation.

Implement and Monitor Comprehensive Staff Training Plans

As discussed above, the many changes in the laws related to commercial cannabis have led to frequent changes in processes at the Bureau and to requirements for licensees. Therefore, a comprehensive training plan for each unit has been premature due to the nature of the Bureau's work. However, the Bureau has ensured that staff receive training related to job duties, including modules on Bureau procedures, changes in the laws and regulations related to cannabis, and state government employee requirements. There is an approval process which documents employee training requests to attend a training; thus, management is aware when employees are attending training outside the Bureau.

The Bureau is utilizing sign-in sheets at its internal staff meetings and trainings and is requiring training certificates to be provided to the Bureau's personnel staff; the Bureau will continue to do this. As the Bureau's operations become more developed and the law surrounding cannabis regulation becomes more settled, the Bureau will be able to develop formal and meaningful comprehensive training plans, as well as a formal workforce development and succession plan.

Finding 2: Implement Performance Metrics for Processing Licenses and Continue Filling Vacancies

Recommendations:

- A. *Develop a performance measurement system for the license review process that includes cycle times for intake, applicant's time to respond to questions, and license issuance or denial. Performance metrics should be interrelated to the Bureau's mission and vision, strategic objectives, and strategic initiatives. Assess and monitor license processing times and make changes to policies, processes, and procedures, as needed.*
- B. *Using available data and considering processing goals and metrics, align workload with available resources and evaluate the number and location of additional staff resources needed. Continue recruiting efforts to staff vacant positions and continue to periodically assess workload resource needs using relevant data.*

Establish Performance Metrics

The Bureau has been unable to develop a performance measurement system for the license review process due to the continuously changing requirements for licensure from December 2017, when the Bureau's emergency regulations were adopted, to January 2019, when the Bureau's regular rulemaking regulations were adopted. Additionally, the types of licenses that were available changed throughout the process. Originally, when the emergency regulations were adopted, the supply chains for medicinal and adult-use cannabis were separate so licensees were required to apply for and obtain both a medicinal and an adult-use license for the same premises to conduct both activities. When the Bureau readopted its emergency regulations in June 2018, the requirement to have separate medicinal and adult-use licenses was removed, meaning that licensees would only have to submit one application per premises rather than two if they were to engage in both kinds of activities. Additional modifications to the requirements for the premises diagram, security

measures, and operating procedures were also included in the readopted regulations. Temporary licenses were only available from December 2017 through December 2018, and provisional licenses did not become available until urgency legislation was adopted at the end of September 2018.

By the time the regular rulemaking regulations were adopted in January 2019, the authority to issue temporary licenses had expired and the application requirements had changed from the readopted emergency regulations including new items such as specified forms for evidence of compliance with the CEQA and for operating procedures. All the changes to the licensing requirements led to licensing staff having to request updated information from applicants with pending applications, making it difficult to adequately determine appropriate processing times.

Further complicating the Bureau's ability to develop a performance measurement system for the license review process is the variance in application requirements for obtaining a temporary license versus an annual license. Annual applications require significantly more information than was required in a temporary application; therefore, annual applications take significantly more time to review. Such additional annual application information includes, but is not limited to, corporate formation documents, financial information, criminal record and rehabilitation information for all owners, and detailed operating procedures. Because the Bureau has been required to focus on temporary licenses and provisional licenses first, the Bureau is only now beginning to acquire critical data to establish performance metrics.

The Bureau intends to develop performance metrics as it moves forward once the Bureau has been able to gather enough data to make reasonably informed decisions regarding appropriate performance metrics for annual license review. The Bureau will use this information to align workload with available resources and to determine additional staff resources needed.

Continue to Actively Staff Vacant Positions

The Bureau has established both short-term and long-term staffing goals, which are reassessed on an on-going basis, based on current identified workload. The Audit correctly indicates that the Bureau currently has 219 authorized positions. However, it is important to note that the Bureau has only reached 219 positions during this fiscal year and 69 of those positions are assigned to field offices. Table 1 provides a historical overview of the Bureau's authorized positions, while Table 2 presents Bureau authorized positions as of the 2018-2019 fiscal year.

Table 1. Historical Bureau Authorized Positions

| Unit | FY 2015-2016 | FY 2016-2017 | FY 2017-2018 | FY 2018-2019 |
|---------------|--------------|--------------|--------------|--------------|
| Headquarters | 9.7 | 23 | 102 | 150 |
| Field Offices | 0 | 0 | 0 | 69 |
| Total | 9.7 | 23 | 102 | 219 |

Table 2. Bureau Authorized Positions (FY 2018-2019)

| Unit | Authorized Positions |
|---------------------------|----------------------|
| Executive | 16 |
| Legal | 14 |
| Enforcement | 42 |
| Licensing | 53 |
| Administration | 25 |
| Field Offices | 69 |
| Headquarters Total | 219 |

The Bureau is actively recruiting and hiring staff and evaluating workload on an on-going basis.

Bureau Office Space

The Bureau continually strives to fill its vacant positions, particularly those in its licensing and enforcement units. However, the Bureau faced limits on its hiring process until the Bureau's office headquarters opened in Rancho Cordova in December 2017, due to office space limitations in its temporary space at the DCA Headquarters building.

The Bureau has faced similar office space limitations with regards to its field offices. In July 2018, the Bureau opened its first field office in Eureka, known as the North Coast Field Office, as required by statute. Finding appropriate and available office space in the North Coast proved to be challenging. Therefore, the Bureau secured a temporary location by contracting with another state agency to share their office that was approximately 350 square feet. However, extremely small size of the office prevented the Bureau from moving forward with filling the majority of its positions for that area. In April 2019, the Bureau opened its permanent North Coast Regional Office, which is a larger office space shared with the California Department of Food and Agriculture (CDFA), the California Department of Public Health (CDPH), and the California Water Resources Board. The new location now affords the Bureau space to hire additional staff for its North Coast Field Office.

Until the Bureau can obtain office space for its remaining field offices, it cannot move forward with filling vacancies for the unopened field offices. The Bureau continues to collaborate with the DCA and the Department of General Services (DGS) to identify additional field office locations. Currently, DGS is conducting site searches in the Los Angeles area for the next field office.

Bureau's Hiring Process

The nature of the Bureau's operations requires staff with the ability to work in unique circumstances. The Bureau is constantly balancing the need to hire staff with the need to hire the most qualified staff. In turn, the Bureau ensures that its employees have: a fulfilling and dynamic work environment; opportunities for growth and advancement with a newly developing public agency in a developing regulatory environment; professional development; and guidance and mentorship. In fact, due to the Bureau's unique staffing needs and opportunities, a number of Bureau staff members have been able to qualify for promotional opportunities and advance their careers within the Bureau. Other Bureau staff members, whom were initially hired for a position in one unit, have been able to make lateral moves to other Bureau units that are more in-line with their long-term career goals and interests, as further described below.

The Bureau has worked, and will continue to work, diligently to hire staff efficiently. Although the Bureau can only have a reasonable number of hiring processes going on concurrently, the Bureau has developed creative ways to approach hiring. For example, the Bureau has created interview days. During these days, candidates for a classification with multiple available positions are invited to come to the Bureau. Multiple interview panels are utilized. First and second interviews are conducted that day. This has allowed the Bureau to more efficiently interview candidates when feasible.

Licensing Overtime

In order to issue all temporary licenses by December 31, 2018, when the statutory authority to issue a temporary license expired, the Bureau utilized mandatory staff overtime for analyst staff in licensing in December 2018. Additionally, staff were advised that they would work overtime in May and June of 2019 to transition temporary licenses to provisional licenses due to the large number of temporary licenses expiring in July, and the lack of sufficient information from licensees to have processed these transitions sooner. Mandatory overtime was necessary during these specific timeframes to meet statutory deadlines that resulted in a concentrated amount of work in a short

period of time. However, the Bureau does not anticipate having similar rushes in the future.

The Bureau has also offered staff the opportunity to work voluntary overtime to more expeditiously review license applications. The Bureau is consistently evaluating its workload and hiring staff; thus, will continue to determine during what periods of time it is appropriate to allow staff to perform voluntary overtime.

Finding 3: Improve License Application Review Process Documentation

Recommendations:

- A. *Update policies and procedures, including desk manuals and checklists, to require staff to sufficiently document the analysis performed. Ensure staff receive training on the updated documentation procedures and perform follow-up monitoring to ensure consistency.*

The Bureau has developed, and is continuing to develop, checklists which will allow staff to sufficiently document their analysis performed in reviewing an application for licensure. As mentioned in response to finding two, the Bureau has made multiple changes to the requirements to obtain a license throughout the process of adopting regulations.

Throughout 2018, the Bureau was primarily focused on processing temporary applications before the authority to issue them expired at the end of December. The Bureau has only recently been able to actively process annual applications. The checklists being developed by the Bureau will allow staff to sufficiently document the analysis so that secondary reviewers' review will be streamlined by ensuring they can succinctly review the work of the first reviewer.

Finding 4: Implement Risk Assessment and Performance Metrics for Complaints Processing

Recommendations:

- A. *Develop a risk assessment model to identify and prioritize complaints. Document the risk assessment and ensure the assessment directly links to the Bureau's mission and vision, strategic objectives, and strategic initiatives.*
- B. *Develop a performance measurement system for the complaint process to ensure resources are used efficiently and effectively, and allocated properly.*

Performance metrics should include cycle times for complaint intake and closing, and referrals to other entities. Performance metrics should be interrelated to the Bureau's mission and vision, strategic objectives, and strategic initiatives.

- C. *Ensure the risk assessment model and performance measurement system are communicated to staff and relevant policies and procedures are modified accordingly.*

Implement a Risk Assessment Process for Complaints

The Bureau is mandated by statute, specifically Business and Professions Code section 26011.5, to hold the protection of the public as the highest priority when exercising licensing, regulatory, and disciplinary functions under MAUCRSA. As such, the Bureau currently reviews and responds to all complaints received through its formalized complaint and complaint resolution process based on the types of complaints received. As stated in the Audit, complaints that are determined to be under the Bureau's purview are reviewed and prioritized by the potential impact on public health and safety. Thus, the Bureau objects to the Audit's finding that the Bureau does not already have a risk assessment model in place, as it is inconsistent with Bureau practices and contradictory to other findings in the Audit. The Bureau agrees that complaints should be timely resolved and has therefore implemented policies and procedures that ensure that goal is met.

Establish Performance Metrics

The Audit table related to complaints references Accela as the source. Due to the aggressive schedule to regulate this new industry, the Bureau utilized the Minimum Viable Product approach which is a common practice in agile developments. The Accela system has gone through several development phases and licensing, not enforcement, was the first development priority. Therefore, not all of the of the complaints could be tracked in Accela as it was still in the development phase. During this time, the Bureau tracked this information manually. Thus, the actual number of complaints received as of January 31, 2019, was 5,685. Of those 5,685 complaints, 776 were referred to DOI-CEU, 2,644 closed, and 172 were referred to other licensing entities or agencies.

The Audit also recognizes that the Bureau processed complaints on average within 33 days of receipt. To ensure that in-process complaints continue to be

processed timely, the Bureau has added an additional complaint unit comprised of five analysts. The addition of these analysts has enabled the Bureau to efficiently reduce the backlog of complaints and further streamline the complaint process. Every complaint is now processed and tracked in Accela from the time it is opened to the time it is closed.

Update and Train Staff on the Risk Assessment Model and Performance Measurement System

The Bureau communicates all policies and procedures to Bureau staff and provides necessary training on policies and procedures. This includes risk assessment tools and complaint in-take procedures. As the Audit states, the Bureau has already developed clear and defined duty statements and desk manuals to assist staff in performing reviews such as processing the receipt of a complaint, monitoring the dedicated complaints e-mail account, and reviewing, approving, and documenting a complaint's resolution. The Bureau will continue its practice of clearly communicating to staff changes to policies and procedures and providing training on such changes.

Finding 5: The Bureau's Ability to Monitor Licensees is Impacted by Staff Vacancies and Unopened Field Offices

Recommendations:

- A. *Continue recruiting efforts to fill vacant positions and working with DCA and DGS to locate and open additional field offices.*

The Bureau has been actively engaged in recruiting and hiring efforts and is working with DCA and DGS on plans to open additional field offices. The Audit accurately states that delays in hiring are primarily due to insufficient office space until December 2017, when the Bureau opened its headquarters in Rancho Cordova, and was able to increase staff hiring. However, the Bureau objects to the Audit's assertion that the Bureau's ability to process complaints, perform inspections and investigations, and review and inspect testing laboratories has been severely impacted by the lack of staff and field offices.

Although, the Bureau receives complaints regarding both licensed and unlicensed activity, the Bureau investigates complaints related to licensees and complaints related to unlicensed activity are referred to DOI-CEU for investigation. The Audit points out that the Bureau received over 1,000 complaints related to cannabis activity in the Orange County area but conducted no investigations in that area. It is important that note that the

number of complaints includes those related to licensed activity, which would be investigated by the Bureau, and those related to unlicensed activity, which would be investigated by DOI-CEU. Although the Bureau did not conduct any investigations in the area, the Bureau completed 36 compliance inspections of Bureau licensees in Orange County, where there are less than 75 total Bureau licensees.

However, as discussed previously in this response, the Bureau will continue actively recruiting to fill vacant positions and work on opening additional field offices.

Finding 6: Establish Central Contact Among Licensing Authorities

Recommendations:

- A. *Work collaboratively with CDFA, and CDPH to create a communication plan to coordinate efforts among the licensing authorities and establish a central contact person to exchange accurate and timely cannabis license information.*

The Bureau has worked collaboratively and closely with CDFA and CDPH since its inception. Bureau staff have contact information for key CDFA and CDPH staff and have regular communications and meetings with them related to enforcement, licensing, regulation development, and implementation. The Bureau also hosts all agency cannabis meetings that involve representatives from a broad range of state government entities. These meetings are typically held quarterly.

Despite the best efforts by all licensing authorities, there are times where responses are not immediate. The Audit indicates that to properly regulate a licensee, staff must be aware of all licenses held by the licensee. Although this is helpful information, it is not required for the Bureau to properly regulate its licensees. The Bureau may only take action based on licenses issued by the Bureau. Moreover, each license must be a separate and distinct location; therefore, a Bureau licensed premises would not overlap with a manufacturing license issued by CDPH or a cultivation license issued by CDFA, and activities under those licenses could not take place on the Bureau's licensee's premises.

The Bureau will work with CDFA and CDPH to create an updated communication plan and designated one central contact person from each licensing authority to ensure timely responses to the Bureau's requests.

Finding 7: Continue to Enhance Data Elements Within Accela

Recommendations:

- A. *Develop a field within the licensing module to include response times by the applicants, if feasible.*
- B. *Develop and implement a process to establish a relationship between the complaint and investigation files within Accela.*
- C. *Develop and implement processes to capture all licensee inspections and laboratory testing workload within Accela. Documents supporting the results of the work should be added to each Accela file.*
- D. *Ensure staff are trained on the new processes and implement review procedures to verify information input into Accela is complete and accurate.*

During the development of Accela, the Bureau did not initially have an ability to link files. However, beginning in late 2018, Accela functionality allowed for this. Thus, the Bureau has a process to link the complaint record identification number with the investigation record identification number, through the parent record, also known as the license number.

The Audit finds that the Bureau's current process of maintaining spreadsheets to record inspections and laboratory testing performed along with hardcopy files is cumbersome and prone to error. As Accela continues to be developed, the Bureau will no longer need to record inspections on a manual spreadsheet. Further, it is important to note that once the track and trace system is fully operational, the Certificates of Analysis (COA) are required to be within that system; therefore, COAs are not intended to be in Accela, nor will the Bureau be required to track them manually.

Finding 8: Inconsistent Documentation of Enforcement Data

Recommendations:

- A. *Update policies and procedures to verify license application documents are uploaded into Accela. Ensure staff receive training on the revised Accela policies and perform follow-up monitoring to ensure consistency.*
- B. *Strengthen documentation procedures for Accela data entry and update policies and procedures as necessary. Ensure staff are trained on the new*

procedures and a review process is in place to verify staff input fields accurately and completely including the licensee name, location (including the city and county), any product descriptions, and information on whether a licensee has self-quarantined products.

The Bureau disagrees with the Audit's assertion that without all application documents being uploaded into Accela, the Bureau may not be able to support the final conclusions of a license application review. Whether the information is contained in Accela or contained in a hardcopy file, the Bureau may rely on it to support its determination regarding a license application.

The Bureau agrees that an integrated system with license application documents uploaded into Accela is necessary. The Bureau is working to ensure that all necessary documentation for annual applications is being uploaded into Accela, updating related procedures, and providing training to staff in this area. The Bureau is also working on improved functionality for data entry into Accela, strengthening procedures for data entry in Accela and training staff, as well as a review process to monitor data entry.

Finding 9: Monitoring of the Cannabis Control Fund Needs Improvement

Recommendations:

- A. *DCA's cost allocation plan should be evaluated to determine whether costs are equitably allocated to the Bureau. Revise cost allocation plan as needed.*
- B. *Ensure a clear audit trail is established and documentation is maintained detailing the allocation process used. The audit trail should facilitate the tracing of allocated costs from the written methodology to source records.*
- C. *Ensure regular reconciliations of PFAs are conducted.*
- D. *Develop and implement a method to identify staff activities performed by position. Periodically analyze actual time expended on Bureau activities is equitably allocated to Fund 3288. Revise cost allocation plan as needed.*
- E. *Collaborate with the licensing authorities to improve communication related to revenue and expenditures to facilitate monthly reconciliations of the fund and monitor fund solvency.*

DCA agrees that all costs allocated to the Bureau should be supported and accurate. It is important to note that the time period of this Audit overlaps with DCA's onboarding to the state's new FI\$Cal system for budgets, accounting, and procurement. DCA is fully dedicated to a successful transition into the FI\$Cal system, and continues to work to overcome technical and workload challenges related to the onboarding. Once DCA is current in the FI\$Cal system, more transparent and accurate expenditure information can be more readily provided.

DCA provides a cost allocation plan to DOF annually. DCA believes the current allocation plan provided to DOF provides the tracing of all methodologies to specific source records but will review the cost allocation plan to ensure it provides a clear audit trail. DCA believes the current allocation methodology is a fair and equitable way to distribute costs, ensuring oversight and guaranteeing access to services. DCA respectfully disagrees that the only way for costs to be allocated is through the use of a time-tracking system.

DCA agrees that regular reconciliations of PFAs should be conducted. Once DCA is current in the FI\$Cal system, this reconciliation will occur in a timelier fashion.

DCA currently follows the responsibilities identified under SAM section 6401 as a fund administrator for purposes of year-end financial reconciliation. However, DCA agrees that communication with the other cannabis licensing entities can be improved and will strive to achieve better and more regular correspondence with each entity that has an appropriation from the Cannabis Control Fund.

DCA and the Bureau appreciate the audit team's diligent work on this project and the Audit's recognition of the work the Bureau has accomplished during this start-up phase. We look forward to continuing to strengthen the effectiveness of our enforcement programs and fiscal management.

Sincerely,

ORIGINAL SIGNED BY

Christopher S. Shultz
Chief Deputy Director

cc: Alexis Podesta, Secretary, Business, Consumer Services and Housing Agency
Lori Ajax, Chief, Bureau of Cannabis Control
Annecia Wallace, Audit Chief, Department of Consumer Affairs

The Bureau's response to the draft report has been reviewed and incorporated into the final report. Information included within this report is based upon evidence gathered and analyzed in accordance with applicable audit standards during the performance of our audit, as detailed in Appendix C. As previously noted, the Findings and Recommendations are intended to assist the Bureau in strengthening its enforcement programs and fiscal management as it continues to evolve as the lead agency in regulating commercial cannabis licenses for medical and adult-use cannabis in California.

We acknowledge the Bureau's willingness to implement our recommendations specific to Findings 1, 2, 3, and 7. In evaluating the Bureau's response, we provide the following comments for Findings 4, 5, 6, 8, and 9:

Finding 4: Implement Risk Assessment and Performance Metrics for Complaints Processing

The Bureau disagrees stating that it currently prioritizes complaints by the potential impact on public health and safety. However, the Bureau's process is not comprehensive because it does not consider all complaints received. After its initial screening for public health and safety, the Bureau could not provide the prioritization method for the remaining population of complaints. All complaints are reviewed despite being vague and/or lacking sufficient information to process. Establishing a risk assessment process to include risk criteria for all types of complaints received, and subsequent prioritization of complaints subcategories will assist the Bureau in identifying and effectively processing high priority complaints timely and reduce its backlog. The Finding and Recommendations were revised to provide clarification of the Bureau's process.

Finding 5: The Bureau's Ability to Monitor Licensees is Impacted by Staff Vacancies and Unopened Field Offices

The Bureau disagrees that its enforcement efforts are severely impacted by its high staff vacancies and unopened field offices. We acknowledge the Bureau's assertion that activity for Orange County includes both licensed and unlicensed activity, and removed related verbiage. However, with the high volume of complaints received and the limited number of inspections and investigations performed, 5,680, 824, and 120 as of January 31, 2019, respectively, existing staff levels and office locations are not feasible for effective monitoring of licensees throughout California. Therefore, the Finding and Recommendation will remain unchanged.

Finding 6: Establish Central Contact Among Licensing Authorities

The Bureau disagrees stating its staff have contact information for key CDFA and CDPH staff, and regular communications and meetings occur. However, the Bureau acknowledges instances where responses from the other entities were not immediate. Interviews with eight Enforcement Unit management and staff all stated the greatest challenge in performing their duties was the ability to contact the other licensing authorities. For example, complaints are triaged initially to identify the applicable licensing authority, and without a central contact, complaint referrals related to public health and safety may be delayed due to insufficient license information. Further discussions with Enforcement Unit management identified safety risks related to being unaware

of additional CDPH and CDFA authorized licenses issued to Bureau license holders. This lack of communication and access to information delays the Bureau's ability to effectively process complaints, and conduct inspections and investigations. The Finding was revised to emphasize the importance of communication between the licensing authorities.

Finding 8: Inconsistent Documentation of Enforcement Data

The Bureau disagrees indicating its current practice of dual documentation methods is adequate. However, inconsistencies between the hardcopy files and electronic files exist as demonstrated in Finding 8 and the Bureau's response regarding the number and status of complaints received and processed. Specifically, the Bureau responded that complaints were also manually tracked and provided a summary of complaints and their disposition. Although the total amount of complaints we obtained from Accela varied by only 5 complaints, the disposition of the complaints varied significantly in part due to Accela not being fully updated or reconciled with the hardcopy files. Centrally locating licensee information, rather than expecting staff to locate and review both the Accela and hardcopy files, will reduce opportunities for misinformation and errors, and creates a more efficient and effective tracking process. We acknowledge the Bureau intends to fully transition to Accela for its tracking and reporting of licensing and enforcement activities; therefore, it is critical that all documentation entered into Accela is complete and consistent. Because the Bureau did not provide documentation supporting its complaints numbers, our Finding and Recommendations will remain unchanged.

Finding 9: Monitoring of the Cannabis Control Fund Needs Improvement

The Bureau disagrees that DCA's cost allocation plan does not provide the ability to trace costs to source records and believes its current cost allocation methodology is fair and equitable. Review of information provided by DCA did not enable the verification of allocated costs to conclude whether DCA's cost allocation is fair and equitable. Additionally, DCA's statement that it disagrees the only way for costs to be allocated is through the use of a time-tracking system is a misinterpretation of the finding. Using a time tracking system or another viable method to identify work performed will support the allocation method DCA utilizes. For example, DCA staff allocated 100 percent to the Bureau do not solely work on Bureau activities. Without a means to identify and document actual work performed, DCA cannot support beyond "its belief" that collectively staff performing Bureau-related activities equate to the number of positions that are 100 percent funded by Fund 3288. Therefore, the Finding and Recommendations will remain unchanged.