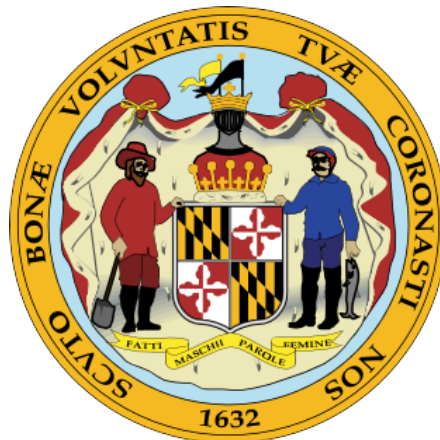




MMCC
MARYLAND
MEDICAL
CANNABIS
COMMISSION

Joint Report on the Transition of Medical Cannabis Personnel to the Alcohol and Tobacco Commission



October 11, 2022

The Honorable Bill Ferguson
President
Senate of Maryland State
House, H-107
Annapolis Maryland 21401

The Honorable Adrienne A. Jones
Speaker
Maryland House of Delegates
State House, H-101
Annapolis Maryland 21401

RE: Report Required by Section 8 of Chapter 26 of the Acts of 2022 (MSAR #14096)

Dear President and Speaker:

Pursuant to Section 8 of House Bill 837/Chapter 26 of the Acts of 2022, in accordance with § 2-1257 of the State Government Article, the Alcohol and Tobacco Commission (“ATC”) and the Natalie M. LaPrade Medical Cannabis Commission (“MMCC”), respectfully submit this joint report on the proposed transfer of personnel from MMCC to the Office of the Executive Director at ATC.

Sincerely,



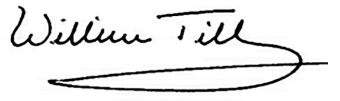
Alan Silverstein
ATC Chair



Tiffany Rudolph
MMCC Chair



Jeffrey A. Kelly
ATC Executive Director



William Tilburg
MMCC Executive Director

cc: Sarah Albert, Department of Legislative Services (5 copies)

Pursuant to Section 8 of House Bill 837/Chapter 26 of the Acts of 2022, the Alcohol and Tobacco Commission (“ATC”) and the Natalie M. LaPrade Medical Cannabis Commission (“MMCC”), respectfully submit this joint report on the proposed transfer of personnel from MMCC to the Office of the Executive Director at ATC. Specifically, this report makes recommendations on how to transfer personnel in a manner that:

1. Will minimize costs of the transfer and result in a more cost-efficient operation for the regulation of cannabis;
2. Does not result in any diminution of pay, working conditions, benefits, rights, or status; and
3. Allows personnel to retain any merit system and retirement status they may have on the date of transfer.

House Bill 837/Chapter 26 establishes that if the voters ratify House Bill 1/Chapter 45 of the Acts of 2022, it is the intent of the General Assembly “that the Office of the Executive Director of the Alcohol and Tobacco Commission shall be the successor of the Natalie M. LaPrade Medical Cannabis Commission in matters concerning the regulation of medical cannabis.” Section 8 also requires that the Commissions jointly study and make recommendations to the General Assembly on the transfer of personnel from MMCC to the Office of the Executive Director at ATC. Since April, representatives have met at least once every other week to study the personnel, organizational structure, operations, infrastructure, and office space of ATC and MMCC to determine the most cost-efficient manner of merging Commissions. Based on these analyses and meetings, the Commissions recommend that:

1. MMCC personnel will either transfer to a newly established Cannabis Regulatory and Enforcement Division or merge into existing shared administrative and operational functions under the Office of the Executive Director of the Alcohol and Tobacco Commission on or after July 1, 2023 (*see* Appendix A for proposed organizational chart);
2. All MMCC personnel will transfer without any change or loss of pay, working conditions, benefits, rights, or status, and shall retain any merit system and retirement status they may have on the date of transfer;
3. Effective July 1, 2023, ATC and MMCC will merge common administrative and operational functions and units, including communications, human resources, budget and finance, procurement, legal and legislative, and research and education;
4. ATC and MMCC will retain existing office space and study the need for any additional office space and secure storage to accommodate organizational growth and the regulation of adult-use cannabis; and
5. Paper materials (letterhead, business cards, envelopes, etc.) and other documents reflecting the renaming of the MMCC to be the Office of the Executive Director of ATC may not be used until all paper materials and other documents already in print and reflecting the name or logo of the MMCC before the effective date of this Act have been used.

I. Background

ATC

The ATC is an independent commission that was established through the passage of HB1052/Chapter 12 of the Acts of 2019 and became effective in January 2021. The law created the Commission, Office of the Executive Director, and the Field Enforcement Division. The Commission consists of five (5) individuals appointed to a five-year term by the Governor of Maryland, with the advice and consent of the Senate. In addition, the Secretary of Health and the Secretary of the State Police, or their designees, may participate in the Commission as ex officio non-voting members. The Commission is responsible for educating the public regarding the health consequences related to the use of alcohol, tobacco, and electronic smoking device (“ESD”) products, conducting studies related to the operation and administration of similar laws in other states or countries and federal laws that may affect the operation of the alcohol and tobacco industries, and developing best practices related to the administrative and enforcement duties carried out by local licensing boards.

The Office of the Executive Director (“OED”) is occupied by the Executive Director, who is appointed by the Governor, with the advice and consent of the Senate. The Executive Director is responsible for oversight and regulation of the alcoholic beverages and tobacco industries within the State of Maryland. To accomplish these tasks, the legislature granted authority to the OED to receive, review, and process applications for State licensure, issue rules and regulations that govern the manufacture and distribution of alcoholic beverages and tobacco products within the State, and oversee enforcement efforts to ensure compliance with Maryland’s laws, rules, and regulations.

The Field Enforcement Division (“FED”) is a statewide law enforcement agency under the supervision of the OED, staffed by both sworn police officers and civilian personnel. The FED is responsible for the enforcement of Maryland’s laws related to the sale, manufacture, transportation, storage, and importation of alcohol, tobacco and ESD products within the State. The FED is also responsible for the regulatory duties associated with the alcohol, tobacco, and ESD industries, to include the issuance of licenses and permits, and to ensure the appropriate trade practices are adhered to by industry members.

The OED is responsible for licensing and regulating approximately 130 wineries, 158 breweries, and 78 distilleries throughout the State of Maryland. Similarly, the OED licenses approximately 454 wholesalers of alcohol, and 187 wholesalers and distributors of tobacco products. The FED also conducts inspections and enforcement actions to support local liquor licensing boards and local governments in regulating approximately 5,457 tobacco retailers and 9,104 alcoholic beverage retailers throughout the State. The OED consists of a budgeted staff of 39 FTE for FY23, who work across specialized divisions related to enforcement and legal support (*see* Appendix B for detailed staffing information). Under the Field Enforcement Division there are two bureaus: the Field Operations Bureau (22 sworn law enforcement agents, including leadership), and the Regulatory and Administrative Bureau (14 investigators, inspectors, and supporting staff). The OED is also supported by 2 FTE attorneys, and one contractual position in the Legal and Legislative Division who research complex regulatory issues, advise on the OED’s legislative agenda including bills and regulations, and conduct administrative hearings on behalf of the Executive Director. The ATC is funded by the Maryland general fund, and the FY 2023 budget is \$5.3 million.

MMCC

MMCC is an independent commission that functions within the Maryland Department of Health. Established through the passage of House Bill 881/Chapter 240 of the Acts of 2014, MMCC oversees licensing, registration, inspection, and testing related to the State's medical cannabis program and provides relevant program information to patients, caregivers, health care providers, growers, processors, dispensaries, and testing laboratories. Maryland law limits the number of grower, processor, and dispensary licenses that MMCC may award. As of November 2022, MMCC has registered approximately 160,000 patients and awarded the maximum number of industry licenses permitted under law: 22 grower licenses, 28 processor licenses, and 101 dispensary licenses.

MMCC consists of 12 members appointed by the Governor, along with the Secretary of Health or a designee. Appointed members serve in a part-time, voluntary capacity and are supported by a staff of 77.0 FTE, who work across eight departments: communications; enforcement and compliance/laboratories; human resources; budget, finance, and procurement; public health research and education; information technology; policy and government affairs; and quality assurance. Forty-six (46) out of 77.0 FTE (60%) are contractual employees (see Appendix C for detailed staffing information). MMCC is 100% specially funded by fees assessed to medical cannabis licensees and registrants. The MMCC FY 2023 budget is \$9.5 million, which includes significant one-time costs associated with constructing and equipping a state reference laboratory for cannabis testing. A preliminary FY 2024 budget estimates total expenditures of \$8.0 million, which is more in line with previous fiscal years.

II. Proposed transfer of personnel to minimize costs and ensure a cost-efficient operation for the regulation of cannabis.

Section 8(3)(i) requires the Commissions to study and make recommendations on how to transfer personnel in a manner that will minimize costs and result in a more cost-efficient operation. The Commissions jointly studied their operations and personnel and concluded that the most cost-efficient transfer and operations could be achieved by (1) using existing office space and secure storage for the regulation of alcohol, tobacco, and cannabis, (2) merging certain administrative and operational functions/units at the time MMCC personnel transfer to the Office of the Executive Director at ATC, and (3) using all paper materials (letterhead, business cards, envelopes, etc.) and other documents bearing the MMCC logo already in print before ordering or using materials bearing the logo of the Office of the Executive Director at ATC. Since existing personnel and office space will be retained, the Commissions believe the transfer of personnel from MMCC to ATC can take effect on July 1, 2023, the same date that possession and use of cannabis will become legal for individuals 21 years or older in the State.

Office Space

Under a memorandum of understanding, the ATC is physically located within the Treasury building alongside the Comptroller in Annapolis. The ATC's offices consist of approximately 22 office and cubicle workspaces housed within only 6,000 sq. ft. of office space. In addition, the ATC stores seized contraband and evidence of violations within secure space of approximately 3,500 sq. ft on the same campus. This secure space houses large inventories of contraband alcohol,

tobacco, and related materials, and additional facilities connected with the Comptroller provide secure storage for vehicles and larger vessels. The ATC also has access to Comptroller owned field offices throughout the state which serve as staging grounds and remote workspace for inspectors and agents conducting operations throughout the State. The ATC also maintains a fleet of 27 police equipped vehicles for the use of agents and inspectors.

In 2018, MMCC signed a 10-year lease for 10,000 sq. ft. of commercial office space in Linthicum Heights. There are approximately 5.5 years remaining on this lease. Earlier this year, MMCC signed a 10-year lease for an additional 3,900 sq. ft. in the same building to establish a state reference laboratory for cannabis testing and provide office space for laboratory personnel. MMCC accommodates 77.0 FTE across 16 offices and 41 cubicles by utilizing shared offices/cubicles, hybrid work schedules, and not requiring personnel with field assignments to maintain office space. All available office space is allocated to current MMCC personnel. MMCC also maintains a fleet of 16 vehicles for use by enforcement inspectors and other staff.

Operations

Table 1 (below) outlines the functions/units that were identified as areas where one or both of the Commissions employ personnel and providing shared services or support could ensure a more cost-efficient operation in the regulation of alcohol, tobacco, and cannabis.

Table 1. Functions/units to combine post-merger.

Function/Unit	Scope of Work	ATC	MMCC	Merge
Communications	Manage Commission website and social media, respond to Public Information Act requests, develop and disseminate press releases, bulletins, and other informational materials to stakeholders; and respond to constituent inquiries	No dedicated personnel, handled across the agency based on subject matter expertise	3.0 FTE	MMCC staff can assist with alcohol- and tobacco-related communication needs
Human Resources	Administer personnel duties, including timekeeping, payroll, counseling/discipline, and onboarding/offboarding	1.0 FTE	1.0 FTE	Combined unit may need additional 1.0 FTE to assist with expanded staff needs, given the MOU with the Comptroller's Office.
Budget and Finance	Develop annual and supplemental budget, manage accounts payable and accounts receivable, expense reports, etc.	Combined with HR and Procurement Position and supported by the Comptroller	1.0 FTE	Combined unit likely able to manage with existing resources, given the MOU with the Comptroller's Office.
Procurement	Develop/issue/manage Requests for Proposals (RFPs), supervise Commission contracts, serve as liaison to BPW, DBM, and other state agencies on procurement-related matters	Combined with Budget and Finance and HR Position and supported by the Comptroller	1.0 FTE	Combined unit likely able to manage with existing resources, given the MOU with the Comptroller's Office.
Public Health Research and Education	Conduct statutorily mandated research on public health, safety, and feasibility matters related to alcohol, tobacco, and cannabis; develop reports and educational materials on alcohol, tobacco, and cannabis use	2.0 FTE	4.0 FTE	Combined unit likely able to manage with existing resources, given the MOU the Comptroller's Office.

The Commissions also identified several functions/units specific to ATC or MMCC or where immediately consolidating or merging operations within the first 18 to 24 months could increase costs, result in less efficient operations, and place significant burdens on alcohol, tobacco, and cannabis licensees, particularly small businesses. Table 2 (below) outlines these functions/units and any underlying costs or barriers to consolidating operations. We anticipate integrating these functions in a second stage of merger after 24 months to minimize the costs and consequences on the agency and the businesses it will jointly regulate.

Table 2. Functions/units with barriers to consolidation post-merger.

Unit/Function	Specific to ATC or MMCC	Barriers to Consolidating Operations
Enforcement	No.	<ul style="list-style-type: none"> - Under statute ATC Field Enforcement Division personnel are sworn law enforcement officers, authorized to enforce civil and criminal provisions. There are also non-sworn civilian investigators as part of the ATC. - MMCC Bureau of Enforcement and Compliance (BEC) personnel are not sworn law enforcement officers and are only authorized to levy civil penalties. - There are significant differences between alcohol/tobacco and cannabis inspections. Due to these differences, states with shared alcohol, tobacco, and cannabis oversight, such as Oregon and Washington, maintain separate enforcement units for alcohol/tobacco and cannabis. - Enforcement structure and authority (e.g., civil and criminal) are areas where additional study is warranted to determine the feasibility and cost of future consolidation. - ATC and MMCC have had preliminary discussions about eligibility for current MMCC inspectors to become sworn officers based on prior sworn officer career training recognized by the MPTC, or alternatively cross training particular ATC agents to assist in cannabis inspections and enforcement as needed. - A merger of secure contraband storage could be beneficial to both agencies, but will depend on the respective office space requirements.
Laboratories	No.	<ul style="list-style-type: none"> - ATC receives laboratory support from the Office of the Comptroller for its laboratory testing needs. These laboratories are equipped to analyze suspected alcohol substances. Partnerships with the FDA and other laboratories allow testing of tobacco and other regulated substances. - MMCC established a reference laboratory for cannabis testing in 2022. MMCC laboratory personnel are not trained in alcohol or tobacco testing and current laboratory equipment may be inadequate to perform testing on alcohol or tobacco products. - Laboratory testing is an area where additional study is warranted to determine the feasibility and cost of future consolidation.
Information Technology	No.	<ul style="list-style-type: none"> - ATC receives IT support from the Office of the Comptroller. - MMCC IT personnel (3.0 FTE) provide maintenance and support for MMCC’s medical cannabis licensing and registration system. MMCC also receives network and technical support from DoIT. - ATC and MMCC use different licensing and registration software. Merging the licensing systems will require significant time and resources of both Commissions and may impact the operations of regulated businesses as well. Additional study is required to determine whether it is technically feasible and/or cost-efficient to merge licensing operations under a single IT platform in the future.
Quality Assurance	Yes. MMCC only.	<ul style="list-style-type: none"> - MMCC Quality Assurance department manages the medical cannabis patient and provider registry, processes patient, caregiver, and provider applications, prints and mails identification cards, educates patients and providers on the medical cannabis program, and hosts a call center for patient, caregiver, and provider issues. - ATC performs analogous quality assurance tasks with respect to licensed businesses, but these functions are integrated in the larger licensing unit and shared with the taxpayer services units of the Comptroller.

MMCC Materials and Documents

House Bill 1052/Chapter 12 (2019), which established the Alcohol and Tobacco Commission, required ATC personnel to use all paper materials and documents already in print before ordering or using any paper materials or documents bearing the new office name or logo. MMCC orders various materials and documents bearing its logo in quantities sufficient to last 6 to 12 months. To prevent waste, the Commissions recommend that the proposed Cannabis Regulatory and Enforcement Division use all materials and documents already in print that bear the MMCC name or logo before purchasing or using any materials or documents bearing the name or logo of ATC. Appendix D includes uncodified language identical to Section 10 of House Bill 1052/Chapter 12 (2019), which required ATC to use all materials and documents already in print before ordering or using materials reflecting the new Commission name or logo.

III. Does not result in any diminution of pay, working conditions, benefits, rights, or status, and personnel retain any merit and retirement status.

Section 8(3)(ii) and (iii) stipulate that the proposed transfer of MMCC personnel to the Office of the Executive Director at ATC may not result in a decrease in salary, rights, benefits, or retirement status. The Commissions appreciate the significance of protecting personnel salary, rights, benefits, and status, and recommend that the General Assembly establish these protections in legislation, as it did when establishing the Alcohol and Tobacco Commission. House Bill 1052/Chapter 12 (2019) established the ATC and transferred regulatory authority over alcohol and tobacco in the State from the Office of the Comptroller to the Office of the Executive Director at ATC. Section 4 and Section 7 of the bill provided that personnel in the Field Enforcement Division at the Office of the Comptroller would also transfer to the Office of the Executive Director at ATC “without any change or loss of pay, working conditions, benefits, rights, or status, and shall retain any merit system and retirement status they may have on the date of transfer.” This language successfully protected the salary, benefits, rights, and status of Field Enforcement Division personnel at the Office of the Comptroller in their transfer to ATC in 2021, and can likewise be applied to MMCC personnel in their future transfer to ATC. Therefore, the Commissions recommend that the General Assembly adopt the proposed uncodified language included in Appendix D, which is identical to Sections 4 and 7 from House Bill 1052/Chapter 12 (2019), to direct the transfer of personnel from MMCC to the Office of the Executive Director at ATC.

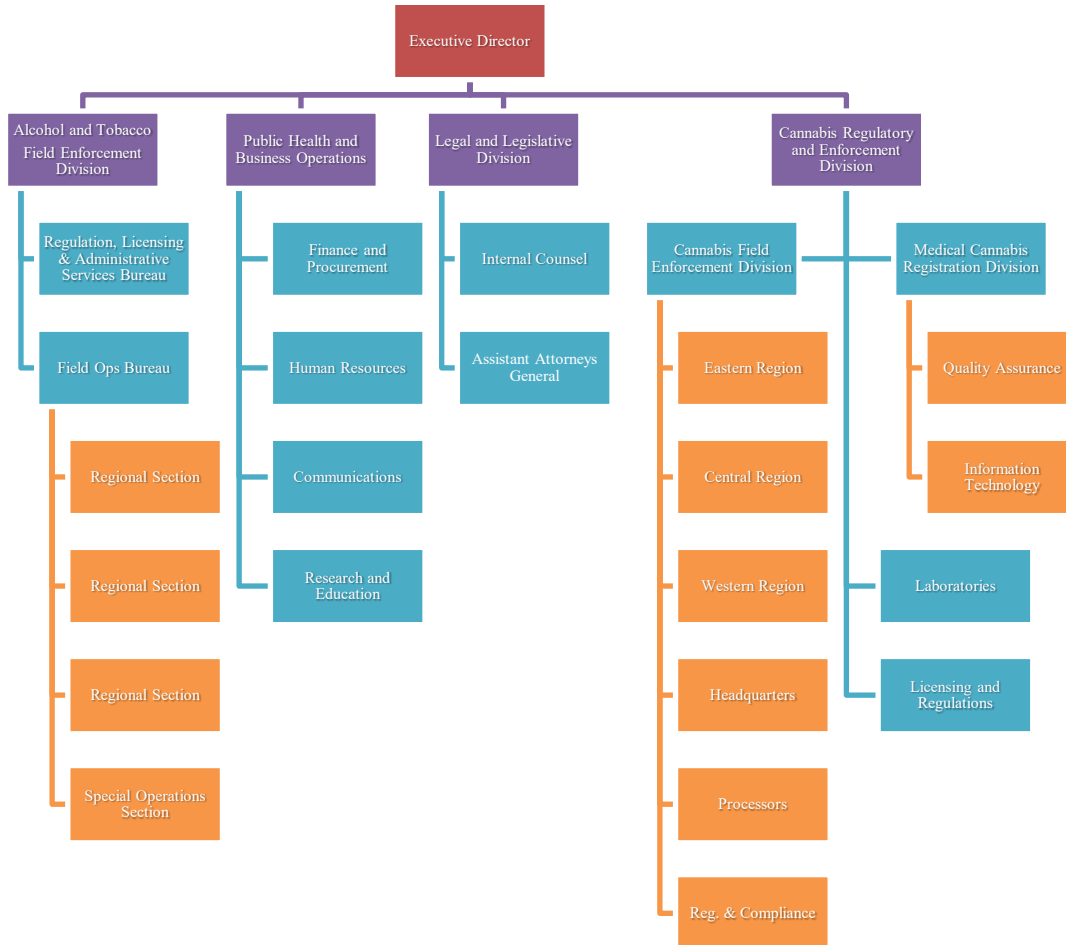
IV. Conclusion

The joint recommendations will ensure that the proposed transfer of MMCC personnel under the Office of the Executive Director at ATC minimizes costs and maximizes operational efficiencies, while protecting the employment, salary, benefits, rights, and status of MMCC staff. The proposed recommendations are also consistent with provisions adopted by the General Assembly in establishing the ATC that provided for a straightforward and efficient transfer of personnel from the Comptroller’s Field Enforcement Division. The Commissions believe that these recommendations will place the ATC and the State in a strong position to maintain a safe, effective, and efficient medical cannabis program, continue to oversee well-regulated alcohol and tobacco industries, and prepare for the regulation of adult-use cannabis.

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Appendix A

ATC-MMCC Post-Merger Organizational Chart



Appendix B

Alcohol and Tobacco Commission Personnel

Department	FTE
Field Operations Bureau	22.0
Legal and Legislative Division	3.0
Regulatory and Administrative Bureau	14.0
Total	39.0

Merit Positions: 38.0 FTE

SPP Positions: 1.0 FTE

Total Positions: 39.0 FTE

Appendix C

Maryland Medical Cannabis Commission Personnel

Department	FTE
Administration	3.0
Communications	3.0
Enforcement and Compliance	31.0
Executive	4.0
Finance	2.0
Information Technology	4.0
Legal	3.0
Policy and Government Affairs	5.0
PH Research and Education	4.0
Quality Assurance	18.0
Total	77.0

Merit Positions: 31.0 FTE

SPP Positions: 46.0 FTE

Total Positions: 77.0 FTE

Appendix D

Sample Statutory Text

Proposed uncodified language that does not result in any diminution of pay, working conditions, benefits, rights, or status, and personnel retain any merit and retirement status.

SECTION X. AND BE IT FURTHER ENACTED, That all persons who, as of June 30, 2022, are employees in budgeted positions of the Natalie M. LaPrade Medical Cannabis Commission and whose positions are transferred to the Office of the Executive Director of the Alcohol, and Tobacco, and Cannabis Commission as provided by this Act are hereby transferred to the Office of the Executive Director of the Alcohol, and Tobacco, and Cannabis Commission without any change or loss of rights pay, working conditions, benefits, rights, or status, and shall retain any merit system and retirement status they may have on the date of transfer.

Proposed uncodified language that requires the use of existing materials and documents.

SECTION X. AND BE IT FURTHER ENACTED, That letterhead, business cards, and other documents reflecting the renaming of the Natalie M. LaPrade Medical Cannabis Commission to be the Office of the Executive Director of the Alcohol, and Tobacco, and Cannabis Commission may not be used until all letterhead, business cards, and other documents already in print and reflecting the name of the Commission before the effective date of this Act have been used.