

NEBRASKA MEDICAL CANNABIS EMERGENCY COMMISSION MEETING

September 8, 2025

4:30 p.m. to 5:15 p.m.

301 Centennial Mall South, Commissioner Lower Level, Meadowlark Conference Room
Lincoln NE 68508

Notice of this emergency meeting was posted on the Nebraska Medical Cannabis Commission landing page on the Nebraska Liquor Control Commission's website on September 5, 2025, as well as on the Nebraska.gov Public Meetings Calendar.

MINUTES

1. Call to Order/Open Meetings Act Notification

The meeting was called to order by the acting Commission Chair, Monica Oldenburg, on September 8, 2025, at 4:30 p.m. Chairperson Oldenburg stated the emergency meeting was being held because the Governor did not sign the emergency regulations the Commission approved at the September 2nd meeting and the current emergency regulations expire on September 27th. Present were Commission members Bruce Bailey, J. Michael Coffey, Kim Lowe, Lorelle Mueting, and Monica Oldenburg, establishing a quorum. A copy of the Open Meetings Act was posted in the meeting room next to the entrance.

2. Roll Call

Bruce Bailey – present
J. Michael Coffey – present
Kim Lowe – present
Lorelle Mueting – present
Monica Oldenburg -- present

3. Public Comment Period

Public comments were made by the following individuals:

a. Liah Post

Ms. Post stated that she has a rare illness called Complex Regional Pain Syndrome (CRPS), which is commonly referred to as the “suicide disease” because twenty-five percent (25%) of patients with the illness commit suicide. She described her experience with taking prescription pain medications in the past and stated that she has used medical cannabis for ten (10) years. She stated that she was attending the meeting to represent patients such as herself.

b. Crista Eggers

Ms. Eggers stated her opinion that the regulation drafting process is going against the referendum passed by voters. She said that the Commission is deliberately constructing barriers to access by patients and that the process is being impeded by political interference by the Governor's office, DHHS, and the Commission itself.

4. Emergency Regulation Status Update and Discussion on Proposed Edits

Chair Oldenburg stated that the emergency regulations approved at the last Commission meeting were not signed by the Governor. In a letter to the Commission, the Governor said he would not sign the emergency regulations unless there was a limit placed on the number of plants each cultivator is allowed to grow. Oldenburg stated that draft language had been added to the emergency regulations which included the following limitations: two hundred (200) plants for indoor facilities, five hundred (500) plants for outdoor facilities, and three hundred (300) plants for greenhouse facilities. Oldenburg asked the Commission members if they had thoughts on the proposed changes to the regulations regarding the number of plants. Commissioner Bailey asked Chief Legal Officer Botelho how the proposed numbers in the latest draft of the regulations were determined. Botelho said that he had looked at the system in New Hampshire, which allows three plants per registered patient, and had also looked at the numbers from Missouri, which has a higher population than Nebraska, and which allows both medical and recreational cannabis. He said that the proposed numbers in the current draft regulations were not the result of any specific calculations but were rather a starting point for the Commission to use when setting the numbers for Nebraska. Bailey stated that Missouri had started with medical cannabis first and then added recreational cannabis, and that the starting numbers in Missouri were about one tenth (1/10) of what they are now. Bailey asked if Oldenburg knew what percentage of Nebraska residents are potential medical cannabis patients. Oldenburg said that she had reviewed data from the Medical Policy Project on the percentage of surrounding states' populations who were medical cannabis users and that the numbers ranged from 0.8% to 1.3% of the population. Bailey stated that if medical cannabis patients were 1% of the total Nebraska population, two thousand (2,000) plants would be needed.

Commissioner Mueting then described the results of her research on growing limits in other states. She clarified that in New Hampshire, each patient is allowed to grow up to three (3) cannabis plants per state statute. Mueting stated that ideally the number of plants grown in Nebraska would be determined based on demand, but the limitation on the number of plants allowed in Nebraska is being imposed by the Governor for the regulations to be approved. Mueting said that a pound of dried marijuana flower is equal to 50 to 100 milligrams of THC extract; depending on extraction rates, one pound of marijuana flower could produce 500 to 1000 capsules at 10 milligrams of THC each, and that two thousand (2,000) indoor plants could produce enough THC tincture for two thousand three hundred (2,300) patients per year. Mueting stated that the number of flowers generated by each plant depends on how and where the plants are grown, and that ideally the number of plants needed would be determined by the cultivators. Mueting said that in some other states, there aren't limitations on the total number of plants or flowers, but rather on the total square footage. In Utah, cultivation facilities can't have more than one hundred (100) mature marijuana plants per license at any given time. Eight total cultivator licenses were allowed when Utah began their program, and according to their regulators, that resulted in excess product that is currently being stored. In North Dakota, cultivation is limited to indoor facilities; only two (2) cultivator licenses are allowed, with no more than one thousand (1,000) total plants per license.

Bailey said if the number of plants is limited, the cost of the product could be prohibitive to patients. He said he understands the limitation on plants is necessary for the regulations to be approved, but the limitation means there won't be enough product generated to meet the number of potential patients. Mueting stated in West Virginia, one (1) flowering plant

is allowed per two (2) patients. Mueting said there is no way to know for sure how many patients there will be. She also said the number of plants generated by each cultivator will depend on the type of facility (indoor, outdoor, or greenhouse). Mueting said in Utah, immature plants are counted in the seed to sale system, but they do not count toward the total plant limit until they are flowering. Bailey said if Nebraska used West Virginia as a model, with one (1) plant allowed for every two (2) patients, with an estimated sixteen thousand (16,000) patients, 8,000 plants would be needed, which is eight to ten times greater than the number allowed in the current draft regulations. Bailey asked Botelho if there had been feedback from the Governor on the total number of plants allowed; Botelho stated there had been no specific number proposed, just that there be a limitation on the number of plants allowed.

Mueting said it is likely each cultivator won't have all three types of facilities (indoor, outdoor, and greenhouse), so that will affect the number of cultivators and the limits imposed on each one. Mueting was asked about the numbers allowed in Utah, which has a problem with oversaturation. She said Utah allows both indoor and outdoor cultivation. Outdoor cultivation is limited to no more than two (2) acres and indoor cultivation is limited to five hundred (500) square feet. Cultivation facilities are not allowed to have more than one hundred (100) mature plants per license at any given time; with eight (8) total licenses issued, that equals eight hundred (800) total mature plants allowed. Bailey proposed a total number of twelve hundred fifty (1250) plants allowed for outdoor facilities, five hundred (500) plants allowed for indoor facilities, and eight hundred fifty (850) plants allowed for greenhouses. Oldenburg stated with four (4) total cultivator licenses and if all cultivators had one of each type of facility, that could generate a total of ten thousand two hundred (10,200) plants. Botelho said under the current draft regulations, a cultivator utilizing an indoor facility only or a combination of indoor, outdoor and greenhouse facilities may possess no more than two hundred (200) total plants, so to match the numbers proposed by Bailey, that language would need to be changed. Botelho said the current limitation on the number of plants allowed for indoor facilities is based on the fact indoor facilities can grow plants year-round, whereas outdoor and greenhouse facilities would have a growing season.

Bailey proposed a total limit of one thousand (1,000) plants per cultivator, regardless of the type of facility; with four total cultivators allowed, that would mean a total of four thousand (4,000) total plants, which would serve approximately eight thousand (8,000) patients. Oldenburg and Lowe reiterated that the numbers can be changed. Bailey said his research indicated indoor facilities produce the best quality product, so he would hate to see a lower limit on total number of plants allowed for indoor facilities if that is the best option for growth and output. Mueting stated with indoor facilities, it is easier to control pesticides and contaminants in the soil, and a number of states only allow indoor cultivation. Coffey stated based on the West Virginia model, if there were twenty thousand (20,000) potential patients, and one plant allowed per two (2) patients, ten thousand (10,000) plants would be needed. Bailey proposed removing the language specifying the total number of plants allowed for each type of facility, and instead allowing a total of twelve hundred fifty (1,250) plants allowed per license regardless of facility type; this would allow for a greater number of harvests for each facility and would increase the total number of plants grown. Coffey said that made more sense since it is unknown which type of facilities each cultivator will have.

5. Closed Executive Session to Discuss Imminent Litigation Regarding Regulations, If Necessary

Closed Executive Session was not necessary.

6. Emergency Regulations Approval If Applicable

Bailey made a motion to change the emergency regulations to allow twelve hundred fifty (1,250) plants per cultivator license, and Coffey seconded. Mueting asked to clarify that the proposal was to allow a total of 1,250 plants per cultivator and to remove the language specifying the number of plants allowed per facility type. She said that they would still want to know which type of facility each cultivator will be using. Lowe said that information would be required for safety reasons; Mueting agreed it would need to be included in the license application for safety and for tracking purposes. Oldenburg asked for a voice vote to be taken and all commissioners voted in favor.

7. Discussion Of Formal Rule Making Process, And Approval If Applicable

Oldenburg stated even with the emergency regulations in place, the Commission still needs to promulgate formal regulations in accordance with the Nebraska Administrative Procedures Act. Emergency regulations are temporary in nature and the formal promulgation process needs to be started to ensure that formal regulations are in place prior to the expiration of the emergency regulations. Oldenburg suggested that the Commission move forward with formal promulgation based on the regulations approved at this meeting and asked for discussion or questions from the Commission. Botelho clarified it would mean that the approved changes to the emergency regulations would also be included in the formal promulgation process. Mueting asked if they would still be allowed to make changes if they began the formal promulgation process. Botelho explained that if the Commission voted to start the formal promulgation process, the version approved at this meeting is the version that would go forward; the next step would be a public hearing. If significant changes were made to the draft regulations after the first public hearing, another public hearing would be required.

Oldenburg asked for a motion and a second to move forward with formal promulgation with the regulations approved at this meeting. Mueting asked for a discussion prior to the vote and said she felt that the Commission might want to make additional changes. Lowe asked what would happen if the Governor didn't approve of the proposed changes. Botelho explained that the Governor had discretion not to sign the emergency regulations but reiterated that the Governor's request had been that a limit on the total number of plants be placed but that he hadn't specified what that limit should be. Lowe asked if the emergency regulations were effective for ninety (90) days if the Governor signed them, with the possibility of one renewal after that period. Mueting said that she had concerns about starting the formal promulgation process because she still wanted to review the security requirements and asked if there was still time to do so. Botelho explained that a public hearing was required to be held within thirty (30) days after a notice of public hearing is published and reiterated that if specific changes were made based on public comments at the hearing, that would require another public hearing on the changes. Bailey asked if the public would be able to review the emergency regulations approved at this meeting. Botelho stated that they would post the new draft for public review. Coffey had previously made a motion to approve beginning the formal promulgation process and Lowe had

seconded. A voice vote was taken and the motion was adopted with all commissioners voting in favor.

8. Reminder Of Next Regularly Scheduled Commission Meeting Date and Time

Oldenburg stated that the next regularly scheduled meeting will occur on September 30, 2025, at 1 p.m.

9. Adjournment

With no further business to discuss, Commissioner Bailey motioned to adjourn, with Commissioner Lowe seconding the motion. The motion to adjourn was adopted with all commissioners voting in favor. The meeting was adjourned at approximately 5:15 p.m.