



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LIQUOR CONTROL COMMISSION

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In the matter of the request of)	
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BRANG, INC.)	Complaint No. 3-160822
D/B/A 5 CORNERS PARTY STORE)	
4971 N. Greenville)	
Lakeview, Michigan 48850)	
)	
Montcalm County)	
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At the October 6, 2015 hearing of the Michigan Liquor Control Commission
(Commission) in Lansing, Michigan.

PRESENT: Andrew J. Deloney, Chairman
Teri L. Quimby, Commissioner
Dennis Olshove, Commissioner

VIOLATION APPEAL FINAL ORDER

Daniel Burns, legal counsel on behalf of Brang, Inc., d/b/a 5 Corners Party Store (licensee) requested an appeal of the Violation Order issued by Commissioner Edward D. Clemente on January 10, 2014, subsequent to the violation hearing held on December 11, 2013. Commissioner Clemente found the licensee responsible for all 27 charges, all of which concern the licensee allowing narcotics paraphernalia to be used, stored, exchanged or sold on the licensed premises, contrary to Michigan Administrative Code R 436.1011(6)(e). A fine of \$50 for each Charge was ordered, for a total fine of \$1,350.00. As an additional penalty, Commissioner Clemente ordered a one (1) day suspension to be served on a Saturday/weekend. Commissioner Clemente further ordered that the Commission's Enforcement Division dispose of the evidence seized during this investigation in accordance with the law.

The Michigan Liquor Control Commission's Appeal Board convened on September 9, 2014 to hear this case. Attorney Daniel Burns represented the licensee at this appeal hearing at the Commission's Lansing office. After hearing arguments, reviewing the Commission file, and discussion of the issue on the record, the Commission tabled this matter to the December 9, 2014 appeal hearing docket held in Lansing. Attorney Burns again represented the licensee.

After hearing more arguments on December 9, 2014, again reviewing the Commission file and documents presented, and further discussion of the issues on the record, the Commission found sufficient reasons to REVERSE the Order of Commissioner Clemente dated January 10, 2014 and REMAND this matter for a new hearing before Commissioner Clemente. On appeal, the Commissioners desired clarification of the legal issues involved, notably whether all of the paraphernalia in the charges can be considered "narcotics paraphernalia" absent any definition in the Michigan Liquor Control Commission's Code or administrative rules, and for a more thorough review of the applicability of other Michigan laws discussed, such as the Michigan Public Health Code and the Michigan Medical Marihuana Act.

Commissioner Clemente held a new hearing on March 25, 2015, and issued a new Violation Order on April 23, 2015. Both sides stipulated to incorporate the prior evidence and testimony as part of this new hearing record, with no further questioning of witnesses from that record. The only new witness was Commission Investigator Mark O'Farrell, who testified on behalf of the Commission in regard to his training in drug and narcotic enforcement areas. In summary, his testimony indicated that he had seen the seized items in the context of drug use, although the rolling papers clearly could be used for tobacco use as well. The licensee did not present any witnesses at the new hearing. Commissioner Clemente held that there is sufficient evidence to substantiate the violation of R 436.1011(6)(e) for 25 of the 27 charges; he dismissed with prejudice two charges for rolling paper paraphernalia. The fine again was \$50 per charge, for a total of \$1,250. As an additional penalty, Commissioner Clemente again ordered a one (1) day suspension to be served on a Saturday/weekend. Commissioner Clemente further ordered that the Commission's Enforcement Division dispose of the evidence seized during this investigation in accordance with the law.

An appeal for the new Violation Order was requested by Attorney Burns. Relief requested includes reversal of the Hearing Commissioner Violation Order; return of the seized property (including payment for any damaged items); and the award to the licensee for costs, attorney fees, and other relief. In his brief, Attorney Burns asserts the following arguments:

- 1) All the items are legal and not narcotics paraphernalia. The Michigan Liquor Control Code does not state a definition of narcotics paraphernalia, and the information posted on the Commission website appears to include an exemption when sold in conjunction with loose tobacco.
- 2) The licensee is a tobacconist, selling loose tobacco. The items are not narcotics paraphernalia, but rather tobacco accessories.
- 3) No guidelines or rules exist indicating the need for proximity between loose tobacco and accessories. Part of the Investigators' conclusion that the items were narcotics paraphernalia was due to the location and grouping of the items, but this is not discussed in the statute or rules.
- 4) The Hearing Commissioner's conclusion is erroneous because it is an attempt to draw a distinction where there is not one observed in the rules. The investigators attempt to create new criteria for narcotics paraphernalia. Opinions, not based on guidelines, are totally irrelevant and without any foundation in law. The licensee would have no way of knowing whether they are in compliance, without any guidelines or rules, interpreted in this manner. There is no evidence to support the findings. One can only be left with a definite and firm conviction that a mistake has been made.
- 5) The definition of "sale" pertains only to alcohol, and does not include tobacco accessories or narcotics paraphernalia. The Commission investigators are operating outside of the Commission's regulatory ambit.

Findings of Fact

Commission investigators testified on the Commission's behalf at the first Violation Hearing, stating that they received a complaint that the licensee was selling narcotics paraphernalia. Over 225 individual items including glass and metal pipes, pipe screens, bongs, scales, splitters and grinders were seized as illegal narcotics

paraphernalia. As part of this testimony it was stated that the items constituted narcotics paraphernalia for a variety of reasons, including their location behind a separate glass case behind the sales counter, how they were grouped for sale, and that scales and grinders are not used with loose tobacco because it does not require grinding or weighing since it is sold in a ready-to-use, pre-weighed package. Further, the Commission's website contains a Narcotics Paraphernalia list, which is the reference guide used by the Investigators to make violation determinations.

Investigator Mark O'Farrell also testified on the Commission's behalf at the remanded Violation Hearing. Without objection by either party, he was qualified as an expert in the use of various narcotics paraphernalia, through his former training and positions in law enforcement. His opinion was that rolling papers can be a tobacco accessory, but the remaining seized items have a primary use for drugs or narcotics. In regards to his background, prior to being employed by the Commission, Investigator O'Farrell was an Investigator with the Michigan Gaming Control Board, an Investigator with the Bureau of Health Professionals, has about 14 years of law enforcement experience including various drug paraphernalia and narcotics training, Michigan State Police (MSP) Canine School, DEA courses, MSP courses, and earned three prestigious awards for his work in drug enforcement. Investigator O'Farrell has extensive experience and training in the area of drugs and narcotics, demonstrating his expertise in this area, and qualifying him as a credible witness.

Conclusions of Law

Based upon a review of the record, hearing arguments, and a discussion of the issues, the Commission does not find error with the findings of fact or conclusions of law by Hearing Commissioner Clemente and affirms his order, with modification of the suspension date. The Commission finds that the expert testimony supports a conclusion that the seized items constitute drug paraphernalia and violate R 436.1011(6)(e).

THEREFORE, IT IS ORDERED that:

- A. The Order of Commissioner Edward D. Clemente, dated April 23, 2015, is AFFIRMED.

- B. The suspension date contained in that order is MODIFIED and shall be served on November 14, 2015.

MICHIGAN LIQUOR CONTROL COMMISSION



Andrew J. Deloney, Chairman



Dennis Olshove, Commissioner

Date Mailed:

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STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LIQUOR CONTROL COMMISSION

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In the matter of the request of)	
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BRANG, INC.)	Appeal Hearing
D/B/A 5 CORNERS PARTY STORE)	Complaint No. 3-160822
4971 N. Greenville)	October 6, 2015
Lakeview, Michigan 48850)	
)	
Montcalm County)	
_____)	

**DISSENTING OPINION OF
COMMISSIONER TERI L. QUIMBY**

I agree with the majority opinion to the extent that it holds that Hearing Commissioner Clemente did not err in the findings of fact. However, I respectfully disagree with the majority opinion to the extent that it holds that Commissioner Clemente did not err in the conclusions of law. The applicability of the law to this case provides no reasonable basis on which the Hearing Commissioner, or the Commission, might reach the conclusion of law that these items are drug or narcotics paraphernalia. In reviewing the entire record, I respectfully disagree with the majority's inadequate analysis of statutory construction and erroneous interpretation of the law.

The Michigan's 1963 Constitution¹ clearly indicates that the Liquor Control Commission shall exercise complete control of the alcoholic beverage traffic within Michigan, including the retail sales thereof, subject to statutory limitations. The statute enacted by the Legislature clearly states that the Commission shall have the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the manufacture, importation, possession,

1. Const 1963, art 4, §40.

transportation and sale thereof.² The Legislature also enacted rulemaking authority for the Commission, governing the carrying out of the Liquor Control Act and the duties and responsibilities of licensees in the proper conduct and management of their licensed places.³ While I agree with the Commission's position that the Commission dictates the environment in which alcoholic beverages are sold, and that it can prohibit the sale of drug or narcotics paraphernalia as a condition of licensure, I disagree on whether the Commission has established an administrative standard to actually accomplish this.

This case presents many interesting legal questions. One such question is whether simply having a license to sell alcoholic beverages from the Michigan Liquor Control Commission makes the sale of other commercial items legal or illegal. Communities in this state have existing stores, without Commission licenses, selling various types of commercial items legally although these items could be used as drug or narcotics paraphernalia. Some communities have established local ordinances specifically setting forth a list of items considered to be drug or narcotic paraphernalia, and prohibiting the sale of those items in that community.⁴ Businesses in those communities are placed on notice as to authorized and prohibited conduct expected in this regard. The record at the first Violation Hearing includes testimony indicating that local law enforcement does not seize this type of paraphernalia absent the presence of drugs or narcotics, and that "licensees do have a misconception that it is okay."⁵ Confusion seems to exist for licensees as to the conduct authorized or prohibited.⁶ Businesses without MLCC licenses are selling the same or similar items, which are the subject of this case, without legal ramifications in those municipalities where such conduct is not prohibited.

Without objection by either party, Investigator O'Farrell was qualified as an expert in the area of drugs and narcotics at the remanded hearing. However, on

2. MCL 436.1201(2).

3. MCL 436.1215(1).

4. For example, see City of Wyoming, Michigan Code of Ordinances. Division 2.-Drug Paraphernalia, Sec. 50-186 et seq.

5. Hearing Tr., p 78: 10-15; p 124: 4-9; p 134: 13-16.

6. Hearing Tr., p 100: 7-22; p 103: 11-25; p 104: 1-25. The licensee notes that law enforcement from the County Sheriff's Department as well as the Michigan State Police responded to three break-ins at the business, and that during those responses, there was no mention of anything in the store being illegal. The licensee also notes that the local unit of government made routine inspections in the store without any remarks of illegal products. Further, the licensee notes that the Narcotics Paraphernalia list from the Commission's website does not say anything about the placement within a store.

numerous occasions during his testimony he made it clear that while he is an expert in the drug enforcement area, he is not a tobacco or tobacconist expert.⁷ No testimony was offered, by either side, from anyone qualifying as a tobacco expert. It goes to reason, then, that his expert testimony in the area of drugs and narcotics could not be the basis for the Hearing Commissioner, or the Commission, to draw a legal conclusion as to whether or not an item could be considered a tobacco accessory.

Further, Investigator O'Farrell stated that while he would make determinations as an MLCC Investigator as to drug paraphernalia based on the Commission's website list pursuant to his training at the Commission, he would not reach the same conclusions as a police officer encountering the same items without the presence of drugs or narcotics.⁸ Investigators at the Commission are trained to use the list posted on the Commission website.

The document previously posted on the Commission website, referred to as Plaintiff's Exhibit B and titled "Narcotics Paraphernalia List," can at best be considered an interpretative statement under the Administrative Procedures Act (APA).⁹ The Commission, as an administrative body, does not appear to have taken any action on or have voted on the previously posted document. It should not have been considered a statement by the Commission. This document states that it is "a partial list of items that could be construed as narcotics paraphernalia," and that "some questionable items may be deemed acceptable when sold with other inventory items indicating acceptable use." This document is not a rule or guidance under the APA.¹⁰ It does not specify who makes the determinations as to what is and what is not acceptable, nor does it contain any definite or certain standards to apply to that decision-making. No reference to this list is included in a licensing approval order or otherwise provided to a licensee. It is not

7. Remand Tr., p 46: 18-19; p 49: 4-7; p 50: 5-7. An objection to the expert witness on drugs and narcotics testifying regarding tobacco is raised.

Remand Tr., p 54: 3-4; p 65:12-19; p 102: 22-24; p 105: 11-14; p 138: 8-10. The witness clearly states on numerous occasions that he has not been to any training for tobacco use.

Remand Tr., p 137: 21-23. The Hearing Commissioner states that the witness is not a tobacco expert.

Remand Tr., p 106: 20-23. "Q: But without knowing why they are selling it, just because you haven't seen people use them for tobacco, does not mean they can't be used for tobacco, does it? A: No and I have never stated that either."

8. Remand Tr., p 35: 4-24; p 36: 10-13; p 101: 3-25.

9. MCL 24.207(h).

10. MCL 24.201 et seq.

clear how a licensee would know to seek this information or where it is contained on the Commission website. It is not reasonable to expect any licensee to be familiar with and to comply with a regulation not in the statute and undefined in a rule. Administrative procedure is about due process and fairness and requires that the licensee should be able to ascertain the standard of conduct the licensee is expected to adhere to.

An interpretative statement in itself does not have the force and effect of law but is merely explanatory.¹¹ The Michigan Supreme Court in *Clonlara* noted that “an agency must rely on the underlying statute to support its reading of a statute set forth in an interpretive ‘rule’,” and “must show violation of the statute, not violation of an interpretive rule”.¹² Since neither the Michigan Liquor Control Code nor the Administrative Rules contain a definition of “narcotics paraphernalia” or “drug paraphernalia,” the Commission argues that the Commission must look to the Public Health Code to obtain a definition of that term. This logic is flawed and I respectfully disagree with the Hearing Commissioner’s, and the Commission’s, conclusion of law.

Assuming for a moment that the definition in the Public Health Code does apply, as the Commission suggests, the Commission’s position clearly ignores the chosen language in that statute.¹³ The definition of drug paraphernalia “...means any equipment, product, material, or combination of equipment, products, or materials, which is *specifically designed for use* ininjecting, ingesting, inhaling, or otherwise introducing into the human body a *controlled substance*.....”. The Legislature specifically chose the words “specifically designed for use,” which indicates scienter on behalf of the manufacturer. The licensee testified that the store carries about 100 pounds of loose tobacco, located in the case with pipes and also behind it, and the catalog used to order the seized items referenced them as tobacco accessories.¹⁴ No testimony was provided that a different conclusion could have or should have been reached by the licensee.¹⁵ Further, a statement made by an investigator at the first Violation Hearing indicated that the licensee had stickers on the items indicating that

11. MCL 24.207(h).

12. *Clonlara, Inc. v St Bd of Ed*, 442 Mich 230, 240 and 245; 501 NW2d 88 (1993).

13. MCL 333.7451. Emphasis added.

14. Hearing Tr., p 102: 15-21; p 115: 10-14; p 116: 1-2.

15. Hearing Tr., p 60: 24-25; 61: 4-14.

the items were for tobacco use only.¹⁶

Another determining factor for the conclusion of the items being narcotics paraphernalia by the investigators was the location of the items and display of the items in a glass case.¹⁷ The licensee points out that the alcoholic liquor inventory in the store is also located in a glass case.¹⁸ No evidence has been offered suggesting that the licensee was selling these items as drug or narcotics paraphernalia. The investigators did not attempt to purchase the items from the licensee for such use, or demonstrate that the licensee knowingly sold the items as drug or narcotics paraphernalia.¹⁹ The licensee is being held to a non-explicit standard of responsibility for knowledge that the item being purchased will be used by the customer for an intended and illegal purpose, contrary to the Public Health Code or anything in the Michigan Liquor Control Code.

This definition of “drug paraphernalia” in the Public Health Code also refers to another term: “controlled substance.” This term does not include alcoholic beverages or alcoholic liquor. “Controlled substance” is defined separately and distinctly from alcohol in many statutes, including the Michigan Retired Law Enforcement Officer’s Firearm Carry Act, the Firearms Act concerning concealed pistols, the Persons With Disabilities Civil Rights Act, and the Michigan Vehicle Code.²⁰ Any legal analysis or application of the Legislature’s intentionally chosen words of “specifically” or “controlled substance” to this case is clearly lacking, further demonstrating the erroneous conclusion of law reached in this case.

Continuing with the Commission’s argument regarding the applicability of the Public Health Code, it also contains provisions regarding written notice prior to an arrest. The notice is to be provided by the Attorney General or a prosecuting attorney. This notice shall request that the person refrain from selling or offering for sale the material and shall state that if the person complies with the notice, no arrest will be made. The person receiving the notice may request a judicial declaratory judgment on

16. Hearing Tr., p. 44: 15-18.

17. Hearing Tr., p 43: 24-25; p 44: 1-12.

18. Hearing Tr., p 89: 16-25; p 90: 1-6.

19. Hearing Tr., p 15: 17-20. “Q: Were you asked for help with regard to any of the narcotics paraphernalia? A: No. I didn’t inquire to any employee at the time about the narcotics paraphernalia that was at the store.”

20. MCL 28.512; MCL 28.425k; MCL 37.1103; MCL 257.8b; and MCL 257.1d.

the legality of the items offered for sale.²¹ While the licensee in this case was not arrested, the licensee did not receive any such written notice and all the items considered drug paraphernalia were seized. Whether this seizure was appropriate is yet another legal question.

The only legal conclusion I can reach is that the Hearing Commissioner's, and the Commission's, inadequate analysis of statutory construction does not support the ability to import the definition from the Michigan Public Health Code into the Michigan Liquor Control Code. Questions involving statutory interpretation present questions of law, and are subject to de novo review.²² The rules of statutory interpretation are well settled, generally known, and include: the language of a statute expresses the Legislature's intent; the omission of a provision is considered intentional; and a presumption exists that the Legislature is aware of and considered the effect on all existing laws when enacting new ones.²³

The Michigan Supreme Court, in its recent June 11, 2015 decision in *People v Mazur*, succinctly summarized the statutory construction analysis for the definition of "drug paraphernalia" in the Michigan Public Health Code, concluding the following:

MCL 333.7451 begins with an important qualifier: "*As used in sections 7453 to 7461 and section 7521, 'drug paraphernalia' means...*" By specifically limiting the applicability of this definition to certain statutory provisions, the Legislature expressed a clear intent that the definition should not be applied elsewhere. Application of the *in pari materia* doctrine would, therefore, be contrary to legislative intent.²⁴

Given the clear legislative intent, the definition in the Public Health Code does not and cannot apply to the Michigan Liquor Control Code or Rules. The rule prohibiting a licensee from allowing narcotics paraphernalia to be used, stored, exchanged or sold on the licensed premises is a vague, undefined standard that functions as a moving

21. MCL 333.7453; MCL 333.7459.

22. *People v Mazur*, 497 Mich 302,308; ___ NW2d ___ (2015), citing *Michigan v McQueen*, 493 Mich 135, 146-147; 828 NW2d 644 (2013). See also, *Huron Behav Hlth v Dep't Comm Hlth*, 293 Mich App 491, 497; 813 NW2d 763 (2011), citing *Detroit v Ambassador Bridge Co*, 481 Mich 29, 35; 748 NW2d 221 (2008).

23. *GMAC LLC v Treas Dept*, 286 Mich App 365, 372; 781 NW2d 310 (2009), citing *Dept of Trans v Tompkins*, 481 Mich 184, 191; 749 NW2d 716 (2008). *Id.* At 372, and quoting *Walen v Dept of Corrections*, 443 Mich 240, 248; 505 NW 2d 519 (1993).

24. *People v Mazur*, 497 Mich at 314.

target, subject to varying interpretations depending on the whims of every decision-maker throughout the process.²⁵

The *Gauthier* case must also be noted, since both sides discussed it during the appeals. One very relevant point in this case that neither side discussed, however, is the interpretation of the word “may.” The Court of Appeals points out that the Legislature’s choice of the word “may” is an indication of “possibility” and not “likelihood.” This Court notes that the trial court had correctly observed, “because of the similar nature of marijuana or hashish and tobacco or herbs, it is possible to use a pipe, bong, or dugout to smoke tobacco or herbs that are not controlled substances.” However, the *Gauthier* Court further notes the error of the trial court’s conclusion:

Therefore, in an attempt to give effect to all provisions of the controlled substances act, the trial court interpreted “the term ‘may’ to refer to the *likelihood* that such items will be used to smoke tobacco, rather than the *ability* of a person to use such items to smoke tobacco.”²⁶

Again, from the standpoint of statutory construction, the carefully chosen statutory language must be applied as the Legislature intended. An error in such a conclusion of law warrants a different result.

Grounds for reversal are set forth in the Administrative Procedures Act, specifically in MCL 24.306(1). Unless a different scope of review is provided for in the Constitution or by statute, then the standard for holding unlawful and setting aside an agency’s decision or order is any of the following:

- (a) In violation of the constitution or a statute.
- (b) In excess of the statutory authority or jurisdiction of the agency.
- (c) Made upon unlawful procedure resulting in material prejudice to a party.
- (d) Not supported by competent, material and substantial evidence on the whole

25. Hearing Tr., p 65: 13-19. “Q: Now you have Zigzag papers there, right? A: Yeah. They are just wraps but in and of themselves, again, we wouldn’t consider them drug paraphernalia, but they were located with all the other pipes so we confiscated them, assuming that their use would be for drug paraphernalia, based on their location and relationship with everything else.”

Hearing Tr., p 73: 16-25. “Q: What is a vaporizer used for? A: Well, I don’t necessarily know in the drug use, but it was found in with all the other items and it appears to be a inhalation device. So based on its location, I did confiscate it.”

Hearing Tr., p 81: 12-16. “I don’t know what this licensee’s past operating record is. However, it is my feeling that they knowingly knew – sold these; carried these items; sold these items to their customers for the use of the consumption or inhalation of illegal narcotics.”

26. *Gauthier v Alpena County Prosecutor*, 267 Mich App 167, 172-174; 703 NW2d 818 (2005).

record.

(e) Arbitrary, capricious or clearly an abuse or unwarranted exercise of discretion.

(f) Affected by other substantial and material error of law.

Given the lack of a clear standard, in a properly promulgated manner, and given the errors in the conclusions of law, an argument can be made that one or more of the above standards apply to this case.

The licensee has requested costs and fees. While the APA does provide for the award of costs and fees, it is limited to those cases where the presiding officer conducting the case determines whether the position of the agency in the proceeding was frivolous.²⁷ The agency's position in this case involves complex legal and factual issues and, thus, the decision was not in my opinion frivolous. Costs and fees are not appropriate as an award.

Another request by the licensee is for the return of all of the seized property. While either the statute or the rules could have contained a definition of drug or narcotics paraphernalia, as well as a grant of seizure authority when found on a licensed premise, both the statute and rules are lacking in this regard. Since the seized items cannot be considered drug or narcotics paraphernalia under statutory interpretation of the existing law or rules, the licensee did not allow narcotics paraphernalia to be used, stored, exchanged or sold on the licensed premises contrary to Michigan Administrative Code R 436.1011(6)(e), and the seized items should be returned.²⁸

In sum, I respectfully disagree with the majority's interpretation of the definition of "drug paraphernalia" and the import of that definition from the Michigan Public Health Code into the Michigan Liquor Control Code, when such an interpretation is clearly erroneous and an error of law. The definition was clearly intended by the Legislature to apply only to certain sections of the Public Health Code. Also, the interpretive statement on the Commission's website was not supported by any underlying authority. The Michigan Court of Appeals has stated that "the Court may overlook preservation requirements if an issue is one of law and the facts necessary for its resolution have

27. MCL 24.323.

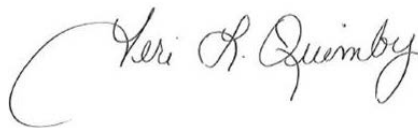
28. Statutes and rules in the Michigan Liquor Control Code specifically discussing items which may be subject to seizure include MCL 436.1235, MCL 436.2007, MCL 436.1907, MCL 436.1705, and Michigan Administrative Code R 436.1027.

been presented.”²⁹ Clearly, an issue of law exists in this case.

Further, as a matter of administrative procedure, the standard of conduct should be defined with sufficient detail that the authorized or prohibited behavior is clearly understood, and arbitrary and discriminatory enforcement is discouraged. The dismissal of two original charges for rolling papers on remand clearly shows the subjective and *ad hoc* basis for decision-making under this vague standard. If the Commission decides that licensees should not sell items discussed in this case at a licensed premise, then the Commission should promulgate a rule or guidance for clarity and certainty.

My dissenting opinion is based entirely on the application of the law to the facts in this case, and should not be construed in any manner as condoning the illegal use of drug or narcotics paraphernalia.

MICHIGAN LIQUOR CONTROL COMMISSION

A handwritten signature in cursive script that reads "Teri L. Quimby". The signature is written in dark ink and is positioned above a horizontal line.

Teri L. Quimby, Commissioner

Date Mailed: November 9, 2015

29. *Community Health Dep't v Anderson*, 299 Mich App 591, 601; 830 NW2d 814 (2013), citing *Smith v Foerster-Bolser Constr, Inc*, 269 Mich App 424, 427; 711 NW2d 421 (2006).