



## Washington State Liquor Cannabis Board Meeting

Wednesday, May 3, 2017, 10:00 a.m.  
LCB Headquarters - Boardroom  
3000 Pacific Avenue SE, Olympia WA 98501

### Meeting Minutes

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#### 1. CALL TO ORDER

Chair Jane Rushford called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 a.m. on Wednesday, May 3, 2017. Member Ollie Garrett and Member Hauge were also present.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the April 19, 2017 meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

#### PUBLIC HEARING ON LAB QA RULES

Presenter – Joanna Eide, Rules and Policy Coordinator

Joanna Eide, Rules and Policy Coordinator, gave a brief overview of the proposed rulemaking before the public hearing began. She highlighted a few of the major points. Changes to the draft proposals in this Supplemental CR-201 were made after considering and analyzing comments, additional feedback from labs, our certifying vendors and staff and other adjustments needed due to traceability constraints. We made a few small, but meaningful changes. Ms. Eide noted most of the proposal is unchanged, but walked through the items that have change since the CR-102 was filed.

- Reverting back to a single potency test and only one sample taken per 5 lb. lot. This was in response to concerns about costs. New calculation requirements for potency remain in draft rules and will help improve accuracy.
- Reverting back to a 5 lb. lot which is in current rules.
- Minor changes to the good laboratory practices checklist in WAC 314-55-103 – mostly technical changes. Worked with our certifying vendor, RJ Lee, to accomplish these changes.
- Adjusted the pesticide action levels for pyretherins to make them consistent with Department of Health (DOH) rules. Worked with the Department of Agriculture on these changes as well.
- Residual Solvents
  - Removed ethanol from the required solvent testing list and adjusted some solvent levels for testing requirements
- Added in heavy metal limits consistent with Department of Health's rules. Since we already including pesticide action levels, which DOH's rules reference, it made sense to include the heavy metals limits as well even though those tests are only required for compliant products (medical).
- Mycotoxins:

- No changes – mirrors the requirements for compliant products (medical) testing for mycotoxin.
- Many labs are ready or will be able to become ready soon after the rules are effective.
- Labs not certified to test for mycotoxin can subcontract (reference) mycotoxin screening to other labs.
- In many places, it is replacing microbiological screening, so this helps offset costs.
- Some concerns from licensees that costs are prohibitive and concerns about bottlenecks of testing. Since many are ready now and will soon be ready, this leads us to believe that these concerns will not come to fruition.
- Included clarification that simply because a lot may test below a pesticide action level for a disallowed pesticide, if there is evidence that a disallowed pesticide was applied, then a license may be subject to a violation. This is merely a clarifier as this is already within the rules, however, we felt it was important to make this explicit and discussed with WSDA.
- Heard concerns about labs wanting to do additional testing outside the QA fields for product development, R&D, etc. Current law and rule do not permit third party labs to do additional testing outside QA testing, but there is nothing prohibiting a licensee from acquiring testing equipment and doing such testing themselves on their licensed premises. The current prohibitions on additional testing are maintained and have been recommended by our lab certifying vendor.

With all of these changes, we want to ensure that the Board, staff and stakeholders understand these items may be revisited in the future. This is just another incremental step in the process and this rulemaking includes significant steps forward in ensuring accurate quality assurance testing and lab accountability. We will continue to look at these issues and some of the proposals we had to walk back over the next year.

**Chair Rushford opened the public hearing and invited the first citizen to the podium to provide testimony.**

Dana Luce (G.O.A.T. Labs) provided comments on twice a year proficiency testing and the cost incurred with these tests. He stated this does not keep labs honest. Investing in more enforcement would be more effective. Mycotoxin is important testing but is also a very expensive test. Mr Luce also asked when the state will actually start enforcing.

Aaron Stancik (Puyallup Tribe) stated his biggest concern is the use of total cannabinoids on product labels and the misreporting of total cannabinoids by labs. Labs are not adding cannabinoids the way the WAC intends and are also featuring on product labels specific values that are not in BioTrack. The loophole that allows for this fraud is when labs take all the tested cannabinoids and add them together even though they have different units, for the value on the label. Levels are blown up on labels for consumer to see. Patients need accurately labeled cannabis products. Recommends and will lobby for the removal of total cannabinoids off the product label, removal from WAC and enforcement of labs that use any value that isn't defined in the WAC, AHP or found in BioTrack. Sending other comments.

Gabe Egger, Operations Manager (Harmony Farms) – Mr. Egger gave a background on the Harmony Farms business. As an organic farmer they hold themselves to very high standards. They are considered one of the better producers. He was here to speak to pesticide action levels. Specifically regulations WAC 314-55-108 (4). There is a subset of compounds that are inherent in our environment. They are herbicides and fungicides. He feels it is necessary to regulate these compounds but the regulation that we are scrutinized on is something they are being held to a higher standard by the Board than we are able to hold ourselves to. Harmony Farms has been on administrative hold for eight weeks as a result of

this challenge of the point one parts per million (0.1 ppm) on the things that we can't even test ourselves for.

Adam Buff, CEO (Harmony Farms) – gave a brief explanation of the financial hardship they face since being placed on administrative hold. They understand that public safety is the number one concern. They were approached just over two months ago that there had been a complaint about one of their products. A sample was obtained and was tested. It tested positive for a chemical that had never been seen in a cannabis product before according to the Dept of Agriculture. This started an investigation and did not allow them to sell any product. They did test positive for a chemical called "Diuron". Diuron is an herbicide used to control a variety of annual and perennial broadleaf and grassy weeds and also used outdoors for brush control along highway shoulders. The levels detected are well below the 0.1 ppm. Harmony Farms cannot source the introduction of Diuron. None of their products have any compounds that are illegal or banned, yet they are still on administrative hold.

While Harmony Farms was placed on administrative hold, they have experienced over \$1 million dollars in lost sales and 50 percent of Harmony Farms staff laid off. The investigation process has been a major hardship resulting in an undetermined loss of business. We are requesting that the Board have some sort of means to address these issues. There is no one in the LCB now that can evaluate the situation and make a call. Currently they are still waiting for a decision to be made. Chair Rushford suggested connecting with Joanna Eide after the meeting for some clarification.

Kurt Naumer (Harmony Farms) shared concerns over a pesticides investigation being based on a complaint. The complaint could be coming from a competitor. Random testing off the shelf would be a more fair and less subjective way to test.

Nick Mosely (Confidence Analytics) mentioned he has been on many work groups and specifically the QA workgroup which help to draft the rules that are being discussed today. Appreciated the experience. Acknowledged Joanna Eide and the work she has done. He also commended the RJ Lee group, the LCB's lab accrediting vendor and Emerald Scientific for doing a fantastic job and for taking a positive approach. The Cannabis Alliance has provided a written statement in support of the rule revisions and suggested a few minor revisions they feel are appropriate at this time.

Erik Johansen (Citizen) stated his personal objection to WAC 314-55-108 as proposed. Specifically action levels for the 57 analytes that are not allowed. He stated he does not believe these are protective of human health. Of those not allowed, 43 are not allowed for use on tobacco. Mr. Johansen explain that approximately 74% of the action levels are higher than they would be for products used on tobacco. Feels it is highly inappropriate. Of the 57, seven are not allow for use on any food crop. Mr. Johansen does not feel there is any regulatory basis for the proposed action levels.

Mary Catherine McAleer (Assoc. of WA Business) addressed concerns on WAC 314-55-108(3) pesticide action levels. She stated she was here to implore the Board to include a process to allow for future listing of substances currently covered by the pesticide action levels. Encourage the LCB to include a policy mechanism in the rulemaking update to allow future action levels listings for those pesticides covered by sub-section (3) currently classified as additional information becomes available. The policy approach would allow the LCB to take a holistic science based policy approach. She would like to see some language added to sub-section (4) to allow for a new process to add chemicals into sub-section (3) such that they can have a more reasonable pesticide action levels in light of new information.

Laurie Hopkins, Scientific Director/Lab Director (Lander Robinson Labs) she stated she would like to see a process added where testing is done without labs knowing in order to catch the dishonest labs. Feels adding a water activity analysis is the correct direction to go. Glad they are adding mycotoxin test.

Jim MacRae (Straight Line Analytics) Mr. MacRae commended Ms. Eide on the Small Business Economic Impact Statement (SBEI). Emphasized the importance of enforcement and investigation on the data stream being pumped out by labs. Stressed the importance of proficiency testing to make sure labs are capable. Quality assurance is not enough. Honesty on the part of the labs is also important. He feels what labs are doing on a day to day basis as they try to gain market share within the industry is important. He feels the vast majority of testing that is being done by labs that have a track record of demonstrating anything but quality assurance, scientific truth or public safety. Stated there would be more value if you require samples to be tested by independent labs.

Tyrell Towle (HD Analytics) Feels there needs to be another check on what labs are doing in proficiency testing. Had questions regarding SEIS; felt some of the information seemed contradictory. Mr. Towle disagrees with the section on concentrates that addresses not testing for mycotoxins from a flower that already passed a test. Concentrates must be tested regardless of whether the flower passed or not because those harmful compounds will concentrate into the extract and pass QA because it will not be looked at again. He would like to see the scientific rationale and evidence upon which rules are based to be made available to industry. Additional comments were submitted in writing.

Dawn Roberts (HD Analytics) stated she is here representing the financial side. They have to absorb costs when new rules are created that require more testing/equipment to stay compliant. There are labs that will report whatever a producer/processor wants them to report. It is a struggle as an honest lab. She asked that we review all the information that comes through from the little guys before we make decisions. The decisions have a great impact on the small businesses.

Jeff Doughty (Capital Analysis) Mr. Doughty concurred with other comments regarding dishonest labs. He at. Mr. Doughty suggested having the same kind of stings that we do with alcohol

Chair Rushford closed the public hearing and thanked everyone for their input and engagement.

## **GENERAL COMMENTS**

Stuart Bennett (Molecular Testing Labs), speaking on behalf of Peter Flynn, Co-Owner. He stated he wanted to focus on a new subject which is still part of the QA but more on the microbial side of things. Specifically regarding the methods and costs associated to complete these test accurately and the variability within the labs within the state. He would like to bring this up as a new issue. Mr. Flynn also sent an email with detailed comments

Jim MacRae (Straight Line Analytics) Dr. MacRae stated he had an additional comment concerning enforcement. He commented since enforcement officers are not trained scientists, he suggested having cameras installed in labs and keeping the footage stored for two to three months. The footage could be reviewed to help identify areas where issues are.

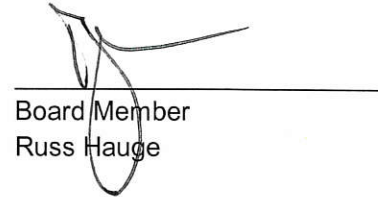
## **ADJOURN**

Chair Rushford thanked everyone again and adjourned the meeting at 11:00 am

Minutes approved this 17 day of MAY, 2017

  
Jane Rushford  
Board Chair

NOT PRESENT  
Ollie Garrett  
Board Member

  
Board Member  
Russ Hauge

Minutes prepared by: Cindy Doughty, Administrative Assistant to the Board

**LCB Mission** - Promote public safety and trust through fair administration and enforcement of liquor, tobacco and marijuana laws.

Complete meeting packets are available online: [http://lcb.wa.gov/boardmeetings/board\\_meetings](http://lcb.wa.gov/boardmeetings/board_meetings)  
For questions about agendas or meeting materials you may email [cindy.doughty@lcb.wa.gov](mailto:cindy.doughty@lcb.wa.gov) or call 360.664.1656

