



## Washington State Liquor and Cannabis Board Meeting

Wednesday, June 21, 2023, 10:00 am

This meeting was held in a hybrid environment

### Meeting Minutes

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#### 1. CALL TO ORDER

*Chair David Postman called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 am on Wednesday, June 21, 2023. Member Ollie Garrett and Member Jim Vollendroff were also present.*

#### 2. GENERAL RULEMAKING

##### **ACTION ITEM 2A– Board Withdrawal of CR 101 for Cloud Storage** **Daniel Jacobs, Policy and Rules Coordinator**

Daniel Jacobs: Thank you, Chair Postman, Members Garrett and Vollendroff. This morning I'm requesting to withdraw the CR101 filed on January 25, 2023, which initiated the rulemaking process regarding amending Washington Administrative Code 314-55-083 and 314-55-087 to allow cannabis licensees to use cloud storage for retaining records that are required to be kept onsite (HANDOUT 2A). When this rulemaking project was initiated, the scope was broadened to examine whether rules should be created or amended to allow all licensees to use cloud storage for keeping required records onsite. After months of thorough review, I'm asking to withdraw the CR101 today because the agencies concluded that formal rulemaking on this topic is not necessary at this time and rather informal guidance will suffice to accomplish these intended goals.

Of the over 39,000 licensees of the Liquor Cannabis Board, there was a survey that was sent out to over 3000 of them. Approximately 100 of each license type or where there are less than 100 licensees of a particular type statewide. The survey was sent to all licensees, and it was sent via e-mail. The survey was open from April 14th to May 8th, and we got over 200 responses. On the cannabis side, we asked how licensees currently maintained their records, and of those who use some kind of electronic storage, the vast majority also keep hard copies on file. And now, while slight majority of the alcohol licensees who responded don't currently use cloud storage, a majority of those who did respond would like some sort of clarifying statement about the permitted use of cloud storage. There's currently nothing in rule or statute that prohibits the use of cloud storage by licensees, and rather than go through formal rulemaking on the topic, the rules team concluded that providing general guidance along with some sort of general principles and advice will accomplish these goals, while also ensuring that

the use of cloud storage by licensees won't become a roadblock or a justification for failure to produce required records.

If approved for withdrawal, the CR101 will be withdrawn immediately, and notification will be provided on our website. Thank you. And I'm happy to answer any questions you might have.

Chair Postman: Thanks, Mr. Jacobs. So is it our intention then to issue the sort of clarifying statement that people have asked for? And what all would that say then?

Daniel Jacobs: Yes, it is. We're still in the process of wordsmithing that but, essentially, we're going to be issuing some informal guidance later this summer. It's not going to be an interpretive statement or exactly a formal policy statement, just because we don't have anything -- we don't have any law or regulation currently on the books on cloud storage. But essentially, the guidance is going to say that if you want to use cloud storage to keep required records, go for it, but, you know, there are risks that come with it, just like however you keep your records. Not to sort of put the cart before the horse, but essentially, we're going to be saying if you use cloud storage for keeping records and something happens to the server, that's going to be treated the same way as any other issue that, you know, if officers come and need to look at these records and you can't produce them, whether it's because your storage locker, you lost the key, or your server is down, it's going to be treated the same way.

Chair Postman: Okay. But showing somebody on the computer would suffice?

Daniel Jacobs: Yes, for showing the records, but a lot of times if LCB officers need to be able to take the records back, that's sort of where we're getting the details on whether you have to put it on a thumb drive, or print out copies of it. That's where we're still sorting out the finer details of it.

**Member Garrett made a motion to withdraw the CR 101 for Cloud Storage. Member Vollendroff seconded. The motion was approved unanimously.**

**ACTION ITEM 2B – Rules Petition Review and Consideration Request to Amend WAC 314-35-075 to Add “Vapor” in front of “Product” to Clarify that it Refers to a ‘Vapor Product’**

**Daniel Jacobs, Policy and Rules Coordinator**

Daniel Jacobs: Good morning, still. This morning, I'm presenting the petition that is mentioned. The agency received a petition for rulemaking from Chris Gerrard on April 26th, and he requested that the word "vapor" be added in front of a particular instance of the word "product" in Washington Administrative Code 314-35-075 (HANDOUT 2B). Mr. Gerard had previously submitted a petition for rulemaking, but that had been denied because he was technically asking to amend a statute, which we can't do. The particular section of WAC 314-35-075 says as follows: that it's a violation to "sell, give, or permit to sell or give a product that contains any amount of any cannabinoid, synthetic cannabinoid, cathinone, or methcathinone unless

otherwise provided by law. And it's that instance of the word product that Mr. Gerard has petitioned that we insert the word "vapor" in front of to clarify that it's talking about a vapor product. The problem is that there is a companion statute which is RCW 70.345.030(4), which also uses the term product and contains an identical prohibition almost word for word that no person can sell or give any product containing any of those other things that I'm not going to repeat again.

The statute was drafted by the Legislature, and as mentioned, we have no authority to change the wording in that statute. So by its own wording, the term "vapor product" is defined in statute. However, just the word "product" isn't. If we were to change our rule to limit this to only vapor products, we might be crossing the line and narrowing the scope of the regulation beyond that, which is limited in statute, and that could be problematic for legal and enforcement reasons where we're interpreting our rule more narrowly than the statutes intended. As such, we're not clear that we have the authority to even do this, and where we're not clear that we have the authority to do this, we err on the side of having to recommend denying the petition. And so, therefore, this morning, I'm recommending that the Board deny Mr. Gerard's petition for rulemaking because his requested change may limit the scope of the regulation beyond that, which is intended by its companion statute. I've attached my analysis as well as the regulations at issue, but I'm also happy to answer any questions.

Chair Postman: I what, what -- if you can, just what is the ill that Mr. Gerard is trying to cure here? What was the original concern?

Daniel Jacobs: So this comes, and this is per his emails, essentially what he says is that this regulation is being used to take non-vapor products that are being sold in vape shops, vapor and tobacco licensees. Examples he gives are cannabis health and beauty aids, commonly known as CHABA, but there are other products that are sold there. And his goal is to say, listen, this a vapor regulation, this should only really be talking about vapor products. And while from a broad view, that's correct, the problem is that the statute itself, that particular section doesn't appear to be limited to vapor products. The Legislature -- at least how we're interpreting it -- if they want to limit it to vapor products, the prohibition would say vapor products containing cannabinoid, cathinones, and the others, but it doesn't. It just says product. And so Mr. Gerard's concerned that this seems impermissibly broad is actually arguably exactly what was intended, that it is meant to be broader than just vapor products.

Chair Postman: Right. Okay.

Daniel Jacobs: And so I guess the next step would be if that Mr. Gerard's sort of request for change, really, this is something the Legislature would have to do. The Legislature would need to amend the companion statute, and if they were to do that, then we would most likely need to amend our companion rule.

Chair Postman: Right, right. Okay. Jim?

Jim Vollendroff: Thank you. Thank you, Daniel. You actually just clarified what my question was going to be. So without weighing in whether this is a good idea or a bad idea, just making sure that Mr. Gerard knows where he needs to go should he decide he wants to pursue this, so thank you for that clarification.

**Member Vollendroff made a motion to deny the request to add “vapor” in front of “product” to clarify that it refers to a vapor product. Member Garrett seconded. The motion was approved unanimously.**

### **3. CANNABIS RELATED RULEMAKING**

#### **ACTION ITEM 3A – Rules Petition Review and Consideration Request to Amend the Social Equity Program Rubric Section #8 Concerning Former Business Operations Kathy Hoffman, PhD, MPA, Research Manager**

Kathy Hoffman: Good morning. Thank you, Chair Postman. Good morning again, Board Member Garrett, and Vollendroff as well. (HANDOUT 3A) This morning, I'm going to present on a rule petition that the agency received on April 26th from Mike Asai of Black Excellence in Cannabis, asking that the Board amend the social equity application scoring rubric #8, and this a quote, "because there's no clear transparency regarding qualifications for formal medical cannabis dispensary owners." And this particular rule is contained in WAC 314-55-570. And so the issue before you today is to consider whether the Board should initiate rulemaking to make that change. Mr. Asai did provide some specific rule language.

So just to compare the current scoring rubric language provides, and I'll just read it verbatim. 'Did you own or operate a medical cannabis dispensary or a collective garden licensed as a business prior to July 1, 2016? So under the current scoring rubric, that's 10 points. Or did you own and operate a medical cannabis dispensary or collective garden license as a business in a DIA (disproportionately impacted area)? And that would have been 30 points. So Mr. Asai would like to see the language changed to say, “Did you own or was a governing member of a corporation known as a medical cannabis dispensary known as a collective garden in a brick and mortar prior to July 1, 2016?”.

So just going through the rule petition response, I did provide a rule background for you. I think we're all familiar with that history, but just to abbreviate it, we did file a CR101 in November of 2022 on this, moved forward with rulemaking to file a CR102 -- so that's a rule proposal -- in April of 2022. On August 3, we provided an amended proposal or a supplemental proposal we withdrew and refiled. And then on October 13th, the Board adopted final rules on this and they became effective November 12th. Sorry, that recitation was a little bumpy there. So the rules haven't been in place for a year yet. And also, we have applications that are being scored against that rubric right now, just to give you some additional background. So with respect to impacts on divisions and, again, going through the recommendation document, we don't see that there would be any impacts on the divisions with respect to this rule change for the request.

So moving on to our recommendation for this particular petition. On May 1st of this year, Governor Inslee signed Engrossed Second Substitute Bill 5080 concerning various provisions of the Social Equity in Cannabis program into law. In our existing rules, the ones that we've been referring to here will need to be amended or repealed, and new rules will need to be created to implement that legislation. So agency staff are currently in the process of reviewing that bill and strategically planning the significant work that will be related to it, including rule development that the bill will require. At the same time, we're also observing the social equity application process as currently described in rule. Agency staff will rely on those observations including whether the social equity scoring rubric should be amended to inform future rule development once the current round of social equity application review is complete. This can then be combined with the rulemaking requirements of the bill to provide a more robust, comprehensive, and complete collection of rule revisions.

So we really will be looking at rules in upcoming rulemaking that we anticipate commencing probably towards the end of July, early August. So for these reasons, we recommend that the Board deny the petition at this time to amend element 8 of the current social equity scoring rubric.

**Member Garrett made a motion to deny the petition that would have amended the social equity rubric. Member Vollendroff seconded. The motion was approved unanimously.**

**ACTION ITEM 3B – Board Approval of CR 101 for Engrossed Second Substitute Senate Bill (E2SSB) 5367 Concerning the Regulation of Products Containing THC  
Cassidy West, Policy and Rules Coordinator**

Cassidy West: Good morning, Chair Postman, and Board Members Garrett, and Vollendroff. I'm here this morning presenting the CR101 on the Implementation of Engrossed Second Substitute Senate Bill 5367 and requesting the Board's approval of this filing (HANDOUT 3C). First, I'd like to provide some background on the legislation. The legal status of THC has been uncertain since the passage of the federal 2018 Farm Bill, and the state's equivalent legislation Engrossed Second Substitute Senate Bill 5276 was enacted in 2019. Although the legislation was intended to create a legal regulatory framework for hemp, it inadvertently created a market for intoxicating products containing synthetic THC derived from hemp, like delta-8. In 2021, the LCB initiated legislation as House Bill 1668 and its companion Senate Bill 5047, entitled Expanding regulatory authority over cannabinoids that may be impairing and providing for enhanced product safety and consumer information disclosure about marijuana products.

Among other things, the proposed legislation amended the definition of THC, prohibited certain cannabinoid products and expanded LCB's regulatory authority over products that may be impairing. Although the legislation was not successful, the agency introduced House Bill 1612 and Senate Bill 5367 in 2023, which was ultimately enacted in April as Engrossed Second Substitute Senate Bill 5367, Chapter 365, Laws of 2023 concerning the regulation of products containing THC. This act will be effective on July 23, 2023. If approved for filing today, there will

be a public comment period until August 7, 2023, and we would tentatively have rules and the CR102 filed on or after October 25th. A public hearing at the beginning of December and assuming things proceed as planned, we would have the CR101 to be filed in January 2024, with the rules becoming effective on February 3, 2024. So based on this, I ask for your approval to file the CR101 today. Thank you, and I'm happy to answer any questions.

**Member Vollendroff made a motion to approve the CR 101 for Engrossed Second Substitute Bill 5367. Member Garrett seconded. The motion was approved unanimously.**

#### **4. GENERAL PUBLIC COMMENT**

*Chair Postman invited citizens to address the Board regarding any issues related to LCB business.*

Sami Saad: Yeah, this one reflect what we are going through, and this is all over the city. Black people being forced out of Washington Cannabis in Seattle. I been having two shops being forced out, and a lot of people they determine we are not buying from those shops anymore. So you guys [indistinct] the Legislature. Second, a lot of people from our people that are not voting democrat anymore. They are voting Republican. And even if they're Republican, they be [indistinct] and they help them. Mr. David, we have something now. This is about the Social Equity Program, and for those pioneer they being forced out. You voted against. Is that correct? That the social -- the one for the cannabis for those pioneer, you guys make this Legislation of those HB 2070, and you guys lied to us and disrespected us. You guys say this is for the pioneer -- the black pioneer being left out. I am the first shop in Seattle ever and with database from the state, from the city. I been left out. Uncle Ike's, Have a Heart, go do their background, all of them. I need everybody to go without me saying show their background, another shop, another shop, all white.

I'm not against white, but it's not fair. You have people that came from you guys. They came in Highland Community College. I was trying to ask a question. We had a video. They don't want to answer for me. They run away from me, and one of them she is sitting in the room. That is very disrespect for us. And there is a video there. And another thing, too, I been -- no disrespect for you, mister, this is about us. We lost money, and we lost shops. I'm a general contractor. That's why you see me like this, and that's why you see my boot. That's how I feed my family when I have my shops open. You can go to my -- the data. I was working for Westward Fishing Company. That's the money I feed my family, and I was working as a longshore in Alaska. I don't feed my family from cannabis, but I was helping the community. You guys damaging the community, damaging my community. I'm Sudanese-American. I'm Muslim and been calling my name Mr. Abdullah, you need to withdraw your application. My name is Sami Abdullah Saad.

What I know in United States they call you by your first name and last name. It's very sad for me when we be disrespected and not being acknowledged and being that way. And a lot of time I came here for two, three years, leaving public comment. You never, Mr. David, put that

comment, but everybody else they can. I don't have nobody to represent me other than us, those pioneers, and you guys know us being left out. And Libby, the first lady, black lady, you know, being -- her license has been suspended, and she never even opened a shop. She just have a hope. You guys take her hope away. Me, too. You guys damaging me, damaging my community. I have kids that go to school. We have hope to open a school for them, and we pay. I'm not promoting for this one. If I open my shop, the first one, and I was working in Alaska the same year, the next year and the year after. What that mean?

I'm not better than anyone. I'm Muslim. I don't want that money for my family. I own enough. I'm originally from Sudan. We have enough, enough to mislead those black people. The same misleading for the war in Sudan. It's not between two general, it's between one, and the rapid force if fighting everyone. That's what you guys fighting us. Ollie Garrett is not for us. I don't want to harassment on my application. I need investigation by the FBI, by the CI -- anybody who is investigative by the court system on my application there. I heard something from the background, and I have a thing I can hear I buy from the internet. That's the thing that can understand. That's how we record stuff. But I -- everything I release it online one day. Thank you.

Christopher King: Great, great, great. I want to touch on some disrespectful things first. Sami got out of line just now, but let's back that up a bit just as I did with Margaret Belcher last week, when I told the story about that black woman I represented in Columbus when they wouldn't give her Title 20 monies, and the county messed with her endlessly, and she could no longer continue to be a daycare provider. Now we went through some rejudgment. We beat that on the racial claims in 1981 and 1983. Did that. And in any event, empirically, this Board and the LCB has been unfair to Sami Saad. On information, I believe he may be the first operation of his kind. And, you know, we asked more than a year ago for all the records -- his records, application records with LCB. We know that a federal judge lied and said that he didn't apply for a retail license. That's false. I have part of his file. And we asked you guys for that file more than a year ago, and I don't think we've still gotten it -- we still received it. Okay? That's disrespectful. Ab initio, a priori. So when you get to him being upset with you now, I kind of feel the brother. All right? Just saying.

So now, granted, you guys have just given out a flurry of document responses to me as you do like you should just send them like months later, so I got to weed through them, weed through them. Ha, ha, ha, but weed through them. But the thing is, I don't think that the responses are in there, and so it's been quite a while, guys. So yeah, he has a right to be upset. Now, as far as transparency goes, which was the subject of that which was presented by Mike Asai, you know, he says a lot of good things, but there's nothing that we haven't said as the original and pure founders of Black Excellence in Cannabis. Okay? Aaron Barfield -- we've been saying that along that there is no transparency and there are problems. Okay? But we turn now to the problem in Denver. Okay? You guys are hiring this guy, Bill Lukela, William N. Lukela.

I found an op-ed piece by Sarah Woodson, black woman in Westward. This story ran, and she's saying that, you know what is taking place is an exploitation of the arrest criteria by millionaires

who are currently operating and heavily resourced. They're saying, and the headline says that Colorado's social equity marijuana rules serve big business. That's what I've been telling you all along. You know, I've never wavered from that, you know? I don't need to be obsequious to you when I step to the microphone, like other certain black people are saying, "Oh, I know the Board's moving in the right direction," and all that touchy-feely crap. I'm not down with that. I'm down with the facts. All right? And this guy, there are questions.

What made you -- okay, look, the delivery thing that they had, the exclusive to social equity companies, was a fail because almost nobody uses it. All right? And that's something you guys thought about here, what I call the driving Miss Daisy. You know? The driving Miss Daisy solution. Y'all black folks can shuttle the weed around for the white man. Yeah, sure. You know? And meanwhile, you look at the pioneers like Sami and Kevin and those guys were doing good things in the communities. They never had any problems, unlike your Kaleafas. You managed to find a way to get Kaleafa more licenses when your own lawyers said the stuff they were doing would turn your hair white, when they lied to the US trustee. It's a fact that the records are up on PACER. So what is it about this guy? Okay? And not to mention, they're not corrupt like the people over there in Purple Haze in Everett, paying under the table and all that stuff and not paying taxes. So what is it, guys, that compels you to hire Bill Lukela? I have read the stories where Ollie Garrett said, "we welcome him," and "we're excited." What is it about him that excites you? And why does he qualify for this position? Could someone answer that, please? The three of you are right there.

## 5. ADJOURN

Chair Postman adjourned the meeting at 10:36 am.

Minutes approved this 23rd day of April 2025



Jim Vollendroff  
Board Chair



Ollie Garrett  
Board Member



Peter Holmes  
Board Member

Minutes Prepared by: Deborah Soper, Administrative Assistant to the Board

<b>LCB Mission</b> - Promote public safety, public health, and trust through fair administration, education, and enforcement of liquor, cannabis, tobacco, and vapor laws.
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