Washington State
Liquor and Cannabis Board

Washington State Liquor and Cannabis Board Meeting

Wednesday, January 31, 2024, 10:00 am
This meeting was held in a hybrid environment

Meeting Minutes

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, January 31, 2024. Member Ollie Garrett and Member Jim Vollendroff were also present.

Chair Postman: Good morning, everybody. We will convene the Washington State Liquor and Cannabis Board meeting for Wednesday, January 31, 2024. Good morning, everybody. Quick question, Dustin. How many people are online?

Dustin Dickson: Right now, we have about 120.

Chair Postman: Okay. So I asked for this reason, as a reminder to everybody who is in the room and to those who haven't joined us before, in the room the microphones are very sensitive. They will pick up side conversations, rustling paper, anything of that sort, and it's really hard for people who are listening online then. So just be mindful of that if you have a side conversation, to step out in the lobby.

One other bit of business, we are going to add one item to the agenda, which is going to be further discussion about the Seattle club visits, and we will add that as a new #6, which will be our last item before the general public comment. We have a lot of people signed up for public comment. If you're in the room, you can still sign up.

2. APPROVAL OF MEETING MINUTES

Member Garrett made a motion to approve the January 23, 2024, Board Caucus minutes. Chair Postman seconded. The motion was approved.

3. SOCIAL EQUITY PROGRAM UPDATE

Becky Smith, Licensing and Regulation Director; Linda Thompson, Cannabis Manager; Aaron Washington, Social Equity Program Manager; Kelly Hancock, Social Equity Program Specialist; Cassidy West, Policy and Rules Manager; Kaitlin Bamba, Senior Policy and Education Manager

Becky Smith: Good morning, Chair Postman, Board Members Vollendroff, and Garrett. My team and I are here today to provide you with an update on the Cannabis and Social Equity Program. I would like to remind everyone that this program was intended to create pathways for those individuals most disproportionately harmed by the war on drugs. The goal is to create a pathway for these applicants to potentially gain a retail license.

Currently we are in the middle of issuing licenses -- I'm very pleased to say -- for the first round of retail while also working to improve and expand the Social Equity Program with the passing of Senate Bill 5080. LCB continues to seek ways to improve the program, and I wanted to share a few of those measures with you today.

We just finished a three-part series of “lessons learned” with the agency. We had participation, again, I’m happy to say from all of the divisions. We are implementing meaningful ways to receive community feedback, improving education and outreach to ensure equitable access to the agency.

I'm also happy and excited for our Social Equity unit to share with you what those things are and the ways that we are working. We are going to be speaking about the rulemaking project, changes to the disproportionately impacted areas (DIA) -- to the map as required by law. And these are just a few of the areas that we are actively working on. The team that will be providing the updates for the program, of course, everyone knows they are dedicated. They are amazing individuals. They are hardworking, and they are extremely talented. And with that, I would like to introduce Linda Thompson, our Cannabis Manager.

Linda Thompson: Good morning, Chair Postman, and Board Members Garrett, and Vollendroff. Today, I will be providing an update on the statuses of the current Social Equity applicants going through the licensing process (PRESENTATION 1). In addition, I will be sharing information regarding the submission of social equity plans available for all cannabis licensees enacted under Senate Bill 5080.

I will be sharing two graphs on the next two slides that will provide status updates on key application process steps and how many of the applicants have completed it. This will include an update on Social Equity applicants and Social Equity applicants who are Title Certificate holders. The first graph highlights the 40 Social Equity applicants. While there were 46 allotments there, three counties had no applicants: Garfield, San Juan, and Skamania. In addition, while Klickitat County had four allotments available, only two applicants applied. The remaining allotments will transfer over to the next social equity application round. As of today, 39 of the 40 applicants have completed their initial interview. The last remaining interview is scheduled tentatively for this Friday. The interview is an opportunity to connect applicants with their licensing specialists, share resources, and gain relevant knowledge regarding the applicants proposed business plans.

So far 18 applicants have submitted documents, 16 were partial document submissions, and two submitted all required documents. A total of five applicants found a location, which is indicated in gray on the graph above. Two applicants who secured a location have also completed the application process, and their cannabis retail licenses have been issued. They are in Ferry and Snohomish County. Three applicants secured locations for their retail storefronts and are processing in King, Franklin, and Grant County. [next slide]

This next graph outlines the same information, but for Social Equity applicants that were Title Certificate holders. While all have completed their initial interviews, only one has completed the other three key steps which led to license issuance. The one Social Equity Title Certificate holder has been issued their cannabis retail license, and that was located in Clark County. [next slide]

The Social Equity team and Senior Licensing Specialists have been in continuous contact with Social Equity applicants. Through these conversations, applicants have shared barriers they are running into, which appear to be consistent throughout. The two most common barriers are finding and securing a location. Applicants cannot find a compliant location due to distance requirements from restricted entities or added zoning requirements within their jurisdiction. If a compliant location is found, often it is in an area that would potentially not get as much business, or landlords are unwilling to lease to a cannabis business. And if they will, the rent is inflated due to it being a cannabis business. The limited compliant locations most likely do not help with insuring reasonable rent. Another is startup capital to assist with lease deposits, equipment, build out, and additional revenue needed until the business becomes profitable. Applicants are unable to get loans to start their business.

Some financial institutions are willing to accept deposits, however, loans have not generally been considered for cannabis businesses. Being it's a new business venture, securing private investors can also be problematic and there is an assumed higher risk. So, measures we are taking to assist -- we will continue our outreach to local authorities. Initially, letters were sent to cities and counties that had open retail cannabis store allotments through the Social Equity in Cannabis programs. These letters provided more information on the Social Equity Program, retail allotments, and encouraged that they reach out to us with questions or more information on the program. We will be reaching out again soon to see what information we can provide to allow cannabis retailers in their jurisdiction.

In addition, Senior Licensing Specialists will continue to reach out to applicants to assist with any licensing questions and check proposed locations for compliance. The Social Equity team will continue their monthly check in with applicants to answer questions, try to assist by reaching out to local authorities, providing resources, and connecting applicants to direct contacts at partnering agencies as well as providing monthly updates on the program. Licensing will continually be available to work directly with local authorities to help applicants in moving forward. One example of this is we recently met with a representative from King County, who provided a contact for Social Equity applicants to assist in determining available and viable locations. [next slide]

There was legislation recently passed that encourages licensees to submit a social equity plan outlining measures that it will take to promote social equity in their community. After submitting a completed plan, the licensee can receive a one-time license fee reimbursement for a licensed entity. The Social Equity team in collaboration with other divisions have developed a procedure and a Social Equity Operating Plan template for licensees to utilize. The Social Equity Operating Plan application will be available on the Social Equity Page starting tomorrow, February 1st. Additional information can be found on the LCB Social Equity Page at lcb.wa.gov and click on SOCIAL EQUITY. An e-mail address has been created for licensees to submit any questions regarding this process and to submit the completed operating plan.
Now I'm going to pass this over to Mr. Aaron Washington who will give an additional update. [next slide]

Aaron Washington: Thank you, Linda. Good Wednesday to you, Chair Postman, Members Vollendroff and Garrett. I'm Aaron Washington, Program Manager for the Social Equity in Cannabis Program. I'm providing an update for prospective applicants who will be applying for the Social Equity Program under Senate Bill 5080. In progress, the Social Equity Program is growing and has added two Program Specialists to the team. Josephine Waddington and Kelly Hancock have been a great addition to the effort of promoting social equity. [next slide]

The team has focused on community outreach efforts and are excited to announce a new Social Equity blog. These brief reads will explore the ins and outs of the program and provide an opportunity to learn more about LCB's work for social equity. The blog is currently accessible on the Social Equity page of the LCB website. I will defer to Kelly Hancock for more information.

Kelly Hancock: Thank you, Aaron. Good morning, Chair Postman, Members Vollendroff, and Garrett. As Aaron mentioned, my name is Kelly Hancock, and I am a Program Specialist for the Social Equity Program. Our team is excited to share the new Social Equity blog. As part of our outreach methods to improve communication efforts with the public, these blog posts will explore detailed review of the program and provide an opportunity to learn more about the LCB's social equity work. With the blog, our intentions are to provide the public with frequent program updates, elaborate on program developments, invite public engagement by notifying them directly on how they can get involved as the opportunity arises, and to increase accessibility to program information.

The blog is currently live, as Aaron mentioned, and a link shared here on the screen is accessible on the Social Equity Page of the LCB website. There you can find our first post that dives into general information about rulemaking for Senate Bill 5080 and how the community can get involved through public comment. You will hear more about this from Cassidy West later in the presentation. I will now turn it back to Aaron for further updates about the program. Thank you.

Mr. Washington: Thank you, Kelly. Our work with the Communications Unit to update the current Social Equity page on the LCB website will allow enhanced communication with the public. [next slide]

The team has continued to complete monthly check-ins with applicants who are working through the licensing process. And as Linda Thompson detailed, Social Equity applicants continue to experience the difficulty of securing locations due to local restrictions, challenges with real estate access, and securing startup capital for their business needs. The team has been reviewing other states' social equity programs to inform and add to our efforts to assist those most impacted by the war on drugs. We have partnered with the Office of Minority and Women's Business Enterprises, also referred to as OMWBE, to learn more about its state certification program. Certification is helpful for applicants to meet one of the criteria for the definition of a Social Equity applicant. The program also allows access to the linked deposit loan program. However, most financial institutions, the OMWBE and LCB have searched and are aware of have not loaned funds for cannabis-related businesses due to restrictions by federal regulations.

The LCB continues to work in partnership with the Department of Commerce, while legislation has tasked the department with the role of granting funds. Representatives of their agency have shared an update with the LCB. The Department of Commerce received over 20 bids from businesses interested in the request for proposal for the Cannabis Social Equity Technical Assistance and Grant Program. Those bids are currently being reviewed. Once the Department has awarded the contract, their representatives will share the next steps with the public.
In preparation for the next round of applications, the LCB has conducted internal "lessons learned" sessions to identify where the program has seen success and opportunities for improvement. While the pathway to House Bill 2870 had challenges and successes, the LCB continues to work towards reducing barriers to entry to the cannabis market for those most adversely impacted by the enforcement of cannabis-related laws in the State of Washington.

I would like to move on to some of the requirements that we are to meet. While the LCB is in the process of issuing the first round of retail licenses under the previous House Bill 2870, the new Senate Bill 5080 requires key changes for the LCB to meet the following tasks. The LCB is to issue up to 52 new retail licenses and 10 producer and 100 processor licenses as well. We are to expand the disproportionately impacted area maps as defined and required in Senate Bill 5080. Kaitlin Bamba, our Senior Policy and Education Manager, will speak to those changes which are near completion. As Linda Thompson mentioned, we are to allow a one-time reimbursement of renewal fees for only one license with the submission of the licensee's social equity plan, and the LCB is to establish a threshold for the number of new retail processor and producer licenses that can be allotted in each county to implement SB 5080. I will now defer to Cassidy West, the LCB's Policy and Rules Manager, for updates about the rulemaking process. Thank you.

Cassidy West: Thank you and good morning, Chair Postman, Board Members Vollendroff, and Garrett, LCB staff, and members of the public. My name is Cassidy West, and I am the Policy and Rules Manager for the LCB and will be taking the lead on drafting the rules for the Social

Equity rulemaking. I also commonly referred to it as the 5080 rulemaking so you might hear me go back and forth on that.

To ensure the Board and members of the public know what to expect in the rulemaking, today I will briefly discuss the scope of the project that includes a status update, an update on the tentative rule development timeline, and ways for interested parties to participate in the rulemaking process and help shape the development of the rules. In addition, I will finish with some resources that may be helpful to provide stakeholders about rulemaking activities, how the rulemaking process works, and then ways to engage in the rulemaking process. [next slide]

On November 8, 2023, the CR 101 was filed, which initiates the rulemaking process. The CR 101 announces that the LCB is planning to write rules and invites the public to participate in the rulemaking. Rulemaking is needed to modify the existing rules to implement the 2023 Legislation, Aaron mentioned some of those points that will be drafting rules to implement. Modifications to these rules may include adding rules, repealing rules, and updating existing rules. LCB's authority is somewhat limited to what we can do in rulemaking. [next slide]

Before I go ahead and dive into the tentative timeline and current status, I want to just briefly back up and review the rule process. As I just mentioned, the CR 101 was filed which begins the first phase of the rulemaking. Next steps will be holding stakeholder engagement to develop draft proposed rules, and then the Board will be asked to approve those draft rules. If approved, that will start the second phase of the rulemaking process where will be another opportunity for the public to comment on the draft proposed rule language. After that comment period is finished, we will then request Board approval to file the draft proposed rules for adoption. If the Board approves this, then we will move forward with the rules becoming adopted and then becoming effective. The timeline for that is 31 days after they are filed with the Code Reviser. [next slide]

We are currently in the informal comment period for this round of stakeholder engagement, where we are accepting written comments. Feel free -- there are a lot of different ways that you can engage with us, and we have resources on our website, I will finish up the presentation with that information. The informal public comment period closes on the 29th at 11:59 pm. And so moving forward, we will be holding some additional stakeholder engagement sessions that will be a little bit more collaborative and interactive, and then that will be used to inform the draft proposed rules, which we are hoping to request the Board to approve in May. We will then hold the public hearing and get stakeholder engagement and then file the CR 103 in June or in July, assuming that all goes well. And then finally, the rules will become effective sometime at the end of August or early September. Again, we are limited by certain filing dates based on the Code Reviser filing, so that is why there are no real specifics here and dates can change. Feel free to reach out if you have questions about that. [next slide]

Next, a few points on the different opportunities that stakeholders have to engage. We will have the “outreach sessions” during this first round of stakeholder engagement. There are also opportunities throughout the entire process for the public to submit written comments and then

also to testify at hearings. You can stay up-to-date with upcoming outreach opportunities as well as the rulemaking activity by signing up for updates by the Rules team. Comments can be submitted to the LCB Rules team at our e-mail, rules@lcb.wa.gov, or you can reach out to me directly. And then finally, I will be working with Licensing to ensure that the Social Equity blog is updated with all rulemaking activity and any additional resources are being developed so that people can understand more about ways to engage and the information that we would like to get from the public. Thank you.

Kaitlin Bamba: Good morning, Chair Postman, Members Garrett, and Vollendroff. My name is Kaitlin Bamba. I am the Senior Policy and Education Manager in the Licensing Division, here to provide you with an update on disproportionately impacted areas, which I will refer to as DIAs moving forward. DIAs are an important piece of the Social Equity program because they are one of the four minimum requirements that may qualify an applicant for the program. That requirement being that an applicant lived in the DIA in Washington for a minimum of five years between 1980 and 2010. Last legislative session, the criteria changed for what qualifies as a DIA. The change was a result of community feedback. These changes will apply to the additional licenses added to the program and do not impact the applications that are currently in process.

The new criteria define DIAs as census tracts in Washington, where community members were more likely to be impacted by the war on drugs. These areas must be in the top 15% on two of the following indicators: the area must have a high rate of people living under the federal poverty level, a high rate of people who did not graduate from high school, unemployment, and/or a high rate of people receiving public assistance. The LCB has contracted with a third party to pull and analyze the data, and another to display the data in maps. We are now at a point where we would like to share the maps and seek feedback from the community. The layout and functionality of the maps is very similar to the previous maps. I would like to go through the maps with you sharing each decade and highlighting some of the changes. [next slide]

On the screen here you will see the comparison map for 2010. The new map is on the left-hand of the screen. The DIAs are in purple, and on the right is the original map where the DIAs are in orange. There are 244 census tracts that now qualify as a DIA, compared to 139 from the original maps. According to the Census Bureau, census tracts have an optimal size of 4000 people. So, by adding 105 census tracts increases the number of people that may be eligible. [next slide]

On the screen here is the map displayed for 2000. For 2000, there are now 216 census tracts that now qualify, compared to 153 in the original maps. This would be an increase of 63 census tracts. [next slide]

Next on the screen here is the map for 1990. For 1990, there are now 182 census tracts that qualify. The original maps displayed 100 census tracts, which is an increase of 82 census tracts. [next slide]

1980 is now displayed on the screen. In 1980, there are now 123 census tracts that qualified. The original maps identified 134 census tracts. The 1980 maps are the one decade where there is a decrease, although the decrease was minimal of 11 census tracts. I do want to point out that these are static images for this presentation. However, when we do share these on our website, the maps will be interactive, so folks can actually go in and zoom into specific areas, and you will be able to see more clearly in the populated areas the growth and the changes. [next slide]

In addition to the maps I just shared, we will also be posting an address lookup map where a user can enter their address to see if it is in a DIA. I have an example on the screen here. This map covers all decades, so it is a little bit easier to navigate. Once an address is entered, results will populate, and you can see if or when the address was in a DIA. A reminder when using this map to enter the address slowly. The addresses will populate. You will need to actually select an address. You cannot enter in a specific area like “King County”. The map won't work like that. So, it is just important to put in an address, and we will have instructions on our website for that. [next slide]

Now that we have gathered the data and have a visual of the DIA maps, the LCB would like to seek feedback from the community to see if their additional indicators should be used in determining these areas. It is important that those who applied for the program last year as well as others who may be interested in the future program, review the maps and check their addresses. There are more census tracts that meet the new criteria. However, there are census tracts that were DIAs in the original maps that are no longer considered DIAs. The LCB does not have the authority to remove any of the indicators outlined in the law. Those indicators are very specific in the law that we must use in determining DIAs. However, the LCB may have authority to add additional demographic indicators to best define areas most impacted by the war on drugs.

All feedback will be considered, and any changes to the definition will be incorporated in rulemaking. We are requesting that feedback be sent directly to the e-mail on the screen here, which can also be found on our website, by February 29th. With that, I am happy to answer any questions.

Chair Postman: Thank you for that. Appreciate it. So, I was trying to do the math, but I won't. Do you have even a general sense of how many more people in those additional census tracts might be eligible under 5080?

Kaitlin Bamba: Oh, an optimal size is around 4000 people, and that can vary.

Chair Postman: Okay.

Kaitlin Bamba: So if we are thinking like going back to 2010, there was -- around 420,000 people I would say for 2010.

Chair Postman: Okay. So we have the new program that is going to broaden the eligibility. Luckily, we also have more licenses that can be issued. It's 52 retail?

Kaitlin Bamba: Correct

Chair Postman: Versus 40 plus the producer processor?

Kaitlin Bamba: Yes.

Chair Postman: And I know no one wants to give hard dates, but if we -- so on the rulemaking deadline, which is the one that really is the most formal and we can't rush or extend too much, what Cassidy West was telling us was sort of the ideal if the Board doesn't want to make substantive changes after the CR 102. And so, anyhow, if that all happens like this, Becky, when might applications open?

Becky Smith: Thank you. So, please keep in mind that we have to do a new RFP for a third-party vendor, and that will at least take another six months. So we don't want to initiate looking for a vendor because we are required by law because of the money involved, right? So we can't just use the same person or the same vendor that we did the last time, so we will put it out for request for a vendor and that won't happen until we are almost done with the rules because we need to make sure that we are in a good place so they know what they are bidding for.

Chair Postman: Because the rules are going to determine specific eligibility and what that third party vendor might have to do to vet those applications, right?

Becky Smith: Correct. Let’s say we have the 90-days there are no changes in the rules at all. And so after those 90 days, then we will have to add at least another six months for the time it will take for that RFP to happen, for us to start looking at the contracts, and for us to get in contract with someone else. So we are looking at probably, if I had to guess, maybe December if not January 2025.

Chair Postman: Member Garrett, please go ahead.

Member Garrett: Thank you. I have a question for Aaron on talking about the grant. You mentioned granting funds from Commerce. That is geared toward technical assistance for the people who are getting in, not for running and starting the business. Is that correct?

Aaron Washington: My understanding is that it is for technical assistance as far as grants specific to business needs. Commerce still has to outline how that may or may not look, so I couldn't answer to that on behalf of Commerce, but I know that that has been a discussion topic that we have had with Commerce as something to try to consider. It is certainly a wish list, but nothing that can be put in stone at this time. Again, the grant is for technical assistance at this time. We don't know if it will be grants for business needs.

Member Garrett: Thank you. And I just want to say as being part of the team working on this and the internal LCB representative with the social equity -- as I've said to you guys in the last couple of meetings, compared to when I walked into the agency six or seven years ago and to see where the team is today, your dedication, your commitment, your eagerness to get this program going, listening to the community, and trying to put together a great program. I am just really pleased with where we are today. Seeing our outreach to the community, listening to the voices and trying to incorporate everything that we can within law to make this program accessible for social equity applicants. I also want to express, in doing this that there is more licensing to come under 5080, and there are going to be new licenses.

We are not tone deaf to the challenges. We know that even opening up new licenses and expanding accommodations for more to get in based on the new DIA, those challenges are still going to be there, such as access to capital and finding a location. So, we are excited with where we are today, but we do fully understand there are still challenges for people coming in at this time and the need for access to capital and being able to find location. So, I just want to thank the Social Equity team and let you know I really see what we are doing on the internal inside of LCB to make this a really good program. We are just as disheartened by the challenges as the folks who are coming in are. But thank you, all.

Aaron Washington: Thank you.

Chair Postman: Thank you. Member Vollendroff?

Member Vollendroff: I'm going to take advantage of the fact that Board Member Garrett had a question for you because I had a question for you as well. And, I just also want to take a moment and acknowledge Board Member Garrett for her work and leadership in this particular area. As a Board member, it's been just gratifying to see you in that role and to see where the program is now from the time that I joined. It has been incredible. So, thank you for that.

Aaron, I'm also grateful to see your team expand, and I think it is a demonstration of the commitment of the State of Washington and the LCB to do this work well. And so I had a question, though, about the makeup of your staff as I saw their titles this morning, and I was just wondering if you could explain to me the difference in the roles of a Program Manager versus a Case Manager in the work that your team does.

Mr. Washington: The Program Manager is to see the vision of the Social Equity Program.

Member Vollendroff: I'm sorry -- Program specialist. It is the Program Specialists versus Case Managers.

Mr. Washington: Oh, okay. Thank you. The Program Specialists, we have them as part of the team for a specific task. For instance, Kelly Hancock is working with keeping us in balance with organizing us and our program and tracking where we are at, where we need to go, compliance

with the rules that are in place. Josephine Waddington, she has been added on for the social equity community outreach, and she has created a strong plan and, in fact, included the blog, and Kelly was very active with that just the same, in order for us to communicate to the public as part of our expansion of the program and our infrastructure. And then of course with the Case Manager, Sarah Davis, she is checking in with those applicants who are currently under 2870, and most of her tasks will be around 2870 as well. But again, as we continue to grow, our infrastructure gets stronger, we will probably reorganize from time to time as appropriate, but for now, we are leaving it as status quo, and it seems to be helping us fairly well.

Chair Postman: Any other questions from the Board? Seeing none, thank you, all. We appreciate it a lot. I second everything that people said about the work you're doing, and the work Member Garrett's doing and just remind the public here that there is still an opportunity to participate. There is lots of public input that you heard from different parts of this. So go to the website and stay in touch. Follow the blog on the maps, which are live. Are they live now?

Kaitlin Bamba: Soon.

Chair Postman: Sometime very soon. They are up there so people can go and try them. Put your address in them, search for things, and then give us some feedback on that, too, because we do have time here through the 29th. We get an extra day this month to look at that. We just really want people to take advantage of the opportunities for public comment. Okay. Thank you for that really detailed update.

4. ALCOHOL RELATED RULEMAKING

ACTION ITEM (A)

ACTION ITEM 4A – Board Adoption of CR 103 Regarding Substitute Senate Bill 5448 / MAST 13 Permits
Daniel Jacobs, Policy and Rules Coordinator

Mr. Jacobs: Good morning, Chair Postman, Board Members Vollendroff, and Garrett, LCB staff and members of the public. This morning I'm requesting approval of the CR 103 for the Combined Substitute Senate Bill 5448 regarding alcohol delivery and takeout, and MAST 13 rulemaking (HANDOUT 4A). If adopted today, the rule language will be filed immediately, and these rule changes will be in effect March 2nd.

For some brief background, 5448 extended some of the privileges and allowances created during the COVID-19 pandemic for liquor licensees, making others a permanent part of law and rescinding some. The CR 101 was filed in July, and two stakeholder engagement sessions were held in October after draft rule language was circulated. We received some comments on the draft rule language from the Washington Wine Institute, and those comments were repeated

both in advance of and during the public hearing held January 17th. No other comments have been received before, during, or since the public hearing.

The MAST 13 rule project was initiated after the Board accepted a petition to make a different pandemic allowance a permanent part of rule. MAST 13 permit holders are currently allowed to pour beer and wine at the customer's table, and during the pandemic, the LCB issued an allowance to let these permit holders open and pour away from the table. After the allowance expired in September 2022, a petition for rulemaking was submitted to make this permanent. The Board accepted this petition in January 2023. Following the conclusion of the 2023 Legislative Session and passage of Substitute Senate Bill 5448, these two rule projects were combined. I have repeatedly talked about the proposed rule changes and the five broad categories of rule changes, and I'm happy to discuss those if asked. But, otherwise and again, I have discussed those before my presentation of the 102 on December 6th and before the public hearing on January 17th.

Instead, I'm going to focus on the changes that we have made to the rule language initially proposed on December 6th and the rule language to be filed today. The outdoor service rules currently say that “any food service requirement that exists for licensees indoors applies outdoors”, meaning if you're required by rule or statute to serve food on your premises, and you have an outdoor service area, you have to serve that food in the outdoor service area. In response to stakeholder feedback, we have reworded this requirement to state it as an if/then conditional. So, if you're required to serve food, then you are required to serve that food outside as well as inside.

Additionally, there are some changes made in the proposed CR 102 about catered events that we are not going to move forward with. We initially added catered events to the list of situations where you have to have a physical barrier and as "always required" as opposed to "sometimes", a fence-free demarcation. We are not moving forward with that primarily because the outdoor service rules revisions aren't meant as a rehaul of the content. They are meant as minor tweaks to streamline these two rules into one. In that same line of thought, we haven't adopted all of the stakeholders' suggestions about revisions to the outdoor service rules. Again, the outdoor service part of this project was never meant about changing the content of the outdoor service rules. Any discussion of changes to the outdoor service rules in terms of the content of those requirements can be done as part of a separate rulemaking, and there are plenty of avenues to do that informally as well as formally by filing a rulemaking petition.

Lastly, some of the margins of the new table in WAC 314-03-600 were adjusted, and some labeling of the table was changed so that it can be made clear which access of each table is being referred to.

Therefore, I am requesting approval of the CR 103 on the 5448 and MAST 13 consolidated rulemaking. Thank you. I'm happy to answer any questions.

Chair Postman: Thank you, Mr. Jacobs. Any questions on this rule package from the Board? Seeing none, I don't have any either. Thanks for all your work on it. I know it was a lot to try to sort into one package. I do agree about the move to keep it as narrow as you have, and that said, that shouldn't be read as an objection to this Board looking at those other pieces that have come up. And I think you know there was some interest on the Board to look at that, so that could come again at another time.

With that, we will move this one if there is a motion to adopt the CR 103 to implement Senate Bill 5448 and the MAST 13 permits.

Member Garrett moved to adopt the CR 103 to implement Senate Bill 5448 and the MAST 13 permits. Member Vollendroff seconded. The motion was approved unanimously.

5. CANNABIS RELATED RULEMAKING

ACTION ITEMS (A-B)

ACTION ITEM 5A – Rules Petition Review and Consideration: Requesting rules to make heavy metal testing required for cannabis
Denise Laflamme, Policy and Rules Coordinator

Denise Laflamme: Good morning, Chair Postman, Board Members Garrett, and Vollendroff, LCB staff, and members of the public. This morning, I am going to present a rule petition for Board action (HANDOUT 5A). As I will explain, the Director's Office is recommending accepting the petition for rulemaking because we believe we have the authority to do what is being asked without legislative direction.

On December 8th, James MacRae submitted a petition for rulemaking requesting to create a new rule to mandate heavy metal testing of cannabis as part of existing quality assurance and quality control testing. Under WAC 314-55-102, heavy metal screening is required only for DOH-compliant cannabis products as described in Department of Health Chapter 246-70 WAC. Heavy metal screening is optional for non-Department of Health-compliant product. However, the heavy metal limits included in WAC 314-55-102 apply to all products.

LCB may conduct random or investigative driven heavy metal screening for compliance. The petitioner asserts that heavy metals have been identified in regulated cannabis tests in Washington. Heavy metals testing results are submitted to LCB's Cannabis Central Reporting System, the CCRS. Since 2021, two samples reported to the CCRS system have exceeded metal screening levels for DOH-compliant products and both were for lead.

I would like to highlight a couple of things about metals exceedances in the CCRS system. Less than 1% of total cannabis samples submitted to CCRS were tested for heavy metals during 2022 and 2023. Metals testing results appear to be under-reported to the CCRS based on the

expected number of DOH-compliant products. Other states report having more exceedances for metals, which could be related to better reporting of testing results or lower screening levels. Currently, at least 13 states include requirements for metals testing of adult-use cannabis. Cannabis plants are known to be good at taking up metals from the soil in which they are grown. Metals have been shown to accumulate into cannabis leaves and flower. As is pointed out in the petition, since there are areas in Washington with elevated levels of metals and soil associated with historical use of certain pesticides, industrial emissions, and prior use of leaded gas, we don't know at this time how many producers might be growing crops on, or using soil contaminated with metals.

As you are probably aware, metals can be harmful to people if ingested or inhaled. A recent study using data from the CDC found that marijuana users had higher levels of cadmium and lead in their blood and urine compared to people who didn't use marijuana or tobacco, suggesting that marijuana could be a source of metals exposures. Since heavy metals testing is only required for medically compliant products, which are regulated by the Washington State Department of Health, our team consulted with the Department of Health to develop the petition response. The Department of Health has provided support for accepting this petition. Both DOH and LCB have seen a decrease in the number of DOH-compliant medical cannabis products available to patients. Because of this, patients may be relying more on non-DOH-compliant products. Medical cannabis patients may be at higher risk of harmful effects from exposure to metals due to their health conditions and/or frequency of use.

Requiring metals testing of all cannabis products would have the following benefits: It would put all licensees on a level playing field for metals testing. It would provide protection for all consumers, and the LCB would see more testing results submitted to CCRS for identifying any problems. Metals testing adds about $100 to the base, $200 to the base I-502 testing panel, which is about two $250. So, the metals testing adds about $100. Currently, two laboratories are certified to test for metals. Laboratories that are unable to conduct metals testing are able to refer out or subcontract samples to other laboratories who can test for metals. Heavy metals testing was proposed as part of rulemaking in 2022, which added pesticide testing. Heavy metals were not included at that time for non-medically-compliant cannabis products because of concerns about the cost of the testing.

If the Board accepts this petition, rulemaking wouldn't begin until after completion of two cannabis laboratory-related rulemaking efforts that are underway now. This includes rulemaking being done currently by the Washington State Department of Agriculture around laboratory quality standards, and also rulemaking currently being done by Ecology as part of drafting rules for laboratory accreditation. That rulemaking may be transferred to the Washington State Department of Agriculture if House Bill 2151 passes during this Legislative Session.

We have received two comments on this petition. One was in support of accepting the petition, and the other comment was a follow up e-mail from the petitioner on January 16th asking that the rulemaking be done as an emergency rule. Emergency rulemaking would not be appropriate as we would not be required to hold public hearings or conduct analysis. Emergency rules are

temporary and expire within 120 days of filing, and emergency rules may only be used under specific circumstances.

Based on the information provided here, the Director's Office recommends that the Board accept the petition for rulemaking to mandate heavy metals testing of cannabis under WAC 314-55-102 as part of quality control analysis. Thank you. And I'm happy to answer any questions.

Is there a motion to approve the recommendation to accept the petition on heavy metal testing?

Member Vollendroff: Yes, this is Jim. And I also just want to make a quick comment that I agree with the decision not to make an emergency rulemaking process. I think that having input is important on this. That said, I do move that we accept the petition to make heavy metal testing required for cannabis.

Member Vollendroff moved to accept the rules petition that to make heavy metal testing required for cannabis. Member Garrett seconded. The motion was approved unanimously.

ACTION ITEM 5B – Rules Petition Review and Consideration: Requesting to amend WAC 314-55-075 and WAC 314-55-083 to remove the 20-foot barrier and loosen surveillance requirements
Jeff Kildahl, Policy and Rules Coordinator

Mr. Kildahl: Good morning, Chair Postman, and Board Members Garrett, and Vollendroff, the LCB staff, and members of the public. Thank you for the opportunity to present the agency's response and recommendation regarding a petition for adoption, amendment, or repeal of the state administrative rule (HANDOUT 5B).

This petition was received from Ezra Eickmeyer on behalf of Producers Northwest on December 15, 2023, and requests the Board consider initiating rulemaking to amend WAC 314-55-075(1)(b) and WAC 314-55-083 subsections (2) and (3) to change rules related to the barrier separating licensed premises between adjacent outdoor grows and surveillance systems.

For some background, the current rules 314-55-075 require a 20-foot buffer to be between licensed premises of outdoor grow operations and with the physical barrier that must be at least 8 feet high. Sharing common walls and fences is prohibited.

WAC 314-55-083 outlines the video surveillance systems requirements for cannabis licensees. The changes requested to WAC 314-55-075 by Mr. Eickmeyer would affect physical buffer and barrier requirements between multiple adjacent outdoor cannabis grows if owned by the same licensee. Under the requested rule changes submitted with the petition, a licensee who owned multiple producer licenses would be allowed to locate their licensed outdoor grows together, sharing a common fence line without a 20-foot barrier between them and removing the physical barrier requirement, which would allow for a physical barrier. This arrangement would only allow

the multiple grows to share the outer fence with only visual barriers inside the fence to separate licensed premises and canopy areas. The changes requested to 314-55-083 would allow licensees that own multiple licenses to share alarm and surveillance systems.

Here, it should be noted that current rules do not prevent licensed producers from using a shared alarm system regardless of whether the production occurs indoors or outdoors. It should also be noted that a component of the petitioner's request regarding the use of cloud storage for surveillance video is also not prevented by current rules and that the Board filed a CR 101 in January 2023 to explore possible rulemaking, which was later withdrawn since it was determined that issuing guidance would be more appropriate.

In analyzing the merits of this request, rule changes that would provide exemptions to a limited number of licensees who own multiple producer licenses would act to aid consolidation of a limited number of large cannabis protection facilities making large premises even larger and could contribute to the risk and regulation inconsistency, possible increases in diversion or product inversion, and would give operational advantages to those growers owning more than one single license.

Also, if this petition requests were granted, it would likely have disproportionate negative impacts on social equity licensees, contrary to the goals of the Social Equity Program. The requested rule change would only benefit licensees that now own more than one outdoor production facility on adjacent premises and would make it more difficult for smaller producers and new producers. We recognize the importance of reducing undue barriers for licensees; however, if this petitioner's requests were granted, this would be a major policy shift.

In conclusion, for the reasons described above, the Director's Office staff recommend that consistent with RCW 34.O5.330(1)(b) the Board deny Ezra Eickmeyer's petition for amending of rules submitted on December 15, 2023. Thank you, and I can answer any questions that you have.

Chair Postman: Thank you. Questions from the Board?

Member Vollendroff: I just have one quick question, Jeff, about the number of producers that we are talking about. I'm just curious. How many people would this impact if we did in fact move forward with it?

Mr. Kildahl: Thank you for the question. From my understanding and consulting with Licensing and Enforcement, we would only be talking about approximately 20 licensees who have multiple licenses who have production facilities that are in close proximity to each other. And I'm not sure if that's an exact number, but it's somewhere in that neighborhood. It's not that many compared to the rest of the population.

Chair Postman: I'm not sure -- why do we think it would make it more difficult for smaller operators? They would have no change. What this would do would allow larger operators, I

guess, to save some money if they didn't have to do it all -- is that what we mean by the advantage there?

Mr. Kildahl: Yes. In our analysis, we realized that by consolidating the fencing and screening requirements, there could be a savings realized there as sort of an economy of scale. And in looking at this, too, this would in effect at its logical limit could permit a canopy area of 90,000 square feet to be inside of one fenced area, and I think that is much more than what was contemplated by the rules originally, which was I think 30,000 square feet. So, this would allow for two acres approximately of canopy in one production facility, which would be like creating a Tier 4 grower, which we don't have now, and I can see that consolidating operations without the internal barriers in the facility would allow them to share resources and probably operate at a greater profit than smaller producers.

Chair Postman: Okay. But we do have tiers anyhow, so we have much larger processors and smaller processors. And is our deadline for action on this petition today?

Mr. Kildahl: Yes, it is. Due to the Board meeting calendar and the requirements of the APA, this is the last day that we can present.

Chair Postman: I will say I'm fine with the recommendation to deny this, but I do think this issue needs to be looked at by us. I think this question of two fences, things like that, we need to start looking at where we can make some commonsense changes that might have been much more important to us ten years ago when we all had no idea how hard we might have to fight the federal government on it. We have learned some since then. We know where those things are, right? So anyhow, I would just, I guess, ask staff that even if this petition is not accepted today that we start looking at some of these potential changes. I don't want to create more of an unfair advantage for anybody, so we need to keep that in mind as well. But we need to look at what could we just say. Okay, thank you, Mr. Kildahl. And with that, then I will accept a motion to take the staff recommendation to deny the petition that would have amended WAC 314-55-075 and WAC 314-55-08.

Member Garrett: This is Ollie, and I move that we take the recommendation to deny the petition. But I agree with you, David, that this opens up to have more discussions around it.

Member Garrett moved to deny the petition to amend WAC 314-55-075 and WAC 314-55-083. Member Vollendroff seconded. The motion was approved unanimously.

At 11:00am Chair Postman announced the Board would stand at ease.

At 11:04am Chair Postman brought the meeting back to order.

6. AMENDED AGENDA ITEM – SEATTLE CLUB VISITS

Chair Postman: I am joined by our Enforcement and Education Director, Chandra Wax, as well as our Agency Director Will Lukela. Director Wax will give us an update, and then the Board will have an opportunity to ask some questions. Then we will open up to the public's comment on all matters. Just want to say again -- we talked about this yesterday as well -- I think all the Board members as well as leadership at the LCB have heard from a lot of people. Almost all of that has been really interesting, helpful in a lot of ways, heartfelt, and I certainly appreciate it. I've had some really good conversations with some people and really focused on some important questions that we have to ask.

Director Lukela and I were talking right before the meeting, this is a regulation. Yesterday I called it a law. It's a regulation that most of us here haven't had to deal with. The new people here, it would be anybody on this Board --the three of us -- and our Director and our Deputy Director and our Enforcement Director all came after the last time this sort of was an issue. And so it's good that it is forcing us to have these kinds of conversations to -- spoiler alert, I don't have an answer at this point -- I don't know what it really is, but I'm glad we are having this conversation, and we look forward to hearing from more of the public today. But first, let's hear from our Enforcement and Education Director.

Chandra Wax: Good morning, Board Members and Board Chair, staff, and members of the public. I'm here to provide a brief summary of the checks conducted in Seattle on Friday and Saturday night. While I understand there is a painful history between police and LGBTQ+ community, the LCB does not target LGBTQ+ establishments or venues and does not specifically target lewd conduct violations.

Here are the facts from this weekend. On Friday, January 26, 2024, two LCB officers participated in site visits with the Joint Enforcement Team (JET). JET is made up of Seattle Fire, Police, Code, Transportation, and Finance partners with the purpose of working together to enhance public and community safety and compliance. JET, along with our two LCB officers, visited 10 locations, including sports venues, food vendors, hookah lounges, and two known LGBTQ+ venues.

There were violations observed at seven of the 10 locations. The violations included permit violations, liquor violations, safety violations, youth access violations, and lewd conduct violations. Two of the 10 locations were LGBTQ+ locations. One was visited as a follow up to a complaint made to the Seattle Police Department about lack of security and sexual conduct on the premise. The other was to follow up on over service violations witnessed at the location two weeks prior. While at these two locations our officers observed lewd conduct violations and informed the manager on site. LCB did not issue any violations, although there are referrals, warnings, and AVNs under consideration for the seven violations observed that evening. One of the locations was closed on the spot for safety violations.

On Saturday, January 27, 2024, two LCB officers conducted premise checks and followed up on complaint investigations in the Seattle area. We conducted checks at eight locations. Three of the locations visited were part of a complaint investigation, and the others were premise checks

as part of the regular course of our officer's duties. Two of these locations are known LGBTQ+ venues. One of these locations was visited because there was an event happening. There were observed lewd conduct violations at one of those locations. LCB did not issue any violations that evening, but it is currently under review as per standard practice. The Washington Administrative Code (WAC) addressing lewd conduct, is WAC 314-11-050. It is the rule in the state of Washington that states employees at licensed locations are not allowed to be unclothed and identifies parts of the body that must be covered. It also defines behavior liquor licensees cannot allow or encourage patrons to participate in, typically, sexual conduct.

Our officers are responsible for the licensees in the areas they are assigned to. We prioritize public safety and encourage officers to visit locations that are well attended and serve alcohol, and as a result have a higher risk for youth access, over service, and other public safety violations. While these are our priorities, we address violations in licensed locations across the state. In recent history from 2021 to date, the LCB has formally addressed 10 occurrences of lewd conduct violations at nine separate locations. Seven of those incidents were addressed with an administrative violation, two with verbal warnings, and one with a written warning. Four of those nine locations are at LGBTQ+ venues. I have spent some time recently meeting with members of our LGBTQ+ community both inside and outside of the LCB and will continue to do so. Our staff receives regular training in diversity and equity, and we are committed to serving our licensees of marginalized communities respectfully. I'm open to and look forward to continued conversations and available for questions.

Chair Postman: Thank you. Are there questions for the Director from the Board?

Member Vollendroff: So, Director Wax, thank you for that update. And, David, thank you for your introductory comments. I have been the recipient of a lot of questions since this occurred, and so without going through all of them, there have been a couple that rose to the occasion where I do have questions. I have questions around the investigations -- I hope we -- I get the sense that we are going to investigate this further, and the question that I have right now is around complaints. So, one of these visits was as the result of a complaint, and Director Wax, I received an e-mail that indicated that we receive anonymous complaints, and when we receive anonymous complaints that we follow up. I have concerns about that, particularly as it applies to the LGBTQ community, and just wondering could somebody, theoretically, who had an axe to grind with an agency or the LGBTQ community, specifically, anonymously complain and cause us to show up in the manner in which we did?

Ms. Wax: Thank you for your question, Board Member Vollendroff, and I would like to say that I'm willing to meet with you and community members that you're getting questions from to help provide clarity anytime. I'm going to answer your question generally and then very specifically about this past weekend. Generally, the LCB does allow citizens to ask to remain anonymous when they are making complaints, and that is because we want to allow any complaints to come in to be investigated without people being concerned about their safety, or being retaliated against, across the state of Washington. This weekend, however, the two locations that were

visited on Friday night, specifically, were added to the JET list. Neither of those complaints were anonymous complaints.

One was a complaint made about conduct that was observed, and the other wasn't a complaint -- it was a follow up. Our officers were on site on January 7th, I believe. It may have been January 6th, but our officers were on site at the beginning of January and observed patrons leaving the location with liquor in hand, and one patron was intoxicated to the point that they fell and needed to be helped up to leave the establishment. So, the establishment had been educated about over-service, and we were returning this weekend to follow up on that observation. We would call it an “internal complaint” because it was something our officers observed. So, neither of those were anonymous complaints. And we do allow anonymous complaints, yes.

Member Vollendroff: Okay. Well, I sent you an e-mail earlier asking for some time on your calendar, so I really appreciate that, and I will take you up on that offer to meet.

Then, just a couple of comments, and I don't even know if they are questions as much. I do have questions about the Joint Enforcement Team. And I've looked at the website -- and I'm trying to understand it a little bit more -- and I'm not making any comments about their value, the work that they do, but I want to understand more about our participation. How did that participation come about?

The final question or comment that I have has to do with what I call the “smell test”, and just for me, personally, the fact that we visited a concentrated number when you look at the total number of LGBTQ+ bars in the Seattle area and that we visited the number that we did, I have to question that. It just seems like is it -- I mean, is it coincidence? I hope it's coincidence, and maybe it's a matter of these things coming together, but I do have questions about the concentration over that period of time in this situation.

Chandra Wax: I’ll respond to both of those. The JET question you have -- I have also spoken with a couple of members of our LGBTQ community who have asked the same question, and I am open to and look forward to reviewing our participation in that team and making sure that it's something that is still viable for the work we are doing in that community. We do have many partnerships across the state with different groups that focus on different activities and criminal violations, and that is important to our mission partnering with our community and with other law enforcement and community groups as well.

And then as far as the smell test goes, Sir, I appreciate that, and I think that we should always look at the work we are doing and make sure that we are conducting ourselves according to our missions and policies. We ask our officers to focus on locations that are highly attended, hosting events, that have a history of safety violations or have the potential of safety violations because they are high-risk and serving alcohol and have a lot of people there, or because there have been complaints. So, I trust that they are doing that responsibly, and we verify.

Member Vollendroff: Thank you. Just one final question, Chair Postman, and I promise I will stop, and that is I want to repeat something that I said yesterday, and it's the historical context of the events and taking that into consideration, and I think that we have seen significant response from the community. I want to thank the community for that and also want to offer that I am happy to meet with any member of the community directly who wants to meet with a Board member and talk about their concerns. I just wanted to put that out there and offer that as an option.

Chair Postman: Thank you. One quick clarification, Director Wax. You mentioned that on Friday night one club was closed on the spot for safety violations. Not one of the LGBTQ clubs, correct?

Chandra Wax: No, Sir, and it was not the LCB that closed it. It was related to fire safety.

Chair Postman: Right. That was a hookah lounge. Okay. Thank you. I wanted to be clear about that.

On the JET, I think this might be one of the things that Member Vollendroff is getting at, and it was mentioned yesterday, too. You know, I think one of the questions about it is if you're in one of these clubs and then you are part of a marginalized community that doesn't always have the greatest relationship with law enforcement and others, and it's late night on a Friday night, and a group of guys and people -- I don't know what they were -- came in. In our case, it was men -- some in uniform, some probably just looking like cops, but they are not. That has an impact, too, and I think it is worth talking about in terms of, what is the value add to our part of the business to join JET, you know?

And I was reading the statements from Mayor Harrell and his office yesterday. They very cordially said, "Any questions about Liquor questions, go to the LCB. We will defer to them." Even though one of these clubs appeared on that list from something they had produced, so I get why we would be there and why they would like us to be there. And I just think it's one of these things. This has raised a lot of questions about things we just haven't really dug in on, with this Board at least. We could look and see whether that is a value add for us. And it's different. I'm glad you mentioned that. We partner with a lot of law enforcement agencies. And in some cases, that is when there is a raid. These were not raids. When we have a raid, we get warrants. We have law enforcement armed and uniformed law enforcement with us often, all those things. This is not what that was.

Member Vollendroff: Right.

Chair Postman: And I think looking at our participation and relationship to JET is separate from what we have to do in terms of our regular law enforcement duties. There is just something worth thinking about the impact about the way it looks and what we -- because our values -- what we are trying to do is enforce liquor laws, so we don't really need Code Enforcement, Finance, SDOT. You know what I mean? Thoughts?

Chandra Wax: I would say, yes, let's talk about it. I would say that they are entering our licensee establishments and looking to us for the subject matter expertise there. Similar to when law enforcement will call us because they are going into an unlicensed cannabis location, and they think it may be connected to a licensee. So, because we have the authority over that area, they are asking us to partner with them on that.

Chair Postman: Right. Member Vollendroff.

Member Vollendroff: So by definition, these were not raids. They clearly were not raids. I agree with you 100%. I do want to point out the power differential that we have compared to our licensees and the appearance of, I don't know, 8-10, whatever number of people showing up at an entity at anytime, I think it's really difficult for us to not take into consideration what the appearance is by people who were there, whether it's the licensee or the patrons of that particular place. It probably felt like a raid, and I'm hearing from the community that it felt like a raid, and I don't want to discount that feeling that they experienced in any way, but just recognizing that power differential, so, we have got to consider that.

Chair Postman: Absolutely. And I don't take away from that either. I know how it would look, and I've heard how it would look, so I didn't mean it to suggest that.

Chandra Wax: And I would just like to say, as I said initially, that we are committed to serving all of our licensees, including those from marginalized communities, respectfully. And if there is a conversation we need to have about how to do that, then we are open to that conversation.

Chair Postman: And we do. This is -- we have been in a process for a couple of years here of rethinking what enforcement means, particularly on the cannabis side, too. You know, do we wear uniforms, don't wear uniforms. All these things -- we are aware of that power differential, and we take it into consideration. And I think what we are saying is let's just do that right here. Let's figure -- you know -- that's part of the way this needs to be looked at and help people out.

One of the questions that I was asked by somebody -- and we talked a little bit about it at the Board meeting yesterday -- but really is one of the ones that sticks in my head, which is the state's interest in the lewd conduct regulation, which this agency adopted long before any of us got here and has popped up every once in a while, that regulates behavior in clubs licensed for alcohol. There are other laws around the state having to do with nudity and sexual activity and all those other things, so is this is in our wheelhouse. So, then the question is, What is our interest there?

Also, as you may know, we have had some fairly in-depth public conversations about strip clubs and whether they should have alcohol. It engages this same regulation of lewd conduct. So, I just struggle with sort of the state's interest a little bit, you know, and I don't know whether -- is it we go back and look at original intent? Because if we do, one thing I would say is, whatever the original intent of something that even though we adopted this in 2001 -- I learned today that it

actually brought forward something that was even older than that. Something that has an impact on LGBTQ+ people that came from decades ago likely was not done in the most open-minded way at the time. You know what I mean? And I don't expect you to have to answer to whatever is the state's interest, but I just want you -- that's one of the things I'm wrestling with. Where do we draw the line?

Chandra Wax: As you know, we have had lots of conversations about that internally as of late, and I've had a lot of conversations with people in the room about that as well. I think it's important for us to navigate forward with all of that in mind. I've already had conversations with Director Nordhorn about potentially engaging this rule in rulemaking. And just to start, I have been able to look at data. It looks to me like potentially we have a place where our rule is different than the accepted culture in one of our marginalized communities, and I think that it's important that we have that conversation and take a look at it.

Chair Postman: And where's the level-setting there? And you know, if you look at that statute -- that regulation -- I apologize for misstating it again, if we look at that rule, there are some parts there that you think might be common sense. For instance, of course, you don't want some sexual activity, then there are other areas that get into a dress code, and you think, I don't know? Because, you know, in some cities, Seattle and Olympia, somewhat, we are looking at those local laws yesterday, you could walk to a bar in Seattle, probably wearing a G-string but not go in the bar. You know what I mean?

Member Vollendroff: Yes. I was just going to say I'm kind of going where you are, David. I think that this is not just about one marginalized community. You can go to the Solstice Parade and see individuals riding nude on their bicycles in a parade with thousands of people, including children, and yet, you're right, if they stop that bicycle and try to go into one of our establishments, boom, it would be a lewd conduct violation. There is something seriously wrong with that, and we have an obligation, I think, to address that.

Chair Postman: And I want to ask Director Lukela his thoughts and a question because one of the things you have been blessed with is having to deal with this debate over the strip club liquor licenses. But there is a bill in the Legislature that does consider how to allow alcohol service in a club that has nudity, contact of some sort, those things. Is there an opportunity, and maybe even now in this session, to engage with legislators and lay this issue on to that and say, is there something we could do which would be a different license type that would allow this without problem or a rewriting of our regulation that would fit the Legislature's view of what they want for strip clubs and what we could now argue we think other communities might want. Does that make sense?

Will Lukela: Yes, it makes sense. I mean, I think that we are open to any conversations, and I think we are starting to have these conversations with some legislators. The team is doing a great job right now looking at the rule and potential impacts and making sure that whatever we choose to do benefits all of the citizens of Washington and the licensees. And so you know, I'm

still really interested in hearing the community feedback because I think it's going to help inform where we go in this process.

Chair Postman: I also just think it's somewhat of a political opportunity, if you will, and that this discussion in the legislature about strip clubs has gone on and off since 2019, I think, maybe in 2018. The bill has never really gotten through the whole game, but now there are other interests here too and that it has opened -- sort of shed light on these rules and the laws that govern these, and we have been on the record saying we are not opposed to alcohol in strip clubs if the Legislature makes that public policy decision. We would implement it and have no qualms about that. And so given that, maybe it is. Member Garrett?

Member Garrett: I was just going to say I really -- I love the conversation we are having and the thoughts that we are going through, but I would just love to hear from the public right now.

Chair Postman: We will, but I thought it was important to let staff talk about this issue as well. It's taking a lot of time and people, and people are looking at it very seriously, and I appreciate that. So, with that we will move to general public comment.

7. GENERAL PUBLIC COMMENT

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

Jarel Sanders: Yes. Like I said, my name is Jarel Sanders. I am very excited to be here today, although, we, as the LGBTQ community, are really frustrated as to why we are here today. I'm really excited that we get to work with you guys on a plan and a path moving forward.

Let me introduce myself. I am the current Board Chair for -- Co-Chair for -- Equal Rights Washington. We are the advocacy organization that was really important in making marriage equality happen in Washington state through a referendum, which is now federally recognized. We love that. And we continue to have a lobbying presence here in Olympia through our legislative session. Just want to try a little bit of context as to why this is a particularly hurtful and impactful incident that happened over the weekend to our community. I first want to bring up how unsafe it is for so many people still today to be out, to be themselves, to be queer amongst their families, and when you -- as the LCB comes or the JET team comes with law enforcement and things are put under investigation, there is a great fear about what that could mean, especially for people that aren't out and come to bars as a safe space to be amongst community before they have the capacity to be out in other spaces.

Obviously, there is a long history that I don't have a lot of time for, but like institutional, like, looking for people to remove them from office, to remove them from their jobs, and many places in the country it is still you can't put a picture of your partner up, and you could get fired that same day. Like, that is still happening. Thankfully not here. But Seattle is a very transient city. There are a lot of people coming here and maybe exploring this for the first time, and we want to

protect those people and make sure that they have some -- bars tend to be some of the only spaces that we have left to gather in an openly queer space like this. And particularly in a place like Seattle, after what's happened with the Seattle police over the past couple of years, there is a lot of distrust that hasn't fully been reconciled. Equal Rights Washington was also part of the Police Accountability Board that the Governor's Office put up, and so we were part of those beginning conversations and were part of the lobbying efforts to make sure those happened, too. And so those tensions can be really, really hard for folks.

Obviously, as things happen through the Legislature, we are openly lobbying for the bills, as you mentioned. And if, for whatever reason, they don't pass this session, we would love for opportunities to partner and come back together to figure out how we can make sure that these laws and regulations that are policing this kind of behavior change so it is not as much of an issue in the future and people can still feel safe. Also, we are really willing to work with your Enforcement team to work on culturally appropriate ways to enter into queer spaces. Please reach out to us especially during session. We have presence in Olympia here every day. For my day job, I am here often, and I'm really excited for the partnership and how we can move forward in the future.

Paul Bryce: Hello. My name is Paul Bryce, retailer in the cannabis industry three years. Talked with a lot of you guys over the last three years. I'm actually an advising member for the Social Equity Task Force. We have been helping write some of this legislation. I am up here mainly just to speak of what I have seen from this program and where it's at. Granted, I love that it is starting, and it is going, but even seeing slides where you see help for minorities or women, we knew the chant was for black or brown most harmed. We see the verbiage out there. But even going out in the field, talking to a lot of the licensee winners and whatnot. Only met about 12 of them, but, I mean, it seems pretty much six black or brown, six white. You know, I don't know if we met the target or intent that we were hoping to reach just going forward knowing 5080 is rolling out. Definitely would love to still participate.

I have been doing this cannabis thing since my first double felony charge back in 1997. Never stopped with cannabis and know the whole producer processor side, know the whole retail. Do wish that there was something that can be recognizable there for black pioneers in this industry or people who had collectives or whatnot that. Even me applying -- and I missed the whole Social Equity and didn't get a license through it. In some other way through [indistinct] bond, and I am in the program. But you know that's not right. Either way, definitely hope to contribute a lot of time to have this successful program, and just wanted to introduce myself.

Aherlow Kasjaka: Hello, my name is Arlo Kasjaka. I use they/them pronouns, and I'm here making comments in regard to the incidents, which I would define as raids as the felt sense of my community of what happened at the Cuff Complex and the Seattle Eagle this weekend.

I would like to first comment regarding to the nature of the incidents that happened. The standard procedures were not followed. The Joint Enforcement Team skipped the step of contacting owners of these establishments to discuss complaints before inspections were

conducted, and this points to an inequitable treatment of those establishments and at the very least resulting in inequitable impacts of both those business owners and the people who were in those spaces at that time and the lasting impacts that it is now having broadly with these incidents being well known within our community.

Second, I want to make clear that -- I noticed that the Board makes clear that no citations were actually issued in these incidents. However, I just want to make clear as a member of the LGBTQ community and of the trans community that those impacts are very real to our community and are also not new to our community. We experience these types of things every single day, and every single one is harmful and has a lasting impact and ultimately can result in less queer folks seeking these types of business opportunities as business owners, which is a detriment further financially to our community. It is also harmful to those who depend on these spaces as safe spaces to be ourselves, as was mentioned by a previous commenter. And so I want to make clear as a member of this community that this isn't just something that we can slough off as something that, “well, we didn't actually issue a citation”. The impact is very real whether or not there was a citation issued or not. And so I'm going to skip to my questions for the Board that I hope that you can answer as my departing point to leave space for others.

My first question is, does the Board condone the actions of the joint -- of the JET in regard to the actions taken on these two LGBTQ establishments, as we have discussed today? And if you don't condone these actions, what are you doing, and what will you do to prevent these actions from happening again in the future? Second, can you explain why the attire that was witnessed in these two LGBTQ establishments was a danger to public safety? And if you cannot explain why this was a danger to public safety, what process will you follow to evaluate and change the procedures followed in the future and advocate for changes in the laws and policies that are discriminatory to LGBTQ+ businesses and individuals? And lastly, how will you report on the status of you moving towards taking actions on these things that I'm asking about? And how would you like us to hold you accountable? That's all for me. Thank you.

Chair Postman: I will say also, we generally don't do Q&A during this just because it -- especially with this many people, but I will tell you, Aherlow, if you want to e-mail us, we can specifically get back to you. But we are going to be working on how we make sure we keep everybody up-to-date on all the things you mentioned there. I think you heard some of that earlier, but we will make sure we get that out there to the best of our ability.

Ezra Eickmeyer: How do you do? Ezra Eickmeyer here representing Producers Northwest. We are a group of producer processors in the licensed Cannabis industry.

So, needless to say, we are disappointed in the rejection earlier of our petition for rulemaking, but we very much appreciated some of the comments that were made about the need to review more broadly the rules that are in place that have been in place now for a very long time and that were broadly created during a period where we did not know how the federal government was going to respond, and the industry and LCB alike agreed. You better go overboard with the rules just in case. This is before the Cole Memo came out during the Obama administration, and

what we are looking at and all we are asking for from LCB -- and this is a broader ask not specific to just our petition for a rule change that we submitted, but that we really put some conscious time and energy into going through the rules and looking at those that no longer serve any public safety benefit whatsoever, that don't really have a good public policy argument anymore, but are still costing our industry money.

Our margins are shrinking. Competition is fierce. And our industry is not providing 2% of the state's budget. We are providing a lot for the state, and I have to say as a lobbyist who has represented over 15 industries over the last two decades, this industry is going above and beyond trying to prove itself that it's a good citizen trying to do the right thing on a whole lot of fronts. You know, if we look at the underage youth use problem, it is a problem. Our cannabis is getting in the hands of teenagers. So, what do you see from our industry right now? We are actively lobbying to get money, more money appropriated to underage prevention campaigns to get the teenagers to quit wanting weed. That's going to cost us customers in the future, and we are fine with that. All right? So we are doing our part to be as good of citizens as we can be, but we need some help. We need a little bit of relief where it makes public policy sense to give it.

And I also want to push back against some of the narratives that are out there right now. Most of our industry is pretty much small business. And these narratives that they are about this, like, small businesses versus big businesses. You know, Tier-ones versus tier-threes and all this, to me it is all completely self-destructive for our entire state. Because the fact of the matter is when the federal government moves to reschedule or de-schedule cannabis, because of federal law it will be illegal for us to sit out on interstate commerce. That means that the moment the feds change the laws, we are going to be forced to compete with the entire nation on cannabis sales, and the producer processors from other states are going to flood in trying to take our shelf space. In that scenario, if we look at that from that perspective, we are all about to be in the same storm together, and we better be acting more like we are all on the same page. Smaller businesses, larger businesses, retailers, producer processors, existing industry, Social Equity applicants, we are all about to be in the same storm together.

And just like the Wine industry has achieved, they don't differentiate between the size of their business or winery or whatever. You all worked together to promote sales of Washington wine across the country. We need to start preparing now to be competitive on a national scale, and we need to stop these narratives both from the public, but I think also within the governmental bodies [audio cuts out] except in the business world. Healthy business ecosystem allows for a diversity of sizes and business types.

So, I'm looking forward to working with you all to create a stronger ecosystem for all the business types. Thank you.

Peter Manning: Good morning, Chair Postman, Ollie Garrett, and Vollendroff, and Will Lukela. It is good to see you. My name is Peter Manning. I'm President of Black Excellence in Cannabis. I just have a couple of things I would like to address.

Yesterday, I was told by a lobbyist that I was still stuck in 2016. Well, in 2016, I was telling the LCB that there wasn't enough black and brown inclusion in the Cannabis industry, and that lobbyist is way off because today I can sit up here and say because of the work that I did my myself that I did along with Mike Asai, Damian Mimms, and others, that my sister got a store, a good friend of mine has got a store, my cousin got a store, so the program did work. And I am not in 2016 anymore. I am at a time to where I am celebrating, but there is one problem I have, the lack of accountability when it comes to funding. We have three years -- three. Okay? We knew that this program was coming out. We knew that there were 40 licenses. We knew that the money was approved.

How do we know the money was approved? Because the mentors and facilitators got that money. So the money is accessible. My question is, why is it now those individuals I spoke of and many others, why can't they access those funds? I reached out to the LCB. The LCB says, "Go to the Department of Commerce." I reached out to the Department of Commerce, and they said, "Talk to the LCB." Listen, if we continue to allow to pass the buck back and forth, the white retailers that are currently in the business, it solidifies their positioning better. I just recently learned that the white retailers are going around and slapping up makeshift daycare centers to prevent Social Equity applicants from obtaining space. This is not good. They have stores that are currently up that are not running, and they are making no profit, just taking up space. But no social equity application can be put there because they have that space.

And this was done -- they have had it for two years, so they had the preparation to get in position two years ago because they knew this program was coming. The LCB knew the program was coming and (so did) the Department of Commerce. Where is the money at? Black and brown community, I blame us for this because we are seeing it, too, but we are not doing nothing. We are letting others define our position. We need to define our own position and take a stance and get unified and come together. 2016? They told you and me that this problem that you guys are dealing with now didn't exist. I didn't believe them. I found like-minded brothers here, and we made this happen. The point I want to make is we need the funding. We need this program to get off the ground. Thank you.

Kevin Kauer: Hello. My name is Kevin Kauer. I am the owner of a new LGBTQ nightclub called Massive on Capitol Hill. I live in Seattle, and I am one of the leading organizers voicing this current outcry.

First, I would like to express my gratitude and thanks to the LCB, the fire department, and everyone beyond for working so closely with us and prioritizing helping us to open our business. We are extremely grateful and looking forward to many years of working together. I, however, may be a new business owner, but I have the better part of two decades of experience cultivating this nightlife scene in Seattle, and I have been involved and witness to targeting of queer establishments of the law enforcement before in both aggressive and passive manners. Is the reason the looming uncertainty of enforcement that has us so easily triggered and so ready to stand up? I have spent my entire adult life and career here in Seattle wondering why our

existence is intrinsically illegal or offensive and fearing action against what would be our basic rights.

I'm proud of my community for standing up and organizing swiftly to collectively say that this is not okay, and it's time for a change. In that same light, I was invigorated and truly excited to see such a positive acknowledgment and response from the LCB in yesterday's meetings to know that we were seen, heard, and also feel that the Board agrees it's time for change. And it's a very exciting time I think in Washington history, and I want to thank you so much for opening up this pathway.

I want to say that these actions, while said to be untargeted, it is difficult to feel that they are not. The reason being that it is basically impossible to run an LGBTQ nightlife environment under the adherence of the current WAC. It is also deeply stressing to know how strictly or loosely officers will follow the policy when making their decisions during these visits, seeing as we are such an easy target.

It is for this reason that we call for an update in the modernization to the policy that respects adult human behavior and expression and also that is curated towards the LGBTQ community because our spaces operate differently, and our personal dedication to their safety is paramount. It's our number one goal. And to invade a safe space and deem it offensive is deeply troubling and traumatic. Nightlife is a large industry, and we ask for your extended support.

We also call for respect when visiting. I want to acknowledge that visits typically are conducted with respect, but the visits shining flashlights on people's bodies, taking photographs, and asserting authority will not earn the city and state respect from our community and will also greatly hinder our businesses and customer loyalties. As you mentioned in yesterday's meeting about the uptight reviews of LGBTQ nightclubs, we have taken the blame for everything, and our businesses suffer in turn.

Thank you again for working with us. In finish, I was hoping to ask one question if you could answer. It is our understanding, as we have heard from people and the legislature, that, you, the LCB, has the authority to change the lewd conduct WACs. My question is, why are you telling us that you can't and why? Thank you.

Nico Swenson: Hello. I'm Nico Swenson. I perform as “Miss Texas 1988” in the Seattle drag scene. I tuned in yesterday along with many other hundreds of concerned citizens and was deeply disappointed with your downplaying of the events that occurred over the weekend and of our concerns over the long-standing hyper-policing of people's bodies, personal expression, and safety. I also want to add that I do really encourage you to leave JET. You started your address by claiming that the LCB officers did not raid queer establishments and then went on to talk about a pack of authorities from JET filing into a queer establishment to intimidate and penalize queer people on their attire before then proceeding to take nonconsensual photographs of them.

Your summation that the latter was unfortunate does nothing to remedy, resolve, or prevent such harassment from occurring in the future.

And while you purport to have some knowledge of queer history, I will tell you now how glaringly obvious it is that you don't. In fact, you demonstrate a lack of understanding of not only the history but ongoing impact of queer-phobic authority, and your understanding of what happened over the weekend seemed to operate on the benefit of the doubt for your officers, which, if you truly value public safety, you should never give benefit of the doubt to those who have been maddened by authority and then encouraged to wield it over marginalized communities. I'm glad you're starting to question that. And I will take this moment to say, as I hope everyone in my community is acutely aware, the pointless raids create a substantially more dire threat to our POC and trans community members. This weekend was not an isolated issue but a boiling point. This was not the first attack you have led on queer spaces.

This was not the first time you have harassed and violated the bodies of nightlife workers and patrons isn't only an instance of many that have been going back for hundreds of years. Are you even aware that some of your policies continue to use the word "sodomy," in my opinion, a blatant slur given its origin in religious condemnation of homosexuality and its bleak history throughout the criminalization of queer people. You, yourself seem to believe that these are antiquated laws compelling you to your hyper-authority, but what are you doing about it? Shoving off responsibility over to the legislature is morally egregious, and what is worse is that you use them as an excuse to enact overly harsh punishments for what you, yourself think are outdated offenses. And when you said that you can't simply ignore the laws, I have had personal experience of the opposite.

Just a few months ago, an officer of yours cornered a go-go dancer for too much exposed butt cheek. Not a jockstrap, just too much butt cheek, a policy I have not heard of. So I did my due diligence by calling my local officer for clarification. The response I was met with was. "Oh, that's an old one we haven't enforced for a while and just started to." And then I was directed to a vague area of your policies where I did not find clarification. I'm not sure if this demonstrates that you and your officers are confused about your own policies or if you are simply being hypocrites. Both options are dangerous to the general public. So what are you doing? Because it's certainly not your mission statement that you comedically clarified yesterday. If your goal is public safety, then who did the nipple hurt? Your whole point that exposed male nipple would lead to exposed female nipple is a deeply misogynistic and transphobic tick. Or is it that you think someone will be driven to an uncontrollable sexual frenzy by the sight of a nipple or a butt cheek?

If so, then why would you find and police the potential victim instead of going after actual assailants? You're policing of attire as well as fining of adult entertainers, their patrons, and their employers do nothing to protect them. It only seeks to incite more fear and diminish the authority of people in nightlife that they have over their own bodies. Your priorities are backwards. Instead of offering any safety, you simply extend your own perverted hands over queer bodies and giving yourself photographic evidence of your own disgusting and invasive

practices. Let me conclude by saying that we will impatiently wait for you to collaborate with our legislators to fix your wrongdoings, and I will politely give you a needed history lesson that events such as the Compton's Cafeteria riots, the Black Cat riots, and the Stonewall riots that we when push comes to shove, a group of queers can accomplish a lot more in a pair of heels than any officer can withstand in ugly flats. Thank you.

Terry Hecker: Okay, I want to start by saying hello to the Board members here, Postman, Vollendroff, and Garrett.

Mr. Board Member Postman, yesterday, you said there were certain laws that you couldn't disregard, and yet you sit on a Board that has the word cannabis in it in flagrant disregard of federal law. So if you can disregard federal law, the hypocrisy that you cannot disregard state antiquity -- prohibition era state laws regarding titties and jockstraps -- are the height of hypocrisy. Can you see that? I hope you can.

Also, talking about diversity and equity in cannabis, and then going around, raiding gay bars, and taking pictures without consent of gay men and then posting those pictures as evidence is immoral. It is a state sponsored revenge porn. You're going to get the lives of gay men in danger. You're going to get their jobs in danger. You're going to get their housing in danger. That is unacceptable and needs to stop.

Your agency was raiding and harassing gay bars. Stop this line that they weren't. You went in with guns blazing, ready to write tickets for anything, and then when you didn't find any violations, you went off on jockstraps and titties. That is unacceptable. It's unacceptable to the gay community. It's unacceptable to the community at large. Who okayed this? There's been a lot of passing the buck here, but there hasn't been a specific name. And who okayed these raids with JET? We want to know the person who signed off on raiding the bars on Capitol Hill. And let me also say there's been a lot of talk that only two gay bars were entered. Capitol Hill is a gay neighborhood. It is a historically gay neighborhood. Wherever you go in Capitol Hill, you are going to encounter gay people, the LGBT community, the queer community, so wherever you went, you were harassing gay people.

Whether it was a hot dog stand, whether it was a gay bar, whether it was a hookah bar, you were harassing a marginalized community because it is a historically gay neighborhood. You have instilled fear in the community, and you have instilled anger in the community from the actions that you took. We ask you to disband yourselves from JET because we see those actions as harming the gay community, and we ask you to stop the harassment, and we ask you to disregard these laws about titties and jock straps in gay bars. Clearly you can disregard federal law when it comes to cannabis, so you can disregard state laws when it comes to prohibition ERA laws about titties and jockstraps in gay bars. And stop taking photos of gay men in bars. Stop taking photos of anybody in bars. Without consent is revenge porn. It does harm to the people who you are taking photos of and is without consent, a form of revenge porn. That's it.

Dan Savage: I want to speak really briefly to the national context. More than 500 anti-LGBT bills were introduced in state legislatures last year. Eighty passed, most targeting trans people. In the Dobbs decision, Clarence Thomas signaled with conservative majorities desire to overturn Obergefell. LGBT books are being pulled from school libraries. Proud boys are staging violent protests at drag shows. There was a mass shooting at a gay bar in Colorado in our part of the country a little more than a year ago. So the issue is not just how these visits -- and you have to stop calling them visits -- would impact gay people in our community, queer people in our community. But the message sent to anti-LGBT bigots all across the country, and the message sent was if they are rating gay bars in Seattle, if they are harassing gay men for being shirtless and gay bars in Seattle, we are winning. The bigots are winning, and we need to redouble our efforts.

And these were raids. Stop calling them visits. If everyone in a bar leaves when you show up, 10 of you in uniform with flashlights, they aren't experiencing your presence as a social call. That's not a visit. They are perceiving you as a threat, and they are perceiving your visit as a raid. Shining flashlights at people, waving badges around, sending uniformed officers in, that is a raid. I want to specifically address what happened at the Eagle. As I understand it, an anonymous complaint was filed online of underage drinking. So basically any bigot anywhere in the world can get online and make a false charge, and LCB agents will show up at that bar and harass the gay staff and queer patrons. I want to know what steps the LCB is going to take to ensure that your reporting system can't be weaponized in this way. I think as it stands right now, you've laid out a welcome mat to bigots to basically swat gay bars.

And we do need to talk about the photos taken at the Eagle on Saturday night when LCB agents visited. The LCB has confirmed the existence of photographs and the fact that these photos will be subject to the state's public disclosure laws and released once the investigation ends. That's not a visit. That is a violation. What the LCB is doing here meets the legal definition of revenge pornography if an individual did it. The release of sexually explicit images without the consent of the person in the images when the person releasing them knows or should know the release of that image could "cause harm to the depicted person." That's the legal definition of revenge pornography. We have seen photos before taken by the LCB from more than a decade ago, and they weren't just butts or dick pictures. They were full-body shots that included men's faces, and the people in them were recognizable. And now with the ability to search images, they are going to be instantly identifiable.

So the photos from last weekend, when they become available to anyone who asks to see them, including the person who may have made a malicious report of underage drinking at the Eagle in the first place to get those agents in there, they are going to be able to post them online and identify the men in them. Like Terry said, this is literally state-sponsored revenge pornography, and the LCB agents who took those photos knew the photos would become part of the public record, and they knew taking them could cause harm, or should have known they could cause harm to the depicted persons. Not all men at the Eagle are out in all areas of their lives, jobs, and homes could be lost. You know, that's all I'm going to say. Like the LCB, the Board, the four of you today have the power to end this practice of taking photographs of gay

men and gay bars engaged in this subjective, lewd conduct standard. You talk about licensing establishments that serve a marginalized community. We are a community marginalized because of our sexual expression, and sending LCB agents into our bars to photograph us and then making those photos publicly available is an appalling violation, and it needs to stop.

Graeme Schulman: Hello, my name is Graeme Schulman. For efficiency's sake, I will speak quickly through this testimony. As we all know, members of the LGBTQ community at various 21+ Seattle queer clubs this weekend were cited for lewd conduct, including things such as exposed male nipples, exposed buttocks, and/or wearing jockstraps. The people were publicly humiliated, flashlights were shined on their bodies to see what they were wearing, and pictures were taken of them. Seattle is a city where you see nudity quite frequently, whether it be one of the various new places or beaches in the city, a naked bike ride, or a random person on the street, likely either on drugs or experiencing a mental health crisis, which is not protected nudity in Seattle. You see nudity everywhere. So, my question is why would a place that's designated specifically for people 21+ be the only place where these citations are being handed out? How can we say this is not a targeted practice when it's the only known instance of people receiving fines for this type of behavior?

In yesterday's hearing, we were told the police can't be told whether or not to enforce certain laws that are in our Legislature. As someone who lives at 12th and Pine, exactly diagonal from the East Precinct, who lived through all of CHAZ/CHOP, I can attest that this is false. On an almost daily basis I've seen instances of illegal and disruptive activity just feet from the police station with officers visibly doing nothing about it. During CHOP, I saw numerous instances of illegal activity from my window just outside of an entirely abandoned police station. Do not try to tell us police don't make exceptions or use discretion. In fact, it is written into Washington state law under RCW 23B.08.420 that Washington state officers may use discretion. The Liquor Cannabis Board is a state agency. And the Seattle Police handbook specifically states, "Employees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment. The scope of discussion is proportional to the severity of the crime or public safety issue being addressed."

Now, I'm from Michigan. When I was applying for jobs, soon to graduate from college, I made a list of cities that I would move to. The requirement for every place I was considering was that it had to be a gay friendly place. Seattle was one of roughly 10 cities that made it onto my list of potential living places. Had Seattle not been perceived as gay friendly, I would not live here. There is a clear economic and cultural impact on our city from the LGBTQ community. Seattle Pride, which is an annual event, sees over 300,000 attendees alone. These are the kinds of incidents that incite people to leave our city. We do not want Seattle's reputation to be the place where queer spaces are raided or visited, and queer people are given citations. We do not want to see a mass movement of queer people out and away from our city.

While it seems ridiculous for me to speak to all advocating for our ability to wear a jock strap or show my nipples in a club. I want to emphasize just how ridiculous it is that I have to advocate for this. The laws that are in place are archaic and oppressive, and the police enforcement of

these laws, given the current and historical context, is abhorrent. My hope is for changes that will protect our spaces from incidents such as this in the future. Thank you.

David Busby: Thanks. Number one, shout out to the FOIA team, specifically Missy. There's a file that you guys publish every week. And then I noticed a problem with it this week, and then it got sorted out in 10 minutes, and I appreciate that. And then also the CCRS dumps now you have gone to just dumping out monthly stuff instead of huge, huge, huge volumes of data, so that makes it a little bit easier for those of us who like to crunch the numbers on that stuff, so thanks.

I have a little problem, though, that I need some help with. There is not a consistent way that the Enforcement Division is telling folks how to do the recordkeeping for toll processing. Like, do you move the material over to the toll processor at $0.00, then sell the material back? Are you even selling material because the toll processing isn't really cannabis material being sold, it is services on the cannabis material being sold.

So would that be $0.00 transactions in both directions in CCRS? And then you just send a invoice for the services from your, like, QuickBooks or something like this? Do you sell it for a penny? So these patterns are -- there is not a consistent way to do that. And from the Enforcement Officers, they are also not saying the same thing consistently with how they think it should be entered into the system. Maybe somebody could get some clarity or something on that.

Joey Burgess: Wonderful. Thank you so much. My name is Joey Burgess, and I own Queer Bar and Cuff Complex with my husband and partner. We have kind of been at the center of this whole situation. This has been a historical problem with JET and the LCB for our businesses and other businesses in our community for beyond a decade. While the rules are archaic and need to be changed, you can change something right now about how you enforce them. You can immediately take yourself out of the JET program. There is no good in 10 people, eight people, six people coming into a business at the height of service under the guise of education through enforcement. This was a raid, plain and simple. You scared our community. You scared our staff. Our staff has described their feeling as though they are being investigated for a crime that they have not committed.

The mere presence of the LCB in uniform with uniformed officers and SPD, is a terrible look. And I can tell you, I own Odd Fellows as well. You have never stormed service at 8:00 pm on a Friday night, making the demands that you have at queer spaces. I understand that you were saying that this was not something that was intentional. Out of all of the liquor licenses in the city and all the different business types that are in under the purview of JET and LCB, it seems very, very, very suspect to me that you would choose to visit four queer spaces in one weekend? Shame on you. Period. This is not okay. The math doesn't math, and your excuses don't either.

I ask you to immediately suspend Eric, your LCB officer in charge of enforcement for that evening and retrain them. Move them off this. Do the work. It's your time to do something right,

and I need to be crystal clear that your tactics are based in fear and are homophobic, plain and simple. And it's beyond just gay men. It's the entire queer community that is at risk, with the behaviors and models of enforcement that you are pushing forward under the guise of archaic laws. More than that, Chairman Postman, please hear me. Leave JET. Nothing good comes with 10 people coming into a business to enforce. People came to Cuff for no reason on Friday night when listed on JET's reason to visit limit reason, SPD was the reason that you were there, not LCB. So why is LCB threatening to give us a citation for a nipple? This is insane, and you know it is. You are all very smart people in jobs with a lot of power and authority, and it's your time to show up now, show up quickly, and stop making excuses for the queer community, the nightlife community, and performers. Hard stop.

Christopher King: Terrific. Great. Hi, guys. Listen, I want to commend my LGBTQ friends for what they are doing right now and let me help you guys out with the language. Okay? As a lawyer, I'm going to tell your language is this. And Mr. Vollendroff, you're right, too. You're right to have your concerns there. Okay? The rule is being applied in both an overinclusive and underinclusive and vague manner. Those are three constitutional principles you need to look up. And there is disparate treatment. Now, the disparate treatment that's going on is the same type of disparate treatment when they were unofficially raiding our black people 10-12 years ago and getting them to shut down and run away from their dispensaries. Okay? LCB is known for that. Now, what you need to know is members of the LGBTQ community, I keep up with you all. All right? And I know what you're going through. And we need to work together because we need to realize the LCB is a friend of no one. They are the enemy. All right? They are anti-nigga machine. They are anti-gay machine. They are an anti-humanity machine. And there are lots of studies that have been done with this.

But I work with you all on some things. I'm the dude that exposed the whole thing about Shawn Kemp's Cannabis being false. All right? It was not Shawn Kemp's Cannabis. Who did I expose that with on October 20th or so -- October 24th of 2020. Joey Wieser. Yeah, a member of your community. All right? We understand. We get it. All right. This is solidarity that needs to happen.

Now, let's move on to something else. So all of you who want public comments, you know, you got one from me right there. You guys are still horrible. Now, earlier today there was a comment made for Becky Smith, and she said that this program, the so-called Social Equity Program, was to provide pathways for those disproportionately impacted. Nowhere in that discussion did I hear her say they were supposed to provide pathways for known abusers who already have 5O2 licenses.

But I saw last night in the news on King 5 that they were celebrating Dennis Turner in Arlington, Washington. Well, you all know I lived in Arlington for three years, don't you? And I'm ten years up -- 10 miles up the road from it now. Nothing happens at Arlington without my black ass knowing about it. Let me explain. This dude that's being celebrated -- first off, my condolences for his family. It was horrible years ago. His brother got killed for no fault of his at all. It's ridiculous. So prayers for that. But in Grider versus Quinn -- and this is a case you guys have to know about -- Court of Appeals 3/1/2022, that date, #374335 in Division 3, Dennis Turner,

Christopher Quinn, and Christian Pang basically economically raped a woman so bad that they ended up getting booted from their own company. Okay? They did. And because of that, Alkaloid Cannabis Company is now owned by that woman who they economically raped. All right?

We are talking they wanted her to forward the money and flip the money from the tax and set aside to buy more cannabis. She found the property for them. She took out $115,000 personal loan for them. She worked that store for them. And you know what? They were screwing her so bad that in the lawsuit the court recognized the fact that she said, "It was three against one. It was Turner, Quinn, and Mr. Pang. They were all against me, and I had to take a month's salary just to get back in the store" she said -- "You can't just kick people out. I'm not going to take that crap again." So you guys, these stories you put before us are bunk, and I kindly ask you, Mr. Postman, do not pee in my yard and tell me it's raining. And also, Mr. Lukela, could I please have a copy of your resume because your staff doesn't want to give it to me. I wanted to congratulate you on the loan program.

Jim Toomey: Hi, everyone. So I have enjoyed listening to all of this. I have enjoyed listening to the Board, and I'm actually quite impressed with some of the Board members. Their words, their actions, their vulnerability. I think it's David Postman, who is the Chair, who said about an hour or so ago that you are all new and you haven't been through this before, so I appreciate that. I bet there are some learnings here, and the LCB probably didn't recognize what was being done by some maybe junior individuals who had selected some locations, and the Board probably didn't realize the hornet's nest that they were kicking off. On behalf of the Board, I'm betting they are probably wishing that they would have paused and looked at this and understood it a little bit better. You have heard enough about the taxonomy and the nomenclature of the word "raid". You have heard about how it evokes fear. It also evokes a protection response. The gay community, any marginalized community is very protective of themselves, and it is perceived as an attack.

And as Dan Savage said, we are in an era of hypersensitivity around MAGA and trans rights and all of the laws that are being imposed, so this doesn't sit well. I can't remember who was sitting to the left of David Postman, but she was reporting on 10 locations that were "visited" and seven of them had citations issued. That would mean that 100% of the gay locations were target cited and only 50% of the non-gay locations were cited. Not a lot of data there when you are talking 10. But, again, it does underscore that we are looking at communities disproportionately potentially. Anonymity is something that has been used to target gay communities in the past, and now not even anonymity. Again with MAGA and these people who want to attack us not filing a complaint anonymous but actually including their information is something that they can brag about, but it is a mechanism that can be weaponized.

I certainly hope David and the rest of the Board have a complete and full awareness of the Stonewall riots. And if you don't, please Google it and take the 30 seconds to understand what Stonewall was and what it is and what it means to the gay community. And I would be a little embarrassed to raise my hand if I'm on the LCB Board and say I don't know what it is, but it is

the foundation of gay rights in the United States and most of the world, and it was because of the abuse that was put on the gay community by the police, and the gay community had enough and said, "No more." And depending on who you are, this is where gay pride comes from. This is where the marching and the public demonstration of who and what we are began.

So, back to my comment about a hornet's nest. Again, gay bars are a safe place. I can go to anywhere in the world and know that if I go to a gay bar, I'm around people that I know and trust and can feel safe and, again, who will protect me If someone comes in and threatens me, I know people are going to protect me. I know we are all going to protect them.

So, in closing, I appreciate the words that I've heard today from the Board. I appreciate the openness to question it. Postman and Vollendroff, in particular, your questions, your words, your statements, and I hope we have a positive outcome from all of this and I hope I see real action.

Jim Rios: Okay. Good morning. My name is Jim Rios. I'm 43, a member of the gay community. I'm a Marine veteran who served during our Operations in Iraq and Enduring Freedom, and now I'm a resident of Seattle. I served during “don't ask, don't tell”, and in 2006, my sexuality was disclosed to the DOD, and I underwent a lengthy investigation by NCIS, whose goal was to discover evidence of my homosexuality. A very long story short, my second enlistment ended before their investigation could be concluded, and I left in 2008 with my honor intact. But prior to that event I lived a double life, where I could only really be me at home or the gay bar. Let me emphasize that it was a gay bar, not a bar. The gay bar for many in the queer community is a safe and sacred space free from the prying eyes of those who would reject us.

We all know the history of why gay bars exist, and even today, in many places, queer people cannot simply go to a predominantly heterosexual establishment without being ridiculed at the very least. This is why the gay bar still exists, where we can go to be amongst our own, free of prejudice and oppression, but this was violated by your agents this past weekend. Reviewing your meeting yesterday, two of the stated goals are to provide for the health and safety of patrons and employees alike. But we understand that your agents took photos of patrons in potentially compromising situations, situations that were engaged in by mutually-consenting adults in a 21+ environment, where the behavior is often frowned upon by non-queer people. I know that Mr. Postman stated yesterday that your agents were simply doing their job, following the law, but that is not entirely accurate.

Your agents are human beings. They are not robots and are subject to their own personal biases. They are they also exercise personal discretion in the field that may be a result of bias, and we see discretion play out in many instances where judicial agents will choose whether or not to interact with the member of the citizenry. And we do know as a statistical fact that people of darker complexions and lower economic means are subjected to these interactions at far greater rates, and the same can be said for members of the queer community. None of this is in dispute, but you have to acknowledge your agents have bias and exercise personal discretion because they are human. No one is immune from bias. The question is whether or not bias played a role, and of that, we are not certain. Mr. Postman, you also said that these kinds of

behaviors are not a priority, so you can't emphasize that your agents overlook these things because there simply isn't the institutional capacity to do anything about it, just like other agents do.

And lastly, because photos were taken, you have to acknowledge the possibility that these photos are released -- when these photos are released that they, in fact, could cause harm and pose a safety risk to certain individuals. Please acknowledge that there are members of the queer community that come from very conservative cultures, beliefs, and families, especially those who are here on work visas. The very prospect of these photos being taken, and potential release is already causing harm in terms of their emotional and mental health. For some, it may result in physical harm, particularly those queer individuals who come from India or China, where cultural acceptance of queer people is highly precarious. My own partner was there when his photo was taken, and I can already see the emotional distress, these harms fly in stark contrast of two of your stated goals of providing for health and safety. As leaders, you should make every effort to remove all identifying features of individuals to include tattoos, religious garb, and especially facial features so that individuals would not be subjected to what is basically state-sanctioned revenge porn from our perspective. How can you mitigate this risk? It is within your power to emphasize agents to look for -- to your agents to look for other ways and to remember that bias will be present, and it must be taken into account. Thank you.

Justin Brantley: So first, my name is Justin Brantley. I'm a resident of Capitol Hill and a longtime supporter of some of the businesses that were targeted here. And I want to first say I appreciate the opportunity to make some comments here. I have a couple of comments that I will try to keep short.

The first concerns this equivocation over the term "raid". I tuned in to yesterday's meeting, and Chair Postman's own definition of a raid is "where we get warrants, see evidence, and come in with a large group of people." Now only two LCB members may have been involved, but it's my understanding that the JET team was 10 people strong. I consider that a large group of people. It's certainly larger than is necessary for nonviolent offenses. So, did you come in with a large group of people? Yes, you did. Did you collect evidence? Yes, you did, in the form of photos. So it seems to me that the only thing separating these so-called visits from a raid is the lack of a warrant.

Let's consider for a second, what do you think would happen if this Board stood before a judge and requested a warrant to take nude pictures of law-abiding citizens and make them available for the public record? You would have been flatly denied. I'm no lawyer, but I'm pretty certain that no judge in their right mind would have allowed the actions that you took. So I agree, this wasn't a raid, it was something worse. It lacked the due process and the due diligence necessary that allowed you to make these egregious violations of privacy.

The second point I would like to make is in statistics. I'm a numbers person. For me, numbers speak louder than words, and I look forward to requesting data for a more thorough analysis. But let's look at the numbers that we have now: 2 out of 10 JET inspections on Friday and 2 out

of 8 LCB inspections on Saturday, that is 20% to 25% of enforcement activity being targeted towards LGBTQ+ businesses.

It is the position of this Board that they "do not target such businesses," but the numbers say otherwise. Member Vollendroff kind of raised at the beginning is this coincidence, so let's consider of the thousands and thousands of liquor licenses in the state of Washington, the numbers that are given to LGBTQ+ businesses doesn't come close to 20% to 25%. The amount of enforcement being directed at these businesses is disproportionate, it's unfair, and it is within your control to change, and I hope you do. I yield my time. Thanks.

Jesse Grainer: Okay. Good morning, everybody. My name is Jesse Grainer. I'm a resident of Seattle. I have been here now for about 10 years. I was trying to think of what to say today on this meeting, and one of the things I did want to emphasize is the importance, at least for me personally, and I know for many other of the LGBTQ+ community of these gay and queer-friendly bars as being a safe space for us. Personally, coming from an ultra-religious background, very conservative in a small town, I had no access to the LGBTQ+ community. After coming out around 20, there was a period of time when you transition, where you want to integrate into your new community, and you're having some newfound freedom, and gay bars are that initial place where a lot of us, where we learn to basically integrate into the community and be a part of the gay community. And so it's just a really important spot for people.

I'm so thankful for the experiences I've had at gay bars. I've gotten a chosen family of some of the closest, deepest friendships I've ever known. It's a place where I'm free to be 100% myself, and I've had some of the best nights of my life there. It's also helped me to grow into myself in many ways, and one of those is sexual. And that is part of our community.

So you know, being targeted for these kind of lewd conduct offenses is a strike at kind of the heart of our community and it is our identity. And also, too, like I think Jim was saying here, like you can go anywhere in the world, basically, and you can go to a gay bar, and you can be in a safe space, and you're around people that are like-minded and people that share the same values, and you feel protected. And I've been all over to many, many gay bars and all over the place in multiple countries, and Friday was actually the first night where I have actually felt threatened by multiple uniformed police officers coming into the bar. It seemed like there was no reason. There were no violations. There was no violence. So it did spark some alarm. And I've never felt that in this space, and so that's one of the reasons I wanted to comment here today. These are safe spaces, and they are vital hub for our community, and they need to be protected.

In addition to just being safe spaces, I know I listened yesterday, and you guys were concerned about the health aspect of the Board and your mission statement. And these bars and these establishments are huge proponents of public health and especially with sexual health in our community. They lead campaigns against HIV and STI prevention and offer other free resources such as condoms and other services. They can get you in touch with other people too. So it's not just being a place for entertainment, it's a place where we actually go for our health.

And I know that Jim and David, you've been really great in responding to the incident like you have been, but it's still embarrassing to me that in 2024 we are seeing our community being targeted for something such as trivial as an archaic nudity law. And even though you guys deny that these establishments were targeted, the numbers speak differently. And I know yesterday you said kind of in the way that you guys go about this is one way that you go door to door. Capitol Hill is a gay neighborhood. If you would tend to go door to door in Capitol Hill, you are going to discriminate by action of just the density of gay establishments and LGBTQ bars there. So that is an issue, and that is something I think that the Board should look at and kind of as your policy going forward, that door to door doesn't really equate to equality with the community. And this other thing that I wanted to get a hold of you is if you go and look at your JET website, you guys admittedly have poor statistics. And in 2018, the Racial Equity Toolkit was formed because of discriminatory accusations. So if you go and review that, there's a lot of information that's not available to the public as well as you guys on your own admission say you have a good report, but there are communication issues, disruptive, and threatening are listed in your own PowerPoint.

Rian Greer: Excellent. My name is Rian Greer. I own Rumors Cabaret in Bellingham, Washington with my husband. I want to just say I agree with the vast majority of the people that have been talking here so far. I'm also a big numbers guy, so I had a 10-year history of the Northwest Division of Enforcement contacts with licensees. There were 132,280 contacts from 2013 to 2023. We are a queer bar. The northernmost queer bar in Washington state. The average, there were a total of 7217 licensees within the Northwest Division. So that means that there's an average visit of 18.3 over those 10 years. I can tell you as a queer bar in Washington, we received 285 visits from the LCB that is 1555% higher than the average. And that, to me, is egregious. Our place, which is also in this region, received 655% more than the average. Rebar received 540% more than the average. That, I mean, numbers don't lie. 1550% is an insane difference from the average.

Queer spaces, as said before, are not just places to have drinks and meet people. It is about community health. We provide STD testing a few times a month in conjunction with local health departments. We have condoms. We have information that people can get in order to be safer in their sexual practices.

So other things that I want to talk about -- the differential inspection level of my/our space has to lead to differential enforcement. I can tell you in those 285 visits over 10 years, we haven't been cited once, but they are inspecting us 1555% more than any other -- or than the average. To me, that's a weaponization of the bureaucracy and to the point that people were saying earlier. Unfortunately, swatting is something that is happening to elected officials throughout this election cycle. Getting cops called to their house, and I believe that that's happening with the LCB as well, that people are swatting queer spaces.

From 2002 to 2019, across the United States the number of gay bar gay bars declined by 41%. So we are already having issues keeping queer spaces open, and the intense scrutiny from

LCB isn't going to help. Additionally, I think that in the enforcement there's a lot of work to do. Agents have a wide, wide variety of how they interpret these, particularly lewd conduct. I asked my agent about trans people being topless. He said that everyone has breasts, and no one can be topless, which means people need to wear shirts in hotel swimming pools because those are licensed premises. It took me four months to get to Tom Dixon, who said anyone who is not an employee can bear their chest. It's just that everyone needs to get on the same page as far as interpretation of the law because you can't have it diametrically two different ways. So thank you very much for your time. I appreciate this. I look forward to following up with some of you individually.

Castill Hightower: Hi. My name is Castill Hightower, and in 2004 my brother, Herbert Hightower Junior, was shot and killed by current Seattle police officer Steve Herjavec, when he was experiencing a mental health crisis. And the reason why I still fight 20 years later is because I see the ways in which marginalized communities such as black and brown communities, such as the LGBTQ+ community, which I'm also a part of, are still being harmed by state-sanctioned violence, targeting -- I'm sorry -- state-sanctioned targeting and violence, and I see the ways in which bureaucracies continue to defend and excuse those harms.

Yesterday, myself and over 600 other justifiably concerned and outraged community members attended your Board meeting while I heard some of the same defense mechanisms play out regarding the harmful ways marginalized communities are put under a microscope and targeted by the state.

Our justified outrage came out of learning how multiple LGBTQ+ establishments were raided over the weekend by the Liquor Control Board from members of the Joint Enforcement Team that includes Seattle police claiming to observe lewd conduct violations that amounted to actions such as someone wearing a jockstrap, a regulation you all admitted was problematic, and many of us have already voiced creates double standards and inequity, not to mention the Liquor Control Board's not so distant history of using the same justifications to target and harm the LGBTQ+ community as we are under attack on a nationwide scale. Excuses like excuses that talked about how unhappy the Legislature would be and failing to enforce these archaic laws instead of taking into account the historic context that they exist in as well as the historically marginalized communities that they are weaponized against.

I stand in solidarity in demanding transparency throughout this entire process, holding the LCB officers who conducted the raids accountable immediately leaving JET, but I also challenge you to take stock of any internalized biases you have, bureaucratic or otherwise, because when it comes to tangible solutions, there is a difficulty getting past concern for how happy Legislators would be with you in a commitment to historically harmful and inappropriate procedures that put people's lives in danger rather than the real and present harm being enacted upon historically marginalized communities with these regulations. That should be revisited. Do better. Thank you.

Kayvon Behroozian: Great, good afternoon. I really appreciate you guys allowing us to give public comment here. I would like to touch on the judgment, the discretion, and the priorities that your officers focused on and used, particularly on Saturday but this entire past weekend. My name is Kayvon Behroozian. For those who know me, I am a licensed Bard practicing attorney in the state of Washington. I'm here speaking in my personal capacity, but those on this call who are familiar with me also know that I prosecute criminal matters, or used to, since 2018. I have prosecuted crimes including homicide, hate crimes, violent crimes, unlawful possession of firearms, and the like since I became a Bard attorney. I'm speaking in my personal capacity, but my professional capacity has informed my opinions that I'm sharing here today.

Your officers have discretion. Yesterday, Mr. Postman, you explained that your officers can't simply look away and not enforce the law. That's patently untrue. As somebody who has experience in law enforcement, who works with law enforcement at all levels of jurisdiction, we know that the executive branch of our government, which you are part of, has discretion. You are charged and responsible for taking that discretion and allocating the state's resources to benefit and focus on the public's safety. Yesterday you explained that there is no priority on enforcing lewd conduct. There's a priority on enforcing overconsumption, overservice, underage drinking, and you explained that yet that the Seattle Eagle was being investigated for potentially serving underage individuals.

When your officers, who you have the authority and jurisdiction over, entered that establishment and made the decision to go beyond what they were investigating, which was underage drinking, and after they observed that there was no violation of those priority concerns, underage drinking and overservice, they should have left. They should have used their judgment. They should have used their discretion. They did not find the priority violations that they were sent there to enforce. They should have left. Instead, they did not use their judgment, or if they did, they used it incorrectly. They meandered through that establishment, shining flashlights on queer people, and taking photographs of these individuals. They have put those people at risk, professional risk, personal risk, and risk of their safety when those photographs become publicly available. For what? You, yourself have said that this is not a priority to enforce lewd conduct, and yet your officers made the decision to emphasize and focus on that after finding no other substantial violations in that establishment. That was an inappropriate use of judgment of discretion and a lack of focus on your priorities. So why did your officers do that?

The individual, the Director for Enforcement that you unfortunately dismissed from the meeting after she spoke, should be here listening to this.

Chair Postman: She's not dismissed -- she has been here through the entire meeting, just so you know.

Kayvon Behroozian: Well, I appreciate that.

Chair Postman: She just chose to go back to the audience and sit with members of the community, but thanks. Go ahead.

Kayvon Behroozian: I appreciate that. Well, I'm glad that she can hear this. You as the Board should direct her to direct her officers to focus on your priorities. In my experience, enforcing criminal codes here, nipples have never affected public safety. That's all I have to say. Thank you.

Michael Thomas: Michael Thomas. I'm a resident of North Bend, Washington, and I'm a patron of several of the establishments that were in the enforcement action, appropriately labeled really as a raid, and perceived correctly by the community as a raid that occurred Friday and Saturday night.

As I listened intently also to the earlier actions of the Board, and on the process of petition and rulemaking, it is unclear to me what really is in law versus what is an administrative rule sort of subject to LCB Board interpretation. And I think it's important for all laws and regulation, whether it's adopted law by Legislature, or an administrative rule adopted by Boards, that these discriminatory and discriminatory affecting or things that are used under color of law to discriminate historically against LGBT, minority, and other communities be purged is all that really lacks is really for citizens or affected people to urge and petition the Board to remove these nudity enforcement regulations. I don't even call it nudity. I hear “it's a nipple”, “it's an exposed buttocks.”

To me, it seems like there is more action here than just simply waiting for the Legislature. The citizens need some help, you know. Could the Board provide some assistance to say hey, to get this off our radar, should citizens petition for changes to these regulations to the LCB, where they are.

Finally, I'm quite concerned as to the LCB's participation, whether it's the LCB versus JET. All of the agencies participated under the color of law, all participated together, so all share in the same problems or anything that arises from their conduct. And again, I really want to express my concern with what happened this past weekend and really call for change, call for these laws and regulations to be removed and, certainly, I'm interested to watch the outcome and thank you very much. This concludes my comment.

Tobi Hill-Meyer: Thanks. My name is Tobi Hill-Meyer, and I am a Commissioner for the Washington LGBTQ Commission. And I understand that our Executive Director, Manny Santiago, was able to meet with you and the Governor's Office yesterday to share the important context of how the recent raids uniquely impact our community.

There are a few areas I wanted to especially emphasize that I've also heard others today emphasizing but, particularly, it was not that long ago that being gay in a bar was illegal and being trans in public was illegal, and both of these laws were often enforced by liquor boards across the country. And these enforcement rates were often accompanied by discriminatory harassment, sexual harassment, physical and sexual assault, and humiliating arrests and incarceration. Beyond that, law enforcement would send out press releases with names and

photos of those who were arrested, leading to others to discriminate against them as well such as employers, landlords, and so on. And that is what makes the photos taken at these bars so disturbing and threatening to a lot of people.

Now, this history may have occurred long before any of you have worked as a part of this Board, but it is a part of the history of your agency that continues to influence how your work is seen by the public. Additionally, this horrible history of mistreatment does not seem as far back in the past as we may wish, and even just looking back in the past decade or so, there have been similar raids in other states aimed at humiliating and denigrating members of the LGBTQ community.

In the past few years, we have faced a flood of anti-LGBTQ legislation with hundreds of bills each year aiming to take away our established rights, allow discrimination and discriminatory treatment, and bring back laws that would essentially make it illegal to be trans in public, and this has also encouraged an increase in hate violence targeting our community. In that context, the LGBTQ community is on high alert for violence, intimidation, and attacks on our community from the government.

And while it may not have been your intention, these actions over the past weekend have severely damaged your relationship with the LGBTQ community and by extension, the relationship between the state government and the LGBTQ community. And this has already become national news, and anger and panic have been spreading throughout our community. And assurances that this was not your intention is not enough. It's going to take dedicated and consistent effort to work to repair these relationships. And I hope that hearing from everyone else today has underscored how important it is that you immediately take action. Many people have given you specific suggestions for actions or changes that you could take moving forward from this event, and I hope you've taken careful notes and will quickly announce which of these suggested changes you will be exploring or committing to taking and as you're moving forward with this, feel free to reach out to me as a Commissioner. I would be happy to continue to talk with you about what effective steps there are to move forward. Thank you. That's all I have for today.

Allison Fine: Awesome. Thank you. My name is Allison Fine. I am a community leader here in Federal Way and also the President of Washington's South Chapter of Pride at Work, which is a labor organization that supports the LGBTQ. I'm sorry I joined a little late. I'm not sure if some of my cohorts have also spoken today, but like everyone else on this call, I was disturbed to hear about what happened this weekend in Seattle, and I just want to express my support and my voice for the lack of trust that is being formed here when it comes to where queer people are able to just be queer people.

Washington state -- I come from California, so I'm very lucky to have lived in two states that are supportive of people in the queer community -- And I know that Washington state has become a refuge for people from all over the country who come here because we are friendly and loving and supporting and open to people that other states do not support.

And these kinds of actions, like the last speaker said, they put us on a national map, and it's embarrassing. We cannot take pride in being a state that is progressive, supportive, and loving if we are going to openly and directly be harmful to those same communities. When you move to a state, and you leave your family, and you leave the people that you love behind to find a new family and new friends and new places who support you, you come here trusting that you will be taken care of. And if you were just going out to spend your hard-earned money to have drinks and to have fun with your friends and to be authentically who you are in that space, the expectation is that you are going to continue to remain safe in that space.

So I know that there is work being done. I know that this incident probably will be a catalyst for change, and that's one thing I'm proud of living in Washington for the last 10 years because I do think when things like this happen, I do see change occur.

But definitely Washington is a state that is proud of the work that we do, especially when it comes to being accepting and loving, and I don't want to go back. I don't want to go back. Pride at Work is a national organization and a national organization that is part of the AFL-CIO. We have thousands of Members across the country. And I want to continue to live in a state that is a leader in queer spaces. If you want to reach out to me, Dustin has my contact information. But I just needed to support my -- I mean to use my voice to support the fact that we cannot be okay, and we cannot sit by idly while we are nationally moving backwards in so many areas. Washington cannot participate in that behavior. We are we are better than that. And like one of the previous speakers said prior, Castill, I believe. Do better.

8. ADJOURN

Chair Postman: Okay. I know at this point some of my colleagues are saying quietly to themselves, "Don't talk, Postman, don't talk", but I've been accused of getting in my feelings, and I do feel things, and I do want to talk just briefly. But first, let me just say how much I appreciate the many, many people who came and talked. It's the most people we have had since I've been on the Board, by far the most people who have attended a meeting either remotely or in person since I've been on the Board. And it's deeply meaningful to hear the stories.

I also, really, I owe some apologies. One, in general, you know, I thought I was sort of coming at this with some humility and vulnerability and, you know, I should have chosen words more carefully. The question of whether it was a raid or not, it's not for me to say. I was caught up more in how our standard operating procedures and things. I was speaking yesterday from the heart and off the top of my head, and so I said some things that weren't stated as clearly as they should have been, and I want to try to fix some of that. And I really do apologize. And frankly, I apologize to my fellow Board members because I am the Chair, and I speak more, and I try to represent not just the agency as a whole but my colleagues on the Board and not step out from

where they would. And I don't want my words, which seem to have caused so much pain to paint either of my colleagues.

And -- just to address a couple things really quick. Lewd conduct is a regulation. Yesterday, I called it a law. I'm not concerned that the Legislature would be unhappy with us. I can tell you that in the Legislature, there are many people who have long been unhappy with me through probably three different careers. I'm okay with that. What I was trying to do was, frankly, take some responsibility for what happens in the field because -- and I have talked to enforcement people. I have gone on the ride-a-longs. I have talked with Chandra about all of this. Yes, everybody, every human has discretion and judgment, and people use it professionally, particularly if you are in the sort of job of law enforcement, of course you do. But at a regulatory agency, we are supposed to set priorities. And if we decide something isn't, we need to communicate that to the officer, to the line worker. And when we don't do that, what the officers tell me was, "I don't know." And I will say even though they look for violations, they don't write violations for everything. There may be some here that were under consideration, as Chandra Wax told you, but there are lots of times where they go in and say, "fix that, see you later." That's it. Or they get a verbal warning, they get a written warning, so they do use discretion.

What I'm saying is this conversation hasn't taken place here. We haven't said what about the lewd conduct law. What are you doing about that? How many times has it been enforced? What bars have it been enforced against? And now we are having that conversation. And so when I say this is the first time it's come up, somebody called it an excuse. It's not an excuse. I'm just trying to explain how things work. Same way when I got here, I didn't know what hemp-derived THC meant, so I had to learn that when it came up, and then we worked on that issue. There's a learning curve. I'm an old, straight, white man, so I have a learning curve, but I try to learn. I have had learnings in this. I think it was Jim who asked that. Of course there is about language and everything else, and I don't want my -- you know, the embarrassing thing is, I'm supposed to be somebody who understands language and words and talking, and I feel like I really did fail on that and to hear people say that they found things I said were immoral, disgusting, deeply misogynistic, and homophobic -- I have to do better, and I will.

But I don't want my comments that I speak off the top of my head or from my heart to paint anybody else, either at this agency or on this Board or any officer. We can change that regulation. You heard us talking about it. We are going to look at that. We are not worried about the Legislature, but the fact is the Legislature right now is considering an amendment to the law around this very issue. It would be foolish of us not to engage with the Legislature on this issue. There are people in the Legislature who are really upset also about what happened this weekend. They want to see something change. There may be an opportunity here. Why would we not want to do it that way? I do want to do it that way. We have authority on our own, and we are going to look at that. We can do some things administratively. But recognizing the Legislature and our authorizing environment is not an excuse, and it was not meant as any sort of excuse.

So, yes, there is just a lot. There are learnings for me. I'm sure there are for others. I would say, again, don't let my comments lead anyone to believe that anybody at the leadership of this agency or on this Board is ignorant of the struggles of gay and lesbians in the world, about what has happened at bars over the years and what has happened in Seattle in recent time, what has happened in downtown Olympia since I've lived here. We are well aware of it. We are not ignorant, even if sometimes I misspeak. So, I will do what's hard for me, is try to speak less, in general, and not feel like I need to represent and give other people a chance. I encourage people to keep reaching out to me. As I said, maybe it's better in writing, but I've had some really good conversations in writing the last couple of days about this issue, that have helped me figure this path. We need to figure out where to go, and we will do that. I guess that's all I can say is we are going to.

I think you heard it from all the Board members. You have heard it from our Director. You heard it from our Enforcement Director. We are more than open. We are more than willing. We are eager to have these conversations and to figure out what is the right thing to do. What do we do now that this is on our plate? And I'm sorry that we didn't do it before, but that part didn't come up. You know? If somebody had told me this a year ago, we would have dealt with it. It's just we don't know.

And so one last thing, somebody asked, "who made the decision?" And I will tell you the enforcement -- every division here has a lot of autonomy. They do their things. They don't come to me and say, "We are going to go to these bars. What do you think?" And then I say, "Well, what are they? What are they?" But you know what, when these things happen like this, then we have those kinds of conversations. That's what Chandra and I have been talking about the last couple of days. That's what Will and I have been talking about the last couple of days. So we do it. And yet, sometimes you need to be prodded by it. Sometimes it takes an instance, an incident, controversy, a raid, whatever it is, and then you are forced into action.

So again, I apologize for the lack of trust, anger, and disgust, really, that some of my comments have created. It was not my intention, obviously, and I know that intention is not enough. And I will just tell you, I will work on that to be better, and we are going to continue to work on this. Jim, do you want to say anything?

Member Vollendroff: You know, David, first of all let me just say, Chair Postman, you can speak for me anytime. I mean, I really do appreciate and know where you're coming from when you speak. And misspeaking when you're speaking from the heart happens. I think the important thing is one - acknowledging, and two - is going to be action. It's going to be action on the part of us as a Board. I am committed to sharing and reaching out to members of the community where appropriate, as I'm sure the rest of the Board is. But there are good questions that have been brought up, and there are things that we need to look at, and things that we will look at. And I just really do appreciate your humbleness. And please don't feel -- I guess in some ways ask that you don't take all of that on yourself.

Chair Postman: I'm not, and I don't mean to make it about me, Jim. It's just, you know, there were certain things I said that appeared to have been flat points, and I would do those differently is all I'm saying. And I don't want that to color the rest of this because I think we all agree with what you just said about what we have heard, what we have learned, and what we feel we need to do.

Chair Postman adjourned the meeting at 1:15 pm.

Minutes approved this 28th day of February 2024

David Postman
Board Chair

Ollie Garrett
Board Member

Not Present

Jim Vollendroff
Board Member

Minutes prepared by: Dustin Dickson, Executive Assistant to the Board