



Washington State Liquor Cannabis Board Meeting

Wednesday, April 6, 2016, 10:00 a.m.
LCB Headquarters - Boardroom
3000 Pacific Avenue SE, Olympia WA 98501

Meeting Minutes

1. CALL TO ORDER

Chair Jane Rushford called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 a.m. on Wednesday, April 6, 2016. Member Ruthann Kurose was also present.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Kurose moved to approve the March 23, 2016, meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

3. ACTION ITEMS (A-C)

A. ACTION ITEM 3A - Board Adoption of Emergency rules to Implement 2015 Marijuana Legislation

Karen McCall, Sr. Rules/Policy Coordinator, began the briefing with materials (HANDOUT(S) 3A 1-3). She provided background noting that this rulemaking is the result of 2015 legislation. E2SHB 2136, 2SSB 5052, were passed during the legislative session. Re-adoption of emergency rules and emergency revisions to these rules are necessary to implement sections of these bills to ensure that medical marijuana will be available to patients by the date that collective gardens are mandated to be closed down, July 1, 2016. These rules will protect the health and welfare of medical marijuana patients in the state of Washington.

The emergency rules are necessary for the preservation of the public health, safety, and general welfare. The board adopted emergency rules on September 23, 2015, that expired on January 21, 2016, and readopted the emergency rules on January 6, 2016, that will expire on April 11, 2016. New emergency rules are needed until the permanent rules are in effect. These emergency rules become effective upon filing with the Code Reviser's Office and will expire on August 4, 2016.

The emergency rules will become part of the permanent rulemaking the board opened on July 15, 2015, which also includes revisions to additional marijuana rules in chapter 314-55 WAC.

Ms. McCall then requested approval from the Board to file the Emergency Rules.

MOTION: Member Kurose moved to approve the filing of emergency rules to Implement 2015 Marijuana Legislation.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

B. ACTION ITEM 3B - Board Approval to File an Emergency Rule (CR103E) for Lab Certification and Proficiency Testing Rules

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUT(S) 3B 1-3). She provided background noting that emergency rules are needed to protect consumer safety by ensuring that laboratories use appropriate testing methodologies and provide accurate testing of marijuana. Establishing proficiency testing requirements to achieve and maintain certification and parameters for laboratories will promote accuracy and accountability in marijuana testing by certified laboratories. Additionally, current rules provide requirements for certification by the WSLCB but do not contain provisions on what a laboratory must do to maintain certification or how the WSLCB could suspend or revoke the certification of a laboratory. WSLCB needs the authority to suspend or revoke the certification of a laboratory that does not follow rule requirements for testing or for those laboratories that do not consistently achieve accurate testing results.

This is the first step in a larger effort to create and improve rules relating to lab activities and testing of marijuana. We are currently pulling together a working group including other agencies, labs, and industry members to assist us and inform us as we move forward in this process. We are working closely with DOH in their rulemaking efforts as well so we can mirror their testing requirements, including a potential threshold or action level for testing. They will be involved in our workgroup as well.

Joanna asked Jodi Davison, MJ Examiner Program Manager, to explain what proficiency testing is and what it is designed to accomplish.

Chair Rushford thanked Ms. Davison for her overview of proficiency testing and engagement at WSLCB. Today is Jodi's last board meeting. The board wishes her the best and appreciates her commitment and contributions to WSLCB.

Proficiency Testing – Proposed new section WAC 314-55-1025

- Proficiency testing (PT) is an industry standard with labs.
- PT allows us to know whether labs can achieve reliable, accurate results, and will facilitate uniformity and consistency of labs testing marijuana in Washington.
- Adding these requirements will ensure laboratory testing accuracy, which in turn will ensure a safer product for the consumer with more accurate content information.

- Without standards for testing, we cannot ensure testing accuracy, which also means that a consumer may not be able to rely on the potency information on marijuana labels, or that marijuana and marijuana products are free of microbes, pesticides, etc.
- These rules require that a lab must successfully complete PT prior to becoming certified, and certified labs must participate and successfully complete PT a minimum of two times per year to maintain certification.
- Labs will be required to only use those PT programs that are approved by the LCB or LCB's vendor and appear on the list of approved PT programs that the LCB will maintain.
- These rules leave fields of testing broad.
 - There are multiple fields of testing for PT, including mycotoxins, pesticides, potency, microbial, etc.
 - A lab must pass all available fields of testing to be certified or maintain certification.
 - Currently, PT programs are not available for all fields of testing – just potency and microbial. Later, pesticides, mycotoxins, and residual solvents will come into play. Obviously we cannot require PT programs for a field of testing for which a PT program does not exist for yet, which these rules accommodate. The rules also will accommodate new PT programs for fields of testing that come into existence in the future.
- If a certified lab fails PT, they will be suspended until they correct the issue (deficiency reports and corrective action). The rules provide a way for the labs to determine issues with testing procedures and provides an avenue to remediation and correction so the lab's suspended certification may be reinstated.
- We are compiling the list of approved PT programs (referenced in the rule) and will have it up on the website soon.

Laboratory Certification Suspension and Revocation – Proposed new section WAC 314-55-1035

- The LCB currently has requirements for obtaining a certification in permanent rule, but does not have provisions relating to suspending or revoking a certification in rule.
- This proposed new section seeks to remedy that issue and provide avenues for the LCB to suspend or revoke a laboratory's certification if the lab fails to follow requirements for certification, does not consistently achieve accurate results, or engages in activities that make the lab ineligible to continue to be certified to test marijuana.
- Inaccuracy in testing and failing to follow requirements puts consumers at risk.
- The rule provides two separate levels of suspensions:
 - A summary suspension or revocation that applies to more egregious and substantial violations, and
 - A graduated suspension and revocation approach for less serious violations.
- The language also references suspensions of certifications that may occur related to proficiency testing in proposed emergency rule WAC 314-55-1025.
- A lab that has its certification revoked or suspended may appeal that suspension or revocation through requesting an administrative hearing under the Administrative Procedure Act (Chapter 34.05 RCW).

The emergency rules are necessary for the preservation of the public health, safety, and general welfare. The rule becomes effective upon filing with the Code Reviser's Office and will expire August 4, 2016, 120 days after filing.

The emergency rules will become part of the permanent rulemaking the WSLCB is requesting the Board initiate if approval to file a CR 101 is granted. Staff will request refiling of the emergency rules on July 27, 2016 if the Board approves permanent rulemaking on this topic and the refiled emergency rule will only be effective until permanent rules become effective.

Ms. Eide then requested approval from the Board to file the Emergency Rules.

MOTION: Member Kurose moved to approve the filing of emergency rule (CR103E) for Lab Certification and Proficiency Testing Rules.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

C. ACTION ITEM 3C - Board Approval to file a CR 101 to Initiate Permanent Rule Making for Lab Certification and Proficiency Testing Rules

Joanna Eide, Rules and Policy Coordinator, began the briefing with materials (HANDOUT(S) 3C 1-3). She provided background noting that new rules are needed to protect consumer safety through ensuring that laboratories use appropriate testing methodologies and provide accurate testing of marijuana. Establishing proficiency testing requirements to achieve and maintain certification and parameters for laboratories will promote accuracy and accountability in marijuana testing by certified laboratories. Additionally, current rules provide requirements for certification by the WSLCB, but do not contain provisions on what a laboratory must do to maintain certification or how the WSLCB could suspend or revoke the certification of a laboratory. WSLCB needs the authority to suspend or revoke the certification of a laboratory that does not follow rule requirements for testing or for those laboratories that do not consistently achieve accurate testing results.

Timeline:

April 6, 2016	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
April 20, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
June 1, 2016	End of written comment period
June 1, 2016	Board is asked to approve filing the proposed rules (CR 102 filing)
June 15, 2016	Code Reviser publishes notice, LCB sends notice to rules distribution list
July 13, 2016	Public Hearing held
July 13, 2016	End of written comment period
July 27, 2016	Board is asked to adopt rules
July 27, 2016	Agency sends notice to those who commented both at the public hearing and in writing.
July 27, 2016	Agency files adopted rules with the Code Reviser (CR 103)
August 27, 2016	Rules are effective (31 days after filing)

Ms. Eide then requested approval from the Board to file the pre-proposal statement of inquiry (CR 101) for the rule making.

MOTION: Member Kurose moved to approve filing a pre-proposal statement of inquiry (CR 101) to create two new sections in Chapter 314-55 Marijuana Licenses, Application Process, Requirements, and Reporting.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

4. ADDITIONAL BUSINESS


Chair Rushford then invited citizens to address the Board regarding any issue(s) related to LCB business. There were no comments.

ADJOURN

Chair Rushford adjourned the meeting at 10:22.

Minutes approved this 20 day of April, 2016


Jane Rushford
Board Chair


Ruthann Kurose
Board Member

Minutes prepared by: Lisa Faker, Executive Assistant to the Board

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

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For questions about agendas or meeting materials you may email lisa.faker@lcb.wa.gov or call 360.664.1717