



Washington State Liquor Cannabis Board Meeting

Wednesday, August 8, 2018, 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, August 8, 2018. Member Ollie Garrett and Member Russ Hauge were also present.

Chair Rushford: the Board is making an amendment to the agenda that was posted. Joanna Eide will be making a request for approval of a CR 101 for Quality Assurance Testing and Product Requirements. She will follow Janette's presentation on the action items. Thank you.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the May 30, 2018, meeting minutes.

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

MOTION: Member Hauge moved to approve the June 13, 2018, meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

3. ACTION ITEMS (A-C)

ACTION ITEM 3A - Board Approval of CR 101 for Barrier Requirements for Liquor Licensed Establishments

Janette Benham, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 3A 1-2).

Ms. Benham: This rulemaking is a result of a rules petition we received requesting we revise rules to eliminate the 42-inch barrier requirement in spirits, beer and wine restaurants. Rulemaking will explore options for barriers and designation of areas where minors are not allowed and will include spirits, beer and wine restaurants, snack bars and hotels and possibly farmers markets and outside seating areas.

Timeline

If approved for filing, the tentative timeline for the rule making process is outlined below:

August 8, 2018	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
September 5, 2018	Code Reviser publishes notice, LCB sends notice to rules distribution list
October 17, 2018	End of written comment period
October 31, 2018	Board is asked to approve filing the proposed rules (CR 102 filing)
November 21, 2018	Code Reviser publishes notice, LCB sends notice to rules distribution list
December 12, 2018	Public Hearing held
December 12, 2018	End of written comment period
December 26, 2018	Board is asked to adopt rules
December 26, 2018	Agency sends notice to those who commented both at the public hearing and in writing.
December 26, 2018	Agency files adopted rules with the Code Reviser (CR 103)
January 26, 2019	Rules are effective (31 days after filing)

Ms. Benham then requested approval from the Board to file proposed rules.

MOTION: Member Hauge moved to approve the filing of proposed rules CR 101 for Barrier Requirements for Liquor Licensed Establishments

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 3B - Board Approval of CR 102 for 2018 Liquor Legislation

Janette Benham, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 3B 1-3).

Ms. Benham: The next item I am requesting approval for is a CR 102 with the proposed rules to implement House bill 2517 which passed during the 2018 legislative session. In addition to technical and clarifying changes these proposed rules define ancillary activities as activities in alcohol manufacturer participates in that involves the public. These activities include retail licenses they may have, permits, privileges, endorsements and serving samples.

The proposed rules clarify that the schedules of penalties already established in rule for ancillary activity violations will apply but will not affect a licensees underlying manufacturing license. The manufacturing license will not be suspended or revoked for ancillary activity violations.

Alternatively, the proposed rules clarify that if a violation is not part of ancillary activities, the schedules of penalties already established in rule will apply to the manufacturing license and will extend to all retail activities, associated facilities, privileges, endorsements and permits.

Timeline

If approved for filing, the tentative timeline for the rule making process is outlined below:

August 8, 2018	Board is asked to approve filing the proposed rules (CR 102 filing)
September 5, 2018	Code Reviser publishes notice, LCB sends notice to rules distribution list
October 3, 2018	Public Hearing held
October 3, 2018	End of written comment period
October 17, 2018	Board is asked to adopt rules
October 17, 2018	Agency sends notice to those who commented both at the public hearing and in writing.
October 17, 2018	Agency files adopted rules with the Code Reviser (CR 103)
November 10, 2018	Rules are effective (31 days after filing)

Ms. Benham then requested approval from the Board to file proposed rules.

MOTION: Member Garrett moved to approve the filing of proposed CR 102 for 2018 Liquor Legislation.

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

ACTION ITEM 3C - Board Approval of CR 101 for Quality Assurance Testing and Product Requirements

Joanna Eide, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 3C 1-2).

Ms. Eide: Today I am here to request approval from the Board to file the first stage of rulemaking, a CR 101, for changes to rules in chapter 314-55 WAC regarding quality assurance testing and products requirements.

As you know, the LCB has been in discussions with the Department of Health (DOH) regarding ways in which our respective rules can be better synced, to encourage testing efficiencies and remove existing barriers that may be present to the availability of compliant products.

The LCB has also been in discussions with members of the industry and medical marijuana patients about testing requirements and general product availability. Additionally, a review of testing requirements is consistent with the previous rule changes the LCB made in August, 2017, regarding quality assurance testing and lab rules. During that rulemaking project and the workgroup that proceeded it the LCB stated that it would review testing and lab rules over the next year to determine whether additional changes may be necessary or advisable.

This rulemaking is necessary to make further adjustments to rules in an effort to seek more alignment with DOH's compliant products rules and testing rules and to take the next incremental step in testing requirements for cannabis in Washington. These changes will seek to increase efficiencies in testing adult

use and compliant products as well as increase the availability of compliant products or products of a similar nature and quality of testing.

This is also to address many requests we have received from industry as well as the patient community regarding testing requirements and products. Changes in testing requirements in other states have prompted further review of the LCB rules for potential adjustment.

Lastly, the comments we heard from the patient community they would like to see additional product types or levels of potency that are not currently supported by the regulatory structure. For these reasons, changes to products, serving amounts, packaging and other related requirements may be considered as a part of this rulemaking.

As a general overview of some of the items that will be a part of the discussions as we consider potential changes moving forward. It will include:

- Lot and batch sizes
- Fields of testing and pass/fail level adjustments
- Potency testing requirements
- Pesticide testing requirements for all cannabis products
- Heavy metals testing requirements
- Sample deduction requirements
- General testing rule adjustments
- Product THC serving limits and packaging requirements
- Other related rule changes that might be necessary or advisable to accomplish the goals stated in this paper

The CR 101 does cast a broad net to address these requests and questions we have received. Conversations with the DOH, the Department of Agriculture, patients, labs and industry will also continue as a part of this rulemaking process.

Ms. Eide then requested approval from the Board to file proposed rules.

Member Hauge: Will this CR 101 and framework for inquiry allow us to work with the DOH to harmonize the rules regarding packaging, potency and quantity with an eye toward doing what we can to get medically compliant products on the shelves? Will this be covered or will we have to open another CR 101 later on?

Ms. Eide: I don't believe we will need another CR 101 to have that conversation with the DOH. In fact, the net is being broadly cast so these can be a part of the ongoing conversations we've been having with DOH about precisely those issues and others.

Member Hauge: Thank you.

Ms. Eide: If approved for filing, the **tentative timeline** for the rule making process, subject to change, is outlined below:

August 8, 2018	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
October 24, 2018	End of initial written comment period
October 31, 2018	Board is asked to approve filing the proposed rules (CR 102 filing)
November 28, 2018	Public Hearing held
November 28, 2018	End of written comment period
December 12, 2018	Board is asked to adopt rules
December 12, 2018	Agency sends notice to those who commented both at the public hearing and in writing.
December 12, 2018	Agency files adopted rules with the Code Reviser (CR 103)
January 13, 2019	Rules are effective (31 days after filing)*

*Unless otherwise provided by the Board.

MOTION: Member Garrett moved to approve the filing of proposed CR 101 for Quality Assurance Testing and Product Requirements.

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

4. GENERAL PUBLIC COMMENT

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

Gregory Foster – Cannabis Data

Good morning, thank you for the work that you do. I'm here as a result of the work that we do in observing the meetings of the LCB, I wanted to come to share some information. We've heard repeatedly in several of the past meetings that there is a little bit of confusion around the representation of licensees within the trade associations. I wanted to address some of the numbers that we've heard, based on some research that we've done. Hopefully this will clarify these questions.

The first item that we wanted to address was which trade associations actually welcome ancillary businesses as members. What we've done is review the websites of the major trade associations that we see interacting with the LCB. We've found that all of the trade associations actually welcome ancillary members. They have different requirements in terms of whether they are voting members or non-voting members, but all of the ones that we reviewed actually do accept ancillary business members.

The second item we wanted to address are the numbers of licensees discussed in the July 25 EMT meeting, the numbers of licensees within the trade associations. Specifically it was said that there 50 licensees in the Washington Cannabusiness Association and that there were 40 licensees in the Cannabis Alliance. We can actually look at their websites because they have membership directories on their sites and compare that to the licensed businesses data set that is on the LCB's open data portal, which is updated as of June 27 so there has been some licensing activity. Conservatively, we estimate that there are, within the Alliance, 89 licensed businesses that are represented. It is most likely higher than that, we've just done a preliminary analysis at this time. For the Washington Cannabusiness

Association we estimate that at around, conservatively, 33 with maybe two that we still have to figure out. Those are the numbers that we see on the websites of the trade associations themselves.

Finally, the last item that seems to have provided a lot of confusion is the idea that there are roughly 10% of licensees represented by the trade associations. We heard this in three different public meetings and it was unclear whether that 10% number corresponded to a particular association or to all of the associations as a whole. I think the executive summary on that one is that it is complicated actually figuring that out because the licensed businesses data set – the number of licenses and license holders, I believe in the WAC it says any entity and/or principles within any entity can own up to three producer/processor licenses or three retail licenses – so figuring this out is a little tricky, and in 26 seconds I probably won't go into it too much. But, what we can see is that in total as of June 27 there were 1,947 total licenses, 1,743 we active and 204 were pending, and conservatively with those estimates, looking at the Washington Cannabusiness Association, Cannabis Alliance, and self-reported numbers from other organizations...

Chair Rushford: Your time is up.

Mr. Foster: I understand.

Chair Rushford: Please finish -- you are close to your conclusion.

Mr. Foster: Sure. We can say that definitely the Washington Cannabusiness Association isn't 10%, it is roughly between 2.5-5%. In total, looking at all of the associations I think that number is higher than 10%.

Chair Rushford: Thank you, Gregory.

Mr. Foster: Thank you.

Jim MacRae – Straight Line Analytics

It's good to hear data discussed this early in the day, it always makes me a little warm around the edges. One more piece of data, and I want to commend the LCB for striking a group getting together now that comprised both the DOH and the LCB and some input from the community. It's clear from those interactions that you are not the only organization challenged by vendor inability to garnish data. However, the Department of Health has, in spite of their reporting difficulties, begun to give fairly detailed information regarding the number of patients that have signed up in the system. They just recently released some data through the end of July, effectively, which unfortunately again show a net increase in the month of July that is smaller than the number of people that were going off the rolls because they signed up the year before. Right now, after two years and one month in the system, my best estimate is that you've got somewhere just north of 10,000 patients currently activated statewide in the system. There have been 34,000 that have signed up over the last two years but it's about 10,000 currently active.

On the side with respect to reporting the data from the traceability system on your side, I commend you that the monthly business level sales data once again came out of the door. I know that you are facing, I think delivery today if memory serves correct, of something from the State Auditor that will amongst other thing be a recommendation of how to utilize some of the information in the traceability system to dis-out investigatively [sic] potential financial oddities in some of the businesses. I would encourage you, based on the data you have just released, to look at Sunnyside Northwest, Grow Op Farms, Prohibition Gold

and Cowlitz County Cannabis at a minimum, with respect to apparent oddities in reporting during the traceability window.

In that data it's pretty clear there are about 400 stores active in the state over the last seven months. There's about 590 wholesalers active in the state, so it's about one and a half wholesalers, presumably differentially processors, actively selling in the state during this traceability downturn into 400 active stores. Some of those stores are very low volume you're dissing those out obviously.

Those ratios look a little odd. Pretty clearly, and I think the LCB is aware of this participation in reporting into that database, particularly on the wholesale side looks low. It would appear that there are a number of businesses either not selling or not reporting. It's disturbing given historical trends, I'm sure you may not have a lot of time to look at that.

One other point with respect to today, I was a little surprised to see the CR 101 for cannabis rules come in. It was not on the agenda that was posted. Having looked at the agenda, if I didn't have another reason to be in town I probably would not have attended today. I know it's a bit pro forma, but if you look at the agenda there, the only CR 101 is barrier requirements for liquor and the other one that was listed was also a liquor thing so you don't get the degree of input from a community when the community does not know their stuff is going to be discussed. Just a little bit of constructive feedback...

Chair Rushford: Excuse me just a moment please. The Board has the privilege to make an amendment to the agenda and the CR 101 is launching the opportunities for many to participate in the steps ahead.

Mr. MacRae: Will those materials be available with the handouts that go along with it on the website?

Ms. Eide: Yes, and they will be posted to the ListServe as well. Everything will be available.

Mr. MacRae: Thank you.

Chair Rushford: Thank you, Jim.

Steve Sarich – Cannabis Action Coalition

First, thank you. I'm kind of enjoying the meetings we are having with the Liquor Control Board and the Department of Health and it seems to be moving along rather well, it's kind of shocking. I didn't know we were going to talk about the CR 101 today either so it's lucky I showed up.

I just wanted to point out it's been five months since Azamax, the warning went out that people shouldn't be using Azamax and those products should have been pulled off the shelves. They're still there. We still have a problem and the LCB looks to the patient community like they aren't really concerned about public safety. What was even more concerning is when we looked at this, what is the operating procedure when you find something dangerous on the cannabis. If they've been using Eagle 20 which turns into cyanide when you smoke it, how would you get that off the market and let the public know? In looking at your current rules, there's no way to notify the public. If lettuce has E. coli in it, there is an operating procedure as to how the public gets notified of that so that they don't eat that lettuce that they've already purchased. There's nothing in the LCB rules that warns you that if you've already bought something with Azamax or Eagle 20 or whatever, don't smoke it. You really kind of need that because if something really bad was out there you have no way of notifying the public at this point.

Don Skakie - Citizen

I want to thank the Board for their attention to medical this year. I'm pleased to be surprised by the CR 101 this morning and I'll be reaching out to Joanna to hopefully spread that word amongst the patient community. I'm glad to be hearing this so early in the process, and hope to be working with the Board and the patient community to get more input so we have a well-rounded view of where we need to go with this. I really want to thank you, and I want to thank the agency as a whole, and the three of you.

I've really been encouraged by what I've heard over the last several meetings. Not only in the Board meetings but in your annual review and in the EMT meetings. It's in my mind overdue, but things take time and I'm glad to see that change. Thank you.

Member Hauge: Don't declare victory yet.

Chair Rushford: We have much to do.

Mr. Skakie: We'll work on it.

Chair Rushford: Again, to underscore that today's amendment begins a process. There will be a lot of portals for participation. You will see the information on our site later today or tomorrow. We felt it was important to start this process so that is the reason for the amendment today.

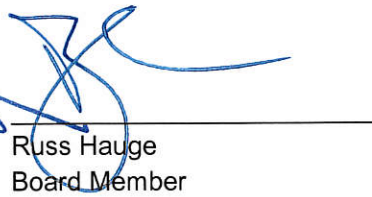
ADJOURN

Chair Rushford adjourned the meeting at 10:23 a.m.

Minutes approved this 5 day of SEPTEMBER, 2018


Jane Rushford
Board Chair


Ollie Garrett
Board Member


Russ Hauge
Board Member

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

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

Complete meeting packets are available online: http://lcb.wa.gov/boardmeetings/board_meetings
For questions about agendas or meeting materials you may email dustin.dickson@lcb.wa.gov or call 360.664.1717