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## Washington State Liquor and Cannabis Board Meeting

Wednesday, May 29, 2019, 10:00 a.m.  
LCB Headquarters - Boardroom  
3000 Pacific Avenue SE, Olympia WA 98501

### Meeting Minutes

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#### 1. CALL TO ORDER

Chair Jane Rushford called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 a.m. on Wednesday, May 29, 2019. Member Russ Hauge was present, Member Garrett was excused.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the March 20, 2019, meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

MOTION: Member Hauge moved to approve the May 1, 2019, meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

#### 3. ALCOHOL RELATED RULEMAKING (A-C)

##### **ACTION ITEM 3A - Board Approval of CR 101 for 2019 Legislation Implementation and Rules Review for chapter 314-38 WAC**

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

Ms. Benham: Thank you and good morning, Chair Rushford and Board Member Hauge. I am here this morning to request approval to file the CR 101 to implement House Bill 1563 regarding student tasting in colleges and universities. The chapter will also reviewed to update and clarify rules language. House Bill 1563 permits students to taste alcoholic beverages while on the premises of the college or university at which the student is enrolled or while on a field trip to a grape growing area or production facility. Chapter

314-38 WAC, and that's the WAC regarding permits, needs to be amended to implement this bill and the chapter also needs to be reviewed to update language and ensure language is clear. Revisions will include clarifying and technical updates as well.

Timeline

May 29, 2019	<ul style="list-style-type: none"> <li>• CR 101 filed with the Office of the Code Reviser</li> <li>• LCB webpage updated and notice sent to the rules distribution list</li> </ul>
June 19, 2019	Notice published by the Office of the Code Reviser in WSR # 19-12
July 19, 2019	End of written comment period
October 2, 2019	<ul style="list-style-type: none"> <li>• Board asked to approve filing the CR 102</li> <li>• CR 102 filed with the Office of the Code Reviser</li> <li>• LCB webpage updated and notice sent to the rules distribution list</li> </ul>
October 16, 2019	<ul style="list-style-type: none"> <li>• Notice published by the Office of the Code Reviser</li> </ul>
November 13, 2019	Public Hearing held and end of written comment period
December 11, 2019	<ul style="list-style-type: none"> <li>• Board asked to adopt rules if no additional changes are made</li> <li>• Notice and Concise Explanatory Statement sent to those who commented both at the public hearing and in writing</li> <li>• CR 103 and adopted rules filed with the Office of the Code Reviser</li> <li>• LCB webpage updated and notice sent to the rules distribution list</li> </ul>
January 11, 2020	Rules effective (31 days after filing)

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

MOTION: Member Hauge moved to approve the CR 101 for 2019 Legislation Implementation and Rules Review for chapter 314-38 WAC

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

**ACTION ITEM 3B - Board Approval of CR 101 for 2019 Legislation Implementation Regarding WAC 314-02-015, WAC 314-02-045 and chapter 314-30 WAC**

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

Ms. Benham: The second item I have today is also regarding 2019 legislation implementation. I'm requesting approval to file the CR 101 to implement House Bill 1034, House Bill 1672, and Senate Bill 5909. Revisions will also include technical and clarifying updates as. House Bill 1034 created an endorsement that allows spirits, beer, and wine restaurants to sell Soju for on-premises consumption to tables of two or more patrons. The bill asks the restaurant to recap Soju bottles and patrons to remove the recapped Soju from the premises. WAC 314-02-015 needs to be revised to allow service of Soju. House Bill 1672 allows spirits, beer, and wine restaurants and beer and wine restaurants to recap sake purchased for consumption with a meal. The bill asks patrons to remove recapped sake from the

premises. WAC 314-02-015 and WAC 314-02-045 regarding spirits, beer, wine restaurants and beer and wine restaurant licenses needs to be revised to allow and implement this legislation.

House Bill 1672, I just want to make a note of this, also allowed wineries to recork unfinished wine for patrons to remove from the winery premises. The winery's rules are currently open in another rulemaking package. So, that will be addressed and implemented there.

And finally, Senate Bill 5909 allows manufacturers, license under RCW 66.24.150 to contract with distilleries, breweries, and wineries to provide packaging and blending services. A new section needs to be created in chapter 314-30 WAC to compliment the other section and implement this bill regarding sales by manufacturers and packaging and blending by manufacturers.

Timeline

May 29, 2019	<ul style="list-style-type: none"> <li>• CR 101 filed with the Office of the Code Reviser</li> <li>• LCB webpage updated and notice sent to the rules distribution list</li> </ul>
June 19, 2019	Notice published by the Office of the Code Reviser in WSR # 19-12
July 19, 2019	End of written comment period
September 18, 2019	<ul style="list-style-type: none"> <li>• Board asked to approve filing the CR 102</li> <li>• CR 102 filed with the Office of the Code Reviser</li> <li>• LCB webpage updated and notice sent to the rules distribution list</li> </ul>
October 2, 2019	<ul style="list-style-type: none"> <li>• Notice published by the Office of the Code Reviser</li> </ul>
October 30, 2019	Public Hearing held and end of written comment period
November 13, 2019	<ul style="list-style-type: none"> <li>• Board asked to adopt rules if no additional changes are made</li> <li>• Notice and Concise Explanatory Statement sent to those who commented both at the public hearing and in writing</li> <li>• CR 103 and adopted rules filed with the Office of the Code Reviser</li> <li>• LCB webpage updated and notice sent to the rules distribution list</li> </ul>
January 11, 2020	Rules 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 CR 101 for 2019 Legislation Implementation Regarding WAC 314-02-015, WAC 314-02-045 and chapter 314-30 WAC

**SECOND:** Chair Rushford seconded.

**ACTION:** Motion passed unanimously.

**ITEM 3C – Rulemaking Forecast**

Ms. Benham: The next item I have is a rulemaking forecast to go over rulemaking activity that's coming up this summer for all of the alcohol rules. We currently have a lot open, so I think this will be a great opportunity to make the public aware of what we're doing.

First, we have spirits distributor licensing fees rules open, which will amend WAC 314-02-106, 314-28-070, and eight sections of 314-23 WAC. We have proposed rules out to stakeholders for written comment. We have proposed rules ready and will be prepared to request approval to file a CR 102 in July.

Special occasion license rules. This was a chapter review of chapter 314-05 WAC as this chapter hadn't been reviewed for quite a while. We've done some pretty extensive work on this and I should have just a couple more things to prepare. These rules should be out for stakeholder comment in June and we should be ready to request approval to file a CR 102 at the end of July or beginning of August. Acceptable forms of ID - this rulemaking was opened to add tribal IDs from outside of Washington by amending WAC 314-11-025. We have been meeting with the tribes for consultation, and have one more meeting on May 31. These consultations have gone really well and we're planning to have proposed rules and request to file a CR 102 on June 12.

Wineries and breweries rules. These are complete chapter reviews for chapter 314-25 and chapter 314-20 WAC. These rules have been open for the last year, and we've done some pretty extensive work with stakeholders and the staff. We're still working with stakeholders to draft a few additional revisions. We are planning on having proposed rules and request for approval to file the CR 102 in July or August.

We also currently have barriers rules open to amend WAC 314-02-025 and 033, and we are currently drafting rules and working with staff and stakeholders to figure out where we want to go with this. This has been a little bit of a controversial issue so we're doing a lot of stakeholder work with this rule package. I want to make sure that we send this out for stakeholder comment prior to requesting we file the CR 102, which has been working out really well. We plan on having that out for comment in June or July. Do you have any questions on any of my upcoming rules?

Chair Rushford: You keep us well informed. Do we post on our webpage this summary that you just walked through?

Janette Benham: We can talk about doing that.

Jane Rushford: Okay, let's think about -- it's important that people know and that they can, at a glance, identify where we are with something since there are so many moving parts related between CR 101 and CR 102. I think it might be helpful.

Janette Benham: We do send drafts out with our alcohol and cannabis newsletter, but we can talk about maybe doing that more frequently or putting it on our website too.

Jane Rushford: Thank you.

#### **4. CANNABIS RELATED RULEMAKING (A-B)**

##### **ACTION ITEM 4A - Board Adoption of CR 101 for Cannabis Packaging and Labeling Rules**

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 4A 1-2).

Ms. Hoffman: Thank you Chair Rushford, Board Member Hauge. Janette and I have been talking about putting together a rules webpage to keep the public up to date on what we're doing specifically with our

rules and with documents that are associated with rulemaking. So, if there are meetings that we have, like I did with the quality assurance testing rules, all of the documents related to that would be there including the agenda and sign in sheets.

Chair Rushford: Thank you.

Ms. Hoffman: Additionally, this morning I'd like to request the board's approval to file the proposals statement of inquiry with CR 101 to consider a rule revision as related to marijuana packaging and labeling requirements under WAC 314-55-105 and 314-55-077, sub eight and nine.

By way of background, the original regulatory framework around the packaging and labeling of marijuana products was promulgated in 2013 and over time the rules have been modified in response to industry growth as well as statutory and other changes. Now, additional factors such as the use of biodegradable packaging and reduction of the regulated community's environmental impacts suggests that additional options to support industry's sustainability should be explored. So to that end, this inquiry will also allow consideration of the following, and those are the two rule petitions we received previously that the Board accepted regarding the elimination of a requirement for external measuring devices on cannabis-infused beverages and decreasing package thickness on packaging as well.

Also, this rulemaking will allow the implementations of the requirements consistent with Engrossed Substitute Senate Bill 5298 that will allow additional information on marijuana product labels to assist consumers in making purchases of these products informed purchases. This rule will also consider formalizing the Board interim policies that were approved earlier this year regarding packaging and labeling. We'll also consider technical and clarifying amendments as necessary.

Timeline

May 28, 2019	Board is asked to approve filing the pre-proposal statement of inquiry (CR 101)
June 19, 2019	Code Reviser publishes notice, LCB sends notice to rules distribution list
July 10, 2019	End of written comment period
September 4, 2019	Board is asked to approve filing the proposed rules (CR 102 filing)
October 16, 2019	End of written comment period
October 16, 2019	Public hearing held
November 13, 2019	Board is asked to adopt rules
November 13, 2019	Agency sends notice to those who commented both at the public hearing and in writing.
November 13, 2019	Agency files adopted rules with the Code Reviser (CR 103)
January 1, 2020	Rules are effective (31 days after filing)*

\*Unless otherwise provided.

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

MOTION: Member Hauge moved to approve the filing of CR 101 for Cannabis Packaging and Labeling Rules

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

#### **ITEM 4B – Rulemaking Forecast**

Ms. Hoffman: I'll try to make it brief. We've had penalty rules in progress since October 31 of last year but with the passage of Engrossed Substitute Senate Bill 5318, that's brought some additional changes to that rule development process, including amendments in new sections. We have been extensively revising that ruleset. We're very close, I'd say about a month away from releasing a draft set of conceptual rules to our stakeholders regarding those changes. Additionally, ESSB 5318 also included a consultation program. We're going to start that rule development under a separate rulemaking activity because we'd like to put the consultation program further up in the ruleset so that there's a separation between the consultation program and compliance structures. At this time, I have kind of an aggressive forecast for this. I'd really like to have a CR 102 completed by October 21 for a presentation to you. But again, we'll see what sort of feedback we receive on the draft conceptual rules from our stakeholder and regulated community.

Next in line are the true party of interest (TPI) rules that were opened last year. Those are under 314-55-035. This will implement in part ESHB 1794 which had to do with trademarks and intellectual property. There's also elements of the TPI rules that intersect with our penalty rules such as how we scope TPI between the penalty structure and also how we define things like controlling interest, financial institutions and those kinds of things. I'd like to move penalty rules and the TPI rules in tandem because they're going to cross-reference each other. And so again, the August 21 timeline is very aggressive but I'm hopeful.

Next are the quality assurance testing rules that involves 314-55-101 and 102. We had a very successful, listen and learn session with our regulated community and industry partners in April. We're working almost to the end of creating the small business economic impact statement. That's part of the analysis for that rule activity. I'm planning another listen and learn session similar to the first listen and learn session we did, although this will be related to how we mitigate cost to the regulated community and how we phase-in rules over time. We're making significant progress on those rules. I'm hoping to have a CR 102 by middle of September, earlier if possible. But again, we want to make sure that we're fully engaged and have fully vetted the draft conceptual rules before we move forward with that.

And finally, vapor rules. As you'll recall, we had a CR 102 that was filed I believe last year, that expired yesterday. We were waiting for that to expire so we could refile a CR 101 that would allow us to incorporate the provisions of the Tobacco-21 legislation and ESSHB 1873 that has to do with taxation. That ruleset is largely written, although we'll just need to refine it a little bit to incorporate this legislation. I anticipate moving forward to a CR 102 with that in late September or early October. And then, we should have that rule set completed by the end of the year.

Chair Rushford: And are you hearing much, Kathy, from our partners in the vapor industry?

Kathy Hoffman: I haven't heard anything yet.

Chair Rushford: It might be new to them, the rulemaking process. Let's talk about some strategies.

Kathy Hoffman: Yes, exactly. And I suspect once we file the CR 101 we'll receive some more feedback and interaction.

Chair Rushford: Any questions, Russ?

Member Hauge: No, thank you.

Chair Rushford: Thank you, Kathy.

Ms. Hoffman: Thank you very much.

Chair Rushford: The Board appreciates the efforts that Janette and Kathy bring to engaging between the CR 101 and 102 in such a deliberate and productive way. It makes the process more inclusive and efficient. We're getting a positive return on investment and it takes longer to do that at times, but the outcomes are more favorable to licensees and other stakeholder communities.

I want to mention before I forget, we have one more Board meeting in this building on June 12. Then we move to our new facility and will have an inaugural Board meeting in July.

## **5. GENERAL PUBLIC COMMENT**

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

### John Kingsbury – Cannabis Patient

You know me, John Kingsbury, thank you. I understand this is not a forum for conversation but I'm going to make some comments and I hope the board will be able to get back to me with their feedback.

It's been three years since the implementation date for 5052. I think everybody can agree that medical cannabis has not been as successful or even hardly a thing in many cases, and the Board's been really open and vocal about that. I appreciate that. There's always something else taking the oxygen out of the room. You know there's a lot of tasks on the table but sooner or later, medical cannabis has to appear as a priority somewhere. That hasn't happened. That's why I was buoyed quite a bit last year when the Board started talking about it and when the agency started talking about it. I reviewed a lot of comments back to May and I know Director Garza talked about how patients had not been included as stakeholders previously. The Board talked many times through the summer about how they didn't feel the system was working. Chief Nordhorn, by the end of the summer specified specific failures in areas of concern in the system. So, I appreciate that conversation actually had been happening. But talking is not acting. What I would like to know is what kind of ideas that you came up with, what thoughts you had. Because the thought and the discussion had obviously been there and I appreciate that very much.

And then lastly, I'm going to throw a suggestion out there. I'd like to make the suggestion that the position be established that the Cannabis Advisory Council for a patient advocate. That person should be a patient and have no business interests in the cannabis industry and at least some basic understanding of how government functions. I am not volunteering for that position, just to be clear. And, there should be no surrogates. There should never be any businesses that pretend to speak for patients. That's really damaged us in the past, and patients are not like other consumers. So that is one suggestion I have. I hope that you'll maybe give us public feedback or some feedback we can access somehow about the

conclusions you come up with or maybe some ideas you had or some feedback on all the thought that you did last year. And I appreciate it. Thank you.

Jane Rushford: Thank you, John.

Don Skakie – Homegrow Washington

Good morning, Chair Rushford and Board Member Hauge.

Chair Rushford: Your name please, for the record.

Mr. Skakie: Oh, I'm sorry. Dan Skakie from the city of Renton. And, you know, it's funny because John and I have actually talked a lot over the last year. This is something we did not talk about in advance of today but I want to echo what John said.

Last year when the Board did their annual review and setting of goals for the coming year, doing something about medical was one of the goals that was set. And as I see time ticking away, coming up to the next review, in my opinion, the Board has kind of fallen short on that. I don't know why but I know there are some things that do prevent patient participation in the regulated system. I would say the chief thing of that would be, the Board should be looking towards legislation. I know that patients are still in a gray area where they have, at best, an affirmative defense. It's not legal for them to operate as patients. They can still be arrested. They can still be prosecuted. It's only when they get to trial that they have the opportunity and not even the right to present a medical defense. So for that reason, I think a lot of patients are distrustful of the system. It could be why they're not participating in it more often.

To that end, I would ask that the Board consider reopening the 15-day window on obtaining new genetics. The fact is that when that window closed, it really shut the window on producers and processors from being able to produce genetics that patients look for specifically that are not currently in the system. So, that would be a help.

The other thing is patients tend to be larger consumers. They consume more because they need more for their conditions. So the other thing is that even though there's only about, I guess about 10,000 patients that participate in the registry, the fact is that there's at least 100,000 if not 200,000 authorization holding patients in the state of Washington. And if they are not being served by the system, they are either taking care of themselves or working with a neuro community or god forbid even going to the black market. So, this is an area where the Board should be focused because I see it as, it would be a great healing as we go to what's described as Cannabis 2.0, to bring those people to the right side of the law, to bring them into the regulated system, and to get the perception to producers and processors that patients are not just 10,000 on the registry. There are so many more out there that have great need. It could be a great savings for their businesses. I understand a lot of businesses are struggling. So if there was a refocus on patients, I greatly encourage that heavy metal testing be restored. But, we need more focus on what they need. We need to bring them into the system. Thank you for your time today.

Jane Rushford: Thank you, Don.

Kate Quackenbush – Fractal LLC

Hi, my name is Kate Quackenbush, I'm with a company called Fractal. We're a small 502 processor and I thought I'd take the opportunity today since you're kicking off a new round of packaging and labeling



rulemaking to implore the Board to make the rulemaking methodology much more evidence-based. What we've seen in the past, it seems to me and many, many other licensees is that the rules have been a little bit random, a little bit based in emotion, opinion or conjecture. Those that I've spoken with and my whole team believe that there are studies, there is research out there. I know that the packaging and labeling rules are primarily focused on preventing children from accessing cannabis and I certainly support that. I think any adult feels an obligation, or should, to protect children. But I believe there are studies available as to how children do accidentally consume cannabis and those could be applied in the rulemaking process to make sure that every rule that we make is actually effective. Thank you.

Chair Rushford: Thanks for your comments.

## ADJOURN

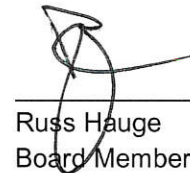
Chair Rushford adjourned the meeting at 10:28 am.

Minutes approved this 12 day of JUNE, 2019

  
Jane Rushford  
Board Chair

*Not Present*

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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, cannabis, tobacco, and vapor laws.

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