



## Washington State Liquor and Cannabis Board Special Board Meeting

Wednesday, October 23, 2019, 10:00 a.m.  
Boardroom, LCB Headquarters – 1025 Union Ave SE, Olympia, WA 98504

### 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, October 23, 2019. Member Ollie Garrett and Member Russ Hauge were also present.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the September 18, 2019, meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

#### 3. CANNABIS RELATED RULEMAKING

##### ACTION ITEMS (A-D)

##### **ACTION ITEM 3A - Board Adoption of Emergency Rules Concerning WAC 314-55-077 – Marijuana Processor License**

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 3A 1-4).

Ms. Hoffman: Good morning, Chair Rushford, Board Members Garrett and Hauge. I'm here today to request the adoption and approval of three emergency rule packages, the first of which concerns WAC 314-55-077 regarding marijuana processor licenses.

To begin with, these are emergency rules and consistent with RCW 30.405.350. Any agency may find that the immediate adoption amendment or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare and that observing the time requirements and notice an opportunity to comment upon adoption of a permanent rule would be contrary to public interest. These emergency rules,

of the state Board of Health emergency rules described in Chapter 246-80 WAC and also bridges the enforcement requirements contained therein with the authority of Chapter 69.50 RCW that are realized in this rule.

I'd like to request that you adopt the emergency rule that I've just described and that I'm authorized to file that with the code reviser, also making the same scrivener's error on this CR 102 form and the previous form.

MOTION: Member Garrett moved to approve the filing of emergency rules concerning WAC 314-55-079.

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

### **ACTION ITEM 3C - Board Adoption of Emergency Rules Concerning WAC 314-35 – Summary License Suspension and Petition for Stay – Vapor Licenses**

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 3C 1-4).

Ms. Hoffman: Thank you. The third set of emergency rules on these concern WAC 314-35 -- that's vapor product licenses -- and this would add provisions for summary license suspension and petition for stay. And again, under the same premise, these are emergency rules. We're filing them consistent with what's previously happened with the State Board of Health emergency rules that were effective October 10th.

The immediate adoption of these rules establishing summary license suspension and petition for stay provisions are necessary for the enforcement of those State Board of Health rules. We do have the authority and responsibility to adopt these rules for the preservation of public health in the same vein that we've adopted the other two today.

These rules serve a two-prong purpose. They allow the Board to serve an order of summary license suspension after a preliminary staff investigation indicates that a vapor product licensee has violated the State Board of Health rules as described in 246-80 WAC and that immediate cessation of the licensed activities is necessary for the preservation of public health and welfare. They also provide a framework and process for an affected vapor product licensee to petition the Board for, say, a summary suspension, consistent with the provisions of Chapter 34.05 RCW, that's the Administrative Procedures Act.

I'd like to request that these emergency rules be adopted today and that I am authorized to file them with the code reviser.

Chair Rushford: Will you please clarify the WAC on this emergency rule?

Ms. Hoffman: These are 314-35, and we're establishing 090 and 095 as emergency rules. 090 is for the summary suspension, 095 is the petition for stay.

MOTION: Member Hauge moved to approve the filing emergency rules concerning administrative code section 314-35-090 and 095.

which will probably cause the ban to be overturned as it has in Michigan and other states for the same reason, because the judges are ruling it's not an emergency action about the flavor, because there's no link between flavor and problems. It's something you might want to look into. Also, the marijuana flavor being allowed, because my interpretation would be that if someone like True Terpenes was copying marijuana flavor, that that should be allowed under the rules. So, because nothing in the rules specify that -- actually, it does specify the marijuana flavor is allowed.

Beyond that, under the rule, it allows hemp terpenes as an option. Would that mean tobacco vaporizer companies can use hemp terpenes in their flavors? Because it doesn't specify whether that vaporizer characterizing flavors for hemp, cannabis, or marijuana, or tobacco. So theoretically, could hemp terpenes now be utilized in nicotine products as a flavor, because that's not banned? What about cannabinoids, because those are terpenoids from hemp, because that's written into it as well? These are things I think you should consider.

The other thing is that right now the ban bans flavors. What if terpenes are utilized as viscosity to change the thickness of the mixture, because that's not banned? Further, what about using terpenes for the effects and not for flavor, because they alter the entourage effect of cannabis? How would any of that be regulated? In my understanding, that's not regulated under the law. Further, vitamin E acetate, which is causing the harmful effects and actually has been linked to the problems, is not addressed in this ban at all. As such, vitamin E, which is actually causing these problems, can continue to be used in the recreational market.

You are creating a ban on flavors, which does nothing, admitted by you and the Board of Health. Meanwhile, vitamin E, which actually causes harm, is still allowed under our system. That seems slightly ridiculous.

Chair Rushford: Thanks for your comments. And if you have anything in writing, David, please submit it.

David Heldreth: I will.

Brooke Davies – Washington Cannabusiness Association

Thanks. Good morning, Chair Rushford and Board members Hauge and Garrett. My name's Brooke Davies. I'm here today on behalf of the Washington CannaBusiness Association. And I want to start by saying that WACA members and the organization, we take our responsibility to protect public health very seriously. We want to be selling safe products and we want to be a partner to the state in removing the now-banned products from the market.

I'm here today to talk about an issue that I did discuss with you last week. Basically, right now, with the regulatory barriers that we're experiencing it's difficult for us to get this product off the market, which I know you're aware of. I'm bringing up this issue again - talking about being able to issue a credit for the now-banned product.

Right now, the only option is to issue a cash reimbursement or nothing at all. For example, if a retailer is returning the product to the processor, the processor can either reimburse them or do nothing, which leaves the retailer with all of the loss. I believe that there's a solution that you could issue a credit for compliant product, even if it's in the future. Our members are retailers, processors, producers of all sizes. We spoke with all of them and they all express that this is something that could help alleviate some of the stress during this time. I know that the agency is looking into it, and we really appreciate that.