



Washington State Liquor and Cannabis Board Meeting

Wednesday, December 11, 2019, 10:00 a.m.
Boardroom, LCB Headquarters – 1025 Union Ave SE, Olympia, WA 98504

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, December 11, 2019. Member Ollie Garrett and Member Russ Hauge were also present.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the November 26, 2019, meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Motion passed unanimously.

3. ALCOHOL RELATED RULEMAKING TIMELINES

Ms. Benham: Good morning, Chair Rushford and Board members Hauge and Garrett. I'm here this morning to give an update on the alcohol rules we have in process. The first set of rules I want to talk about is spirits distributor license fees. We had the CR 103 filed on October 2 with a delayed effective date of January 1 of 2020 which signifies the beginning of the quarterly reporting period. I'm going to keep this on the list to have updates until after the effective date of those rules. These rules outline that retailers selling spirits for resale much pay the distributor license fee when no other distributor license fee has been paid. These rules are the result of a 2017 court of appeals decision.

The next set of rules I wanted to talk about are the special occasion license rules. We have a public hearing scheduled for these rules on January 8 of 2020. We have not received any formal comments yet prior to filing the CR 102. We reached out to stakeholders and got positive feedback on the rules. These rules clarify language, remove unnecessary language and clarify requirements for application. We also added additional information to the guideline section that was taken from our FAQ on our website and the questions that come into Licensing and Enforcement. These updates should help cut down on the confusion regarding the special occasion licensed events. We also updated advertising and branded promotional items information. We took a section from our advertising rule, WAC 314-52, which regards

public and civic events because we received a lot of questions related to special occasion licenses. It seemed like it didn't fit into that section and was a better fit in the actual special occasion license rules.

Next we have barriers rules. We have a public hearing on January 8. We worked really hard on these rules and had several meetings and work sessions with staff and stakeholders. What is changing in these is we are going to allow additional options other than the 42-inch barrier. Those options will include visibly different and contrasting flooring, walls of any height, planters, large planters, floor lighting, floor beacons, and steps up or down. And there's also the ability to have demarcation options that are not on this list approved on a case by case basis. With those rules we are updating signage requirements and are referring to alterations for license premises so that licensees know that they can request an alteration for a special or regularly scheduled event. So far we've received positive comments on these rules. We still haven't heard from the prevention community but expect to hear from them prior to or at the hearing on January 8.

We are still working on wineries and breweries rules. These rules have been open several times over the course of the years. We've had these open for about a year and a half now and there's a lot of outdated information in these rules and a lot of clarifications that needed to be made. We have 37 sections of the wineries rules related to that, 21 sections of the breweries rules. We're kind of slugging through these and want to make sure that we have correct information and remove inconsistencies. There are a few areas of conflict with the TTB requirements. Before we bring these forward with the CR 102, we want to make sure we have a good ruleset to do that with. We hope to have the wineries rules ready and the breweries rules ready for review in January, or at least in the first quarter of the year. We need to review with our AAG too and go through these to make sure that everything lines up with statute and TTB requirements.

We have two sets of rulemaking regarding 2019 legislation. The first one regards Soju, recapping sake and manufacturers packaging and bottling. I'll have the CR 102 to present to you for approval on December 18, we just got the draft back from the office of the code reviser. This rules package implements legislation that passed during the 2019 session. It's a change to WAC 314-02-015, 045 and the manufacturers chapter 314-30 WAC. The second 2019 legislation and chapter review is regarding our permits section. This is implementing legislation that passed regarding student tasting. This is a separate package and is a full rules review. There's a few things we need to work out with this and hope to have this ready in January for approval to file the CR 102.

We recently opened the alternating proprietorships for distilleries and craft distilleries rules and we filed that CR 101 on November 13. We have a Board Interim Policy (BIP) in place and the rules will be revised to implement the language that's in the policy. It will be close if not exactly what's in the language in that BIP.

On the horizon, we will look at rules regarding trade practice rules as a result of an August Court of Appeals decision. We reached out to stakeholders for input and I expect to have the CR 101 ready to file in early 2020.

Another couple of rules review packages that I have on the horizon is a rules review and update for private clubs, and I hope to bring that in the first quarter of 2020. There are some inconsistencies and these rules need some clarification. Then, since we have revised advertising rules as I mentioned in our special occasion rules that we removed a section of advertising and put that into the special occasion license rules. We actually didn't remove it because we didn't have chapter 314-52 open, We'll open that update and also revise those rules for advertising. I hope to get that towards the end of the first quarter or into the second quarter of 2020.

4. VAPOR PRODUCT RELATED RULEMAKING ITEM AND TIMELINES

ACTION ITEM (A)

ACTION ITEM 4A - Board Adoption of CR 103 for Vapor Products Rules

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 3A 1-5).

Ms. Hoffman: Good morning, Chair Rushford, Board members Garrett and Hauge. This morning I'm here to request your approval to adopt a CR 103 regarding chapter 314-35 WAC which refers to vapor products. By way of background, these rules pertain to RCW 70.345 and they have to do with the regulation and licensing of vapor products. These implement Engrossed Substitute House bill 1873 as well as Engrossed House Bill 1074, that is the tobacco 21 legislation.

Since the legislation directing these rule revisions has been enacted, concern around the use of vapor products has increased significantly. Chapter 314-35 provides us only with a limited regulatory framework around the manufacturing, distribution, and sales of these products. If adopted today, these rules will increase the age of legal sale of vapor products, increase record-keeping requirements, clarify vapor product licensee requirements including qualification, application denials, insurance requirements, license suspension, and revocation, establish transportation requirements, establish the ability of the Board to seize both cannabinoid vapor products and vapor products under specific circumstances. They'll establish forfeiture guidelines and also establish a penalty structure that aligns with current statute. The CR 101 was filed on June 12 and CR 102 was filed on October 16. We had a public hearing on November 26. Before the public hearing and up to the close of business on public hearing, we received a total of six comments on these rules, largely related to the confusion that there seems to be over what these rules pertain to. As you're aware, we have the State Board of Health rules that pertain to flavored vapor products and ban those products. Several of the comments related to asking the Board to remove the ban and since that falls under the purview of the State Board of Health we weren't able to respond to those comments but directed the commenters to the State Board of Health to provide their feedback on that. There's also an additional comment with respect to our small business economic impact statement that only pertained to the insurance requirement that is part of this particular ruleset. And I wanted to just reiterate that the Board asserts that the current estimated cost of requiring commercial liability insurance in this space is related to the necessary protection in public health and safety. The majority of the rules that are proposed for adoption today are required by statute and are therefore nonnegotiable. The agency finds that these costs are necessary, appropriate and supported by the governor's directive under Executive Order 19-03 as well as the State Board of Health emergency rules. And I also want to point out that the commercial liability is also very important since we currently have nationally 2,291 hospitalized cases of lung injury associated to vapor products. We've also related 48 deaths nationally to this outbreak. There are also 19 reported cases in Washington State. With this as background, I request your approval to adopt the final rules regarding chapter 314-35 regarding vapor products.

MOTION: Member Garrett moved to adopt the CR 103 for Vapor Products Rules

SECOND: Member Hauge seconded.

ACTION: Motion passed unanimously.

RULEMAKING TIMELINE

Ms. Hoffman: After I file these today they become effective 21 days after filing. We're able to accelerate the effective date on these rules because we have a statutory requirement to have them adopted by January 1 of 2020 under the tobacco 21 legislation. There are also five sets of emergency rules that we're monitoring along with the State Board of Health emergency rules. And that's the update for vapor products at this point.

5. CANNABIS RELATED RULEMAKING ITEM AND TIMELINES

PUBLIC HEARING 5A – CANNABIS PACKAGING AND LABELING RULES

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 5A 1-4).

Ms. Hoffman: Today we are hosting a public hearing on marijuana packaging and labeling rules. I'd like to provide a brief background and some context regarding this hearing on our proposed revisions to marijuana packaging and labeling rules.

We filed our pre-proposal statement of inquiry on May 29 to consider three specific topics identified in the subject of possible rulemaking on the CR 101 form. Those were considering the offerings of two rule petitions that suggested revising requirements for measuring devices for marijuana-infused liquid edibles and reducing plastic package thickness from four mil to two mil for marijuana-infused solid edibles. The second piece was implementing the requirements of Engrossed Senate Substitute Bill 5298 regarding the legislature's intent to allow additional information on labels and labeling of marijuana products to assist consumers when purchasing these products. And the third element was to consider whether to incorporate the provisions of five Board Interim Policies that have been designed to clarify current marijuana packaging and labeling rules.

Today's hearing concerns the proposed proposal filed on October 30, 2019 reflecting outcomes of inclusive and engaged rule development process that occurred from August to October of 2019 that focused on the three concerns I just mentioned. The LCB has hosted two focus groups around this topic: one in August with a licensee focus and another in September with a prevention and public health focus. These focus groups reviewed and discussed marijuana packaging and labeling materials and guidance from the states of Oregon and Colorado. The day-long listen and learn session bringing together licensees, prevention, and public health representatives and any other member of the public was held here at LCB on October 11. The purpose of that session was to review a draft conceptual set of rules that had been developed based on the feedback of all our stakeholders within the identified scope of the CR 101.

The LCB recognizes that there are many competing interests in this space. These interests include assuring that marijuana products are not appealing or marketed to persons under 21 years of age, offering a more concise yet flexible framework to provide licensees the ability to engage in product development, design and marketing that will support business growth. At the same time, the Board is interested in sustainable business practices that will reduce industry waste and environmental impact while maintaining emphasis on public safety and the reduction of potential for accidental exposure to marijuana products. Also assuring that the required products warnings are aligned with product type to the extent possible in rule providing guidance for the provision of structure and function claims that are

anticipated to increase consumer product knowledge. And finally to the extent possible in rule, providing clarity regarding what types of labeling designs and packaging characteristics should be avoided to reduce the possibility of unintended accidental exposure to marijuana products. We received several comments to date and we look forward to the opportunity to hear from those interested in offering comment today. Thank you.

Chair Rushford: For those of you who have not testified previously, we allow four minutes and I will call your time when that concludes. Please know that if that happens, it's not a judgement of your comments but rather we want to be consistent across the process. In addition, I want to mention again, as I did last week or the week before, that we're going to move to a three-minute timeframe after the first of the year. We found that most people don't require the full four minutes. With that, Don Skakie, you are the first one up.

Don Skakie – Homegrow Washington

Thank you, Chair Rushford and members Hauge and Garrett. For the record, my name is Skakie from the city of Renton. My comments on packaging and labeling today are general in nature. I know the Board has a long history of regulating alcohol and that we're only approximately five years in with cannabis. So we're -- my attendance at these meetings -- I know that once certain alcohol issues come up, there tends to be greater participation, usually either in support or against what's probably been well commented before through email or other channels to the Board.

Cannabis is a different issue in that we are a young industry and a lot of people are so busy running their businesses and trying to keep up with regulation and everything that they may not participate as fully as the alcohol community has come to and become as well-versed and well-polished as that community. But it is not to say that people are not interested or concerned or don't want to be involved. So I would just say that on a personal level, I appreciate the deliberative process this Board engages in and the rulemaking process and the work that goes into that with the obvious affect now of reducing our waste and reducing the amount of packaging that we do.

I have other things going on and did not get deeply involved in this issue but other people have brought to my attention that beyond this work that has been done that further work needs to be done. In particular, what was mentioned was individual pre-rolls are typically packaged in a plastic snap container. But recently it was seen that one came in a cardboard container, a paper container. And this is obviously much better for the environment, much less impact on our waste stream. So when we get through this today and these changes are made, and it is a young industry, let's keep in mind that much more work needs to be done. We do need to reduce even more the amount of packaging that we require. We need to keep in mind that these products are specifically for adults. I'm retired, I've got arthritis, and I just don't enjoy having to fight with my packaging to get a product that I should have access to. So let's keep on working and moving forward. Thank you so much for your time today.

Chair Rushford: Thank you. Lukas Hunter.

Lukas Hunter – Harmony Farms

Hi, my name is Lukas Hunter representing Harmony Farms. First of all, I have to say thank you so much for all the hard work that's gone into packaging and labeling. My role is compliance there. It's a lot easier to be able to have everything orderly as opposed to looking for this section applies to this and so on and so forth. To have the order is fantastic.

My main concern is the new requirement to put a serving size or the number of draws and having that applicable to the concentrates, marijuana mix and useable flower. It totally makes rational sense for edibles or marijuana-infused drinks to have a serving size. You have a unified mode of consumption. You're not going to try smoking a brownie, for instance. With marijuana concentrates, we have anything ranging from keif to THC crystalized to be able to ingest it. So we have multiple modes of consumption that a consumer can do with that. So to be prescriptive for a producer/processor to put, you know, you have this serving size and this many servings, well, that's only applicable to however it is consumed. On the packaging and labeling, I fear that puts us in position where we don't -- how can we be prescriptive if we don't know how the end consumer is going to ingest it.

And further, what may knock someone out, figuratively, of course, may do barely anything to another consumer. And it's because of how our endocannabinoid system receives different cannabinoids. I know Harmony has a product called Pink Lemonade. It's one of our flower strains. It's a low THC but the terpene profile has users going for it just because of the way it affects them. Now, we also have higher THC products, which won't affect the end user in the same way. And it's because terpene profile affects are endocannabinoid system differently.

So as we have inconsistency in the mode of consumption and in the batch to batch, how variable these products are, there's a great concern for us to be able to put something definitive on our packaging and labeling without sound cannabis research and without knowing how the product will affect each individual. I hope that there can be some reconsideration as to removing this language from marijuana concentrates, marijuana usable flower, and marijuana mix. I submitted this to Kathy Hoffman. I'll be more than happy to send it forward to you guys if you're interested as well. But, I'm just asking at this time to reconsider this section until we have more sound science as to how cannabis affects the endocannabinoid system of various uses.

Chair Rushford: Thank you and Kathy will share -- is always sharing the comments that are received with us. Kate Quackenbush.

Kate Quackenbush – Fractal LLC

Good morning. The first thing I want to comment on is to express my extreme thanks to the Board and to Kathy for the collaboration and partnership in working on these packaging and labeling rules. I think that we've come a very long way. I certainly agree with some of the other commenters. There's more to be done but very impressed, especially during Kathy's tenure with how collaborative the process has been. We really appreciate it.

Cannabis Alliance has asked me to comment also on the draw and serving size issue, specifically for all the forms of marijuana that are in the current proposed rules. I'm just going to read briefly from a letter that they wrote and then I'm going to add my own comments so it's clear who's who. "We understand it's possible to calculate serving size for edibles as it is findable and quantifiable, much like you would see on other food products. However, it is simply not possible to quantify serving size for concentrates or flower and draw size will vary tremendously from person to person." That's their comment and I also agree that it varies tremendously from product type to product type, endocannabinoid system to endocannabinoid system. And I would also add that there are other aspects of physiology that come into play. Some people, have different lung capacity. Some people have asthma. A draw for them might be very shallow. A draw for somebody else might be very deep. And it is very concerning the idea that I would be with my personal dosage trying to predict and provide for you some sort of recommendation of what your dosage and your serving size would be with your endocannabinoid system and your lung capacity, et cetera, all those different physiological factors.

So that's, reiterating both what Lukas said and what the Cannabis Alliance had to say. For my own sense of how I as a processor would like to provide these products and make sure that consumers have a safe and positive experience, I would probably want some language that recommends just like we often do with edibles, start low and slow. If you don't know your dosage, perhaps take a three-second draw and see how it affects you. Because serving sizes and dosages are also highly personal and what someone might want to, with the product that you mentioned, get pretty knocked out and they consider that a dose. A lot of other people would consider, I just want to get sort of slightly buzzed and start to feel some alleviation of my symptoms, and that for me is a dose.

The second topic that they wanted me to comment on is the requirement to require the lot number on the package. This is a new addition that - and this is in the letter - "creates complexity on the package, potentially very long labels for those that mix several lots, and is not providing substantial and new information that's not already captured in the numbers already required". And now I'll deviate from that to say as a processor myself, when we switched to the Leaf system and we have much longer numbers, there was a challenge to make sure the barcodes rendered correctly for the stores. Basically, the longer the number, the longer the barcode. There were more challenges because barcode readers vary from store to store, and sometimes the system will try to squish the barcode and make it unreadable. Once again, thank you very much. I appreciate your time.

Chair Rushford: Thanks for your comments, Kate. Minden Win.

Minden Win – Botanica Seattle

Good morning. My name is Minden Win. I'm with the edibles processor Botanical Seattle and also a member of the Washington Cannabusiness Association. I just wanted to first support the rules from the perspective of a processor. I think we provide a lot of clarity here and around packaging and what we can do. And I just -- the industry appreciates that direction. Again, we have a lot more work to do but we're excited with the direction that it's heading. Also on the reduction from a four mil to a two mil, I think that's going to do a tremendous amount on the reduction of waste. Again, I think we're moving in the right direction on that and a lot of us are really thankful.

I also wanted to, and, this is continuing with what some other people provided comment on, but thank specifically, Kathy Hoffman. This process has been incredibly insightful for me and I know for a lot of other people. I found the session and learn session with the public health and prevention community incredibly productive and eye-opening and made my own connections within that group to continue conversations. So, I think it will do a lot for us in the future. So thank you.

Chair Rushford: Thank you, Minden. Rachel Weygandt.

Rachael Weygandt – Evergreen Herbal

Good morning to the Board. I'm Rachel Weygandt. I'm a compliance manager for Evergreen Herbal. We are an edibles manufacturer based out of SoDo. I just would like to share everyone else's thoughts in thanking Kathy and the Board as well as Susan and the other members of the LCB for being so receptive to these rule changes and working with us and hearing us, I know I've come and spoken before you before and I really did feel like my words mattered. And so I just want to express the thankfulness that our organization and the industry feel as a whole.

I want to talk about a few things that some of the other members have discussed. First is serving size for the concentrates. We don't manufacture concentrates but as an edibles manufacturer I see that as a bit of

a red flag. I don't know how a concentrate manufacturer could provide an accurate serving size. The other thing that I haven't heard anyone mention that I think is interesting is our serving size -- we have a max of 10 milligrams per serving. That's the max that we're allowed to provide. That doesn't mean that that's what a consumer should take, especially the first time trying an edible product or, in this case, a concentrate. We can put a serving size on a concentrate and that could be a maximum serving, but that doesn't mean that that's what every person should take for a general serving. Again, like others have mentioned, there's no science behind any of that and so I just think it's a bit of a reach and maybe we're not quite ready for that just yet.

The other topic I wanted to speak on was the lot numbers, as far as traceability. Seeing the lot number requirement on this rule draft is a little scary. Sometimes we do mix multiple lots. Having a label with five different lot numbers on it, I don't see how that benefits the consumer as long as they can get access to their testing information and the potency information. I think that what we currently put on the label and the unique identifier number is probably accurate and adequate for what we're looking for.

The other thing I just wanted to mention is we're very appreciative for how far we've come with the rules. As others have mentioned, there's still some room to go. I'm interested to see how SB 5298 will be implemented. I do see some concern where maybe there may be some more interpretation. And so maybe some further guidance to the staff in helping us determine what kind of language is still going to be considered appropriate would be really helpful. That's all I have to say. Thank you.

Chair Rushford: Thank you, Rachael. Cherylynn Crowther.

Cherylynn Crowther – Prevention WINS

Good morning. I speak on behalf of Prevention Works in North Seattle, Prevention WINS. We are a community coalition with the goal of reducing underage substance abuse in the region. We focus on middle and high school students, their parents and the greater community. Our coalition began in 2002 with a state grant after a healthy youth survey showed that we had higher than average substance abuse in our area schools. We continue to work on that and our work has continued through drug-free communities grants on the federal level managed through Seattle Children.

I'm a parent. I've been involved in the coalition for a number of years. I have a media and a marketing background, but I came down here today as support and as a parent. Prevention works best and prevention is not what we're seeing with some of these rule changes that are being proposed, specifically measuring devices and the four to two mil change. When it comes to measuring devices, I saw an example of a bottle of orange cream soda and somebody mentioned that 10 milligrams THC is the dosage. Three different bottles, 12 ounces of this orange cream soda in a clear bottle. One bottle sells ten milligrams of THC, the second 100 milligrams, the third 250 milligrams of THC. The difference to a kid is indistinguishable, and that is even with measuring devices. Eliminating measuring cups, it makes that in any way easier to understand is the wrong direction. I looked at different examples, I might think, what's outside of the world right now? What's outside of the world of cannabis products? Tylenol, children's liquid acetaminophen for children comes to mind immediately.

Tylenol, as you may know, comes in an infant dosage and a child's dosage. The infant dosage is even more -- there's more efficacy in that because of the fact that they don't want to have to give the kid as much liquid. The problem is, parents regularly overdose their own children without realizing it. Liquid Tylenol, infant Tylenol comes with now a dropper. Children's Tylenol comes with a small plastic cup. They're both packaged with those together. The US Pharmacists website, uspharmacists.com in speaking to the industry recommends pharmacists actually show parents on the cup where the hash mark

is for the dosage because there's such a problem. Babycenter.com, a well-known website for new parents says dosing acetaminophen is one of the most difficult things to do because of the variety that it has. It also says if the measuring device is lost, go to the pharmacy and get a new measuring device or at the very least, make sure you get a teaspoon out, not a spoon from your cutlery drawer or your utensils. Make sure you get a teaspoon because there's such a problem. Johnson & Johnson, the manufacturer of Tylenol, which is the best-known, best-selling brand of liquid acetaminophen, and all the acetaminophens, actually, has a website called Get Relief Responsibly where they work on the education around proper dosing. This is putting the burden of responsible dosing instead of -- owned by the company, it's putting it on the consumer. Prevention Wins supports keeping it at the company level, at the industry level when it comes to cannabis, perhaps, as well.

When it comes to the packaging design or the millimeter difference for the inner plastic, we certainly would applaud reducing waste. However, given the state of plastic recycling globally where the cost of recycling plastic now greatly exceeds the market of recycled plastic and some municipalities are actually eliminating some of the larger recycling programs. King County, effective January 1, is going to eliminate plastic bag recycling. The four to two mil difference is not going to be significant in terms of industry.

Chair Rushford: I'll allow five more seconds.

Ms. Crowther: Thank you.

Chair Rushford: Thank you, Cherylynne, we appreciate your comments. Andy Brassington.

Andy Brassington – Evergreen Herbal

Good morning. Nice to see you all again. I'm Andy Brassington with Evergreen Herbal, also a board member of Washington Cannabusiness Association. First of all, thank you very much. I appreciate the public forum. I wholeheartedly endorse all the prior comments about the improved process led by Kathy Hoffman, the Board, the Governor's office, the industry and the objective process that Kathy Hoffman led. We appreciate it. It's much improved, it's a great improvement for the climate of the industry and we're all in the industry here so I won't repeat what's already been said.

Regarding packaging of beverages, I wasn't expecting to talk about that, but I appreciate the comments. I'm a parent also and a grandparent and teacher and coach of kids. We run a beverage company, cannabis-infused. We're very concerned about the same issues. But the fact of the matter is, packaging is difficult to open. It's not marketed to children. You can only buy it in safe, licensed stores. The warnings are clear. Dosing or metering is an improvement. And we're not talking about medicine or acetaminophen or child medicine that was designed to give to children. So a dosing cup, a dropper, I just think is totally uncalled for and unnecessary. There's a point in time when parents and grandparents, you know, we have to take responsibility. So a lot of the products that the legal cannabis industry produces were not designed for children. We all know that. And it's up to us to keep them out of the hands of children. The rules as presented by Ms. Hoffman and the process that the industry went through was thorough, was rationale, based on fact not emotion and it resulted in a much improved packaging environment. It's even better than it was before.

So I endorse without reservation the rules as presented by Kathy Hoffman. Thanks for the continuing process the industry is making in the sixth year. We've done a lot of good together as a state. We'll continue to do good things in the industry as we do so to eliminate the pain of the war on drugs, which was misplaced on marijuana and it's something we should be proud of participating in a rational, pragmatic, regulated way. It might seem like we have all the time but we're all citizens of our states and

all citizens of America and we all have to do these things well for our fellow citizens. And I think by and large, we can be proud of what we're doing in the state of Washington. So with that, I thank you.

Chair Rushford: Thank you, Andy. Gregory Foster.

Gregory Foster – Cannabis Observer

Good morning. My name is Gregory Foster with Cannabis Observer. At the Cannabis Observer, we observe the public meetings of the Liquor and Cannabis Board as well as some of the work groups and the listen and learn forums, sessions. So I just wanted to offer some observations from this process that we've seen that's been carried out. I certainly want to echo the sentiments that have already been shared consistently about the process that unfolded around the packaging and labeling rulemaking project. I wanted to thank the Board specifically and Kathy Hoffman for generally excluding the Board Interim Policies that were adopted in January of this year. I think that those were kind of reactive in nature following the changes in October 2018, which was prior to Ms. Hoffman's tenure here. And so this was a much more deliberative process, an inclusive process to come up with, I think greatly improved rules overall.

I think also, that inclusive nature was evident at the listen and learn forum in October where actually prevention community and public health representatives actually outnumbered industry representatives, which is the first time that we've seen that within one of the work groups or forums here. And so I applaud, I believe Chair Rushford, you deserve a lot of the credit for reaching out to the prevention and public health communities and wanting to bring in diverse perspectives into the rulemaking process. I feel like if those processes are carried out in a fair and equitable way that it can only result in better and strong and more long lasting regulations. So I'm glad to see that those efforts are underway.

That's also facilitated by the public health education liaison role that's staffed here by Ms. Cooley Broschart at this time. And I think since her arrival here that you have seen a greater outreach and I think that is a fine balancing act that has to be carried out in terms of informing and reaching out to these communities as opposed to a kind of organizing that particular effort. And so I hope that work continues in a good way.

Within that effort, at the listen and learn forum, I also thought that there was a good recognition of common ground on extra regulatory efforts such as lock boxes, again, encouraging that adult responsibility for adult products and as well on issues such as common shared concerns such as environment sustainability.

And finally, kind of wrapping up, this is unusual in that cannabis is a product that may be one of the more researched substances but typically from the lens of public health harms or potential harms. We're all learning and the research environment is opening up. And so I just encourage you to leverage resources that you have here such as Trecia Ehrlich who is contemporary on the research. Maybe do something such as quarterly updates to make sure that Board and by extension, your different stakeholder communities can stay well informed about what we're learning about cannabis from a medical and therapeutic perspective. Thank you.

Chair Rushford: Thank you, Gregory. Crystal Oliver.

Crystal Oliver – Washington Sungrowers Industry Association

Thank you, Board. For the record, my name is Crystal Oliver with the Washington Sungrowers Industry Association. And I also want to echo the sentiment that I really liked the changes to the stakeholder

engagement process and Kathy's leadership and what that's done to the collaborative rulemaking environment we have now at WSLCB and I really appreciate those efforts.

In reviewing these proposed regulations, I did note some technical corrections. I did some detailed notes. I'm writing some of those out. My primary concerns with this proposed ruleset is also the draw and serving size piece for concentrates, useable marijuana, and mixed marijuana. Those I do not believe should be required on our packaging. At this point, it's not really possible to communicate the number of draws in a vapor cartridge. The technology really isn't there yet to even control or dictate that. The amount you get from a draw can vary depending upon how recently your battery was charged, what kind of battery you're using, what the temperature is of the oil when you're using it. Was it sitting -- are you in a cold room? Are you outside? Or is it in a warm room? Have you stored your pen upright or have you stored it on its side? All of these things impact the amount of product that a consumer will take in when they draw from that vapor product. So we as an industry, and the technology just isn't there to dictate how many draws you get in that. So if we were to put a number on our packaging, you know, it wouldn't be an accurate number.

The other thing I'll say about putting that number on there is I believe it would have the unintended consequence of encouraging competition over how many draws are in a package. So, you know, similarly to how putting THC on the package drove our consumers to say, "I want the package with the most THC." We would now find our consumers saying, "Well, I want the vapor product with the most THC and the most draws." So by putting that information on the packaging, you're going to change consumer behaviors and increase competition over this number that we don't really have a good basis of coming up with this number.

I'd say the same thing with usable marijuana and concentrates as well. We don't really have a good way of determining what that serving size is. And actually in this ruleset there isn't a proposed definition behind serving size. So we would actually be leaving that definition to the processors to define what that serving size would be. I think that would actually lead to more consumer confusion because we'd have different processors defining serving sizes differently. I think that that would be very problematic and definitely not provide a transparency to the end consumer. So I really think we should remove that from marijuana mix, useable marijuana, and concentrates and vapor products at this time.

I also wanted to talk about the definition of structure and function. I understand that was put into place to implement legislation that passed last session and I understand that legislation did not really define that, and I was hoping that the rules would make it more clear what that was. But that definition says, "Structure and function claim means a description of the role of a marijuana product intended to affect normal structure and function in humans characterized by the means by which the marijuana products acts to maintain such structure or function or described the general well-being from consumption of marijuana product." And I don't know if you know what that means but I personally don't and I know that we're using the words "structure and function" twice in the definition of structure and function, which I think is a little problematic as well.

Those are my two main concerns with these rules. Otherwise I do think it's much improved compared to prior iterations of the packaging/labeling rules. Thank you.

Chair Rushford: Thank you, Crystal. That concludes our public hearing. Kathy, would you like to make a clarifying comment?

Ms. Hoffman: Yes, I had a couple of comments.

Ms. Dougherty: We had one more person sign up.

Chair Rushford: Okay, thank you. Kathy.

Ms. Hoffman: With respect to the structure and function claim, the LCB with the industry worked on crafting that definition based on the FDA definition of structure and function, which is much more complicated. And so that definition was crafted as a result of bringing that federal definition of structure and function into our rule framework and then refining it to fit within this space.

Second piece, on the lot number, we took the lot number concerns -- we took language directly from the statute that was required under 5298 and plugged it into the ruleset. We've heard industry and others and come up with a solution to that that we think will be workable for everyone that will move forward.

And then with respect to the measuring cup, I just want to reiterate, we moved it from a requirement to an option. So if processors feel that a measuring cup would be appropriate, it is their option to include it. We've also discussed in the listen and learn session the ability for folks to purchase a measuring cup at retail if they wish to have one but not that the processor would be required to provide that cup with the product. We're trying to find solutions around that to support the sustainability that the industry was requesting by way of their petitions.

Chair Rushford: Thank you for the clarification, Kathy. We have one more person who signed in to comment. Katie.

Katie Mitchell – Katie Baked Goods/Cannabis Alliance

Hello, thank you. My name is Katie Mitchell. I'm with Katie Baked Goods. I'm also here in support of the Cannabis Alliance's Position. Thank you for letting me slide in. I just wanted to thank Kathy and the Board for letting our company and industry participate in this rulemaking process. I do want to say that we definitely support these new changes and we really appreciate all the changes. We think that they're going in the right direction definitely.

The Cannabis Alliance, I just want to reiterate their two concerns, which was on the draw and echoing what the other industry is also saying, that it's difficult to calculate that for different types of marijuana products other than edibles. So I wanted to reiterate that for them as well as for the lot numbers. That's great to hear that there can be a solution on the horizon. So that's wonderful.

And just also to remind that as a parent and a processor that it's not our intention to market to children. So these new changes are wonderful, that they are sensible and they're moving in the right direction and that these products are intended for adults and they're sold to adults. I'm very supportive of all these rulemaking and really appreciate being able to participate with it. Thank you so much.

Chair Rushford: Thank you, Katie. And this concludes our public hearing for today. I want to, on behalf of the Board, commend all of the participants in this process. It's been a long one and it's taken on a lot of different dimensions and form and Kathy, for your leadership, thank you very much for the outcome that we review today.

Mr. Manning: Excuse me, are we not able to speak for public comments?

Chair Rushford: We're going to that next. Thank you. This was today's official public hearing. Now we'll move to the general public comments. And Don Skakie, you are first on the list.

6. GENERAL PUBLIC COMMENT

Don Skakie – Homegrow Washington

Thank you again. Again for the record, my name is Don Skakie. I live in the city of Renton. I have a couple of things I'd like to speak about today. The first is I want to commend the Board and Member Garrett in particular for adding a patient representative to the Cannabis Advisory Council. It's something I've brought to the Board's attention for quite a while and I'm really pleased to see that it has happened. I look forward to that voice being added to the council and being more present to the Board. I'm kind of disappointed in our own medical cannabis community. I did speak with Dustin before the meeting and despite what I saw to be a lot of interest on social media and in private conversation, only two applicants to that position were made. I think this is reflective of the fact that the Board has not really given patients a lot of attention and hopefully that will change in the future. But, you know, who knows? What can we say? But in any event, I do see it as a positive step forward and I thank Member Garrett and the Board for that addition.

On the second thing that I would like to talk about is the recent announced change in the speaking time for people to address the Board. In my experience, both with the legislature and with regulatory boards, it has been my experience that four minutes is pretty much the standard and that time is often reduced as needed, rather than a matter of policy. In particular, the previous Board, when reform first came in, they had an event over here at the St. Martin's College where literally over 1,000 people showed up and so in that case, it made perfect sense that to hear the more voices that we would have to reduce the time. That also happens in the legislature quite often. Sometimes you'll go into a hearing, everybody gets four minutes, it's done, the hearing wraps up early.

I know right now that it's 10:55. Published on the Board's schedule, these Board meetings are scheduled from 10 to noon. And as we all know, it is rare, especially in the last year or so that a Board meeting runs anywhere near noon and quite often, they will run in mere minutes. I myself have been late for a meeting. I travel an hour from Renton down here and because of my lack of coming earlier, or traffic or construction or whatever, I've missed a Board meeting that lasts a few minutes. So in view of that, to see that we have an hour left and only a few speakers to be given four minutes -- and I also noticed that today, there were a few speakers that actually ran over their four minutes. And if the policy was to reduce that time period to three minutes, the points that were made so well today might not have been fully formed and presented. So with that said, I'm going to ask that the Board restore that time limit to four minutes for the new year and just use it judiciously as the need allows. And I actually had another topic to talk on today, but I see my time is short so I'll let it go.

Chair Rushford: Thank you, Don. Peter Manning.

Peter Manning – Bella Sole

The last time I was here was a couple years ago. I'm here back again to address the same problems. My name is Peter Manning. I represent Bella Sole which was a collective garden back in 2014, for medical patients.

I cater to poor black and brown people from the south and at the time we were under attack by local law enforcement to get rid of those dispensaries in those neighborhoods because, I think it was to make way for the white-owned retail shops that are in there now. And my personal belief is, I brought it to the Board's attention, we've had misconduct from one of the Board members by the name of Frank O'Dell, he clearly broke the law. It's right here in black and white. He gave a sworn affidavit that he didn't do such

and then the evidence proved otherwise. I presented this to the Board, Rick Garza and Rebecca Smith. I've gotten no response from you guys and now to come to find out that Frank O'Dell's going to oversee the social equity program that's somehow going to help benefit black people and brown people?

Chair Rushford: I think there's some points of clarification to be made. I need to ask someone to talk with you after your comments, Peter.

Mr. Manning: This copy went to the Board. This is the copy of Deborah Diamond's report. Frank O'Dell's clearly in here under oath making a statement that was false and fabricated. The documents are right there that prove otherwise. And nobody -- this man affected my life. He affected a lot of black people's lives when it came to being processed and priority one and obtaining a license. And you guys know this. You guys -- nothing's been done and you guys -- I'm down here to say it in front of everybody. I have the documentation right here. If anybody wants to see this, what they're covering up, you can see this in that bag right there. There's copies. I want something done about this. I need -- I don't want Frank O'Dell part of anything dealing with black people or brown people, period.

Chair Rushford: Excuse me, I just want to caution that I'd like to take this offline. I appreciate your comments, Peter, but I feel that we need to take this up in a different forum.

Mr. Manning: That's the same thing you did to me last time. You guys rushed everybody out of the Board room and then you guys took me to whisk me off to a private corner and you calmed me down and you said, "Oh, we'll take care of this." And then nothing ever happened.

Chair Rushford: I assure you that it will happen.

Mr. Manning: No, it's not going to happen. Listen, don't you guys see what's happening? White people are here talking about how great this whole thing is for you. Black people are here telling you there's a problem. Think about that. That's not -- there's no balance. Why is it that the black neighborhoods right now how all white-owned retail shops there? When black people were there with dispensaries, it was villainized. But now a white guy's there, a white woman taking our black dollars, it's glorified. That's [expletive]. Okay? That's [expletive]. They're covering it up right here. This is a cover up by the Board. This is a cover up by Rick Garza. It's there in that bag. Anybody right now, I brought copies. You can see it. It's there. It's in their handwriting. It's not mine, it's theirs. It's their emails, their handwriting. Thank you.

Chair Rushford: Thank you, Peter. Aaron Barfield.

Aaron Barfield – Black Excellence in Cannabis

Hello, my name is Aaron Barfield. I'm here on behalf of Black Excellence in Cannabis. We are working for fair inclusion for African Americans in the Washington recreational cannabis industry. I'd just like to say that it's a bit frustrating for us to see all of this activity going on around the vaping issues and serving size and things that have been blown up to be these major issues when I think there's 20 people who have actually been affected by the vaping issue. And I want you guys to know that there are hundreds if not thousands of black people who have been affected by the regulations that you guys are putting in place. The misconduct report that Mr. Manning just spoke of, we recently submitted that in a meeting with Rick Garza and Rebecca Smith on the 26th of last month. They didn't really have a real vision on their standing on that. The next day they also said that that would be the first meeting of many. The next day I emailed them again, giving them the report and asking them for an official stance from the Board on that report and also stating that I would like further meetings to discuss solutions to get their inclusion for African Americans in this industry. I have yet to get any response from either of them on that. I have copies of that for each of you if you'd like and I would like to -- I've also submitted to the record -- I would like to get

an official stance on that new conduct report from the Board. That's just another instance of how African Americans retreated when trying to acquire licenses. It's not a coincidence that there are almost no African American owned retail stores in Washington States.

Mr. Manning: Or producers or retailers or processors.

Chair Rushford: Please, let's let Aaron have the podium.

Mr. Barfield: The rest of the country is watching this. We are leading the way with recreational cannabis in this country. And the rest of the country is watching the way that this implementation is unfolding. And the lack of involvement for African Americans is not a coincidence that we are being excluded and it's an embarrassment to the state. If you guys would like a copy of the report, I have it here and, we are available to work on this solution with you guys. We hope we can work together to solve this. Thank you.

Chair Rushford: Thank you, Aaron.

Member Garrett: What report is it that you have?

Mr. Barfield: I have a misconduct report.

Member Garrett: Are you talking about the report that he was referring to?

Mr. Barfield: I have a copy. Would you like it?

Member Garrett: Oh, no, I thought it was something different. Do you have something different?

Mr. Barfield: Different than what?

Member Garrett: The report you were referring to? The Diamond Report.

Mr. Barfield: It's part of it.

Member Garrett: Okay, if it's in there, I'll get it.

Mr. Manning: It's different.

Member Garrett: Oh, it's different?

Mr. Manning: Yeah, it is different because there is -- it's the other side to it. Frank O'Dell lies to investigators. There's proof that he lied in the physical form.

Chair Rushford: Please, Peter.

Mr. Manning: I'm explaining it.

Chair Rushford: Thank you.

Mr. Manning: Miss Rushford, you know the story. I dealt with this years ago.

Chair Rushford: I've asked you for some time to take it offline. I know that you're frustrated that maybe this has been suggested before.

Mr. Manning: But two years ago, me and you had a conversation.

Chair Rushford: But you and I haven't had a direct conversation.

Mr. Manning: Well, we kind of did.

Chair Rushford: So thank you.

Mr. Manning: Same issue.

Chair Rushford: Also, I think Ollie, you had a comment you wanted to make earlier.

Member Garrett: Yes, there was a comment that mentioned Frank O'Dell's involvement with the social equity program. That is not a true statement at all. I wanted to put it on record that that's not a true statement.

Mr. Manning: Why would Frank O'Dell still have a job though?

Chair Rushford: We're not going to do this here. Thank you, Peter. Thank you, Ollie, as well. Micah Sherman.

Micah Sherman - Raven

Hi, I'm Micah Sherman. I own Raven, which is a tier two producer/processor here in Olympia and the last couple of years I've also had the pleasure of working with Representative Laurie Dolan to create a bill to establish a craft cannabis production and processing license, which would allow small, independently owned producers and processor to have a direct sales path to the public as well as create an advisory board of craft farmers to work with the Liquor Control Board in an ongoing capacity to produce better and more effective rules for the craft portion of this industry.

A big impediment to the success of small farmers throughout this process has been structural and it's been a result of the decisions we've made about how we set up this industry. I think the people that spoke immediately before me have been disproportionately impacted by that structure but it is not a separate issue. It's an integrated issue. The issues of scale and consolidation and of market access have affects in a variety of different ways and I think we've seen that represented in how the industry has worked for communities of color and I think that we need to integrate the approach of solving problems for small producers within that context.

I would encourage any of you guys to reach out to me to learn more about the bill. We also have a website, which is washingtoncraftcannabis.org, which walks through our intentions and our goals with that bill that has pretty good support in the House right now. We have multiple sponsors. I've met with the Governor's office, they're supportive of the bill. I met with quite a bit of staff at the Liquor Control Board, gotten their input, brought it into the process and I think we have a really strong bill that'll improve the industry. Thanks.

Chair Rushford: Thank you, Micah. Does anyone else have comments? Yes, Crystal.

Crystal Oliver – Washington Sungrowers Industry Association

Hello and for the record, Crystal Oliver with the Washington Sun Growers Industry Association. Real briefly, I wanted to speak about some issues that some of my members are experiencing. I have a member who was recently broken into and the same individuals who broke into her facility also appeared to have gone around to other facilities in the neighborhood along a week's time able to -- several different facilities. One of her concerns and my concern as well is on the LCB website, there is a page that

includes an interactive map that shows the locations of the producer/processors as well as the retailers. And it's an issue that I think has been raised in the past but maybe not as forcibly as it should have been. But there's really no reason to have our locations displayed in that fashion. It makes it, I think just entirely too easy for someone who has ill-intent against one of our businesses. We understand that right now, public records laws require the LCB to release that information but I don't think that it needs to be quite so easy. I would request that you consider removing that page from the board's website that includes the maps of our locations and I guess be more mindful of how that impacts us. All right, thank you.

Chair Rushford: Thank you, Crystal. This completes the orders of the day, we are now adjourned

Kathy, excuse me, did you have a comment you wanted to make? Pardon me.

Ms. Hoffman: I did not but thank you.

ADJOURN

Chair Rushford adjourned the meeting at 11:09 am.

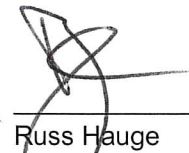
Minutes approved this 8 day of JANUARY, 2020



Jane Rushford
Board Chair



Ollie Garrett
Board Member



Russ Hauge
Board Member

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

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