



## Washington State Liquor and Cannabis Board Meeting

Wednesday, January 6, 2020, 10:00am  
This Meeting was Convened via Conference Call

### 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 am on Wednesday, January 6, 2021. Member Ollie Garrett and Member Russ Hauge were also present.

Chair Rushford: Good morning, everyone. Welcome to our first Board meeting of 2021, the morning following another historic election day. We'll begin the day with consideration of meeting minutes.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the December 9, 2020, Board meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Chair Rushford approved the motion.

MOTION: Member Hauge moved to approve the December 23, 2020, Board meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Chair Rushford approved the motion.

#### 3. STAFF PRESENTATION

Chair Rushford: Kathy, thank you for joining us for this important staff presentation.

Kathy Hoffman: Good morning, Chair Rushford. Thank you very much for inviting me here today. I'm excited to share with you, Chair Rushford, Board members Garrett and Hauge, some updates that I have on our interpretive and policy statement program. I've timed this to be about seven minutes but we'll make it shorter if possible. As you know, we've made some significant changes to the way we approached policy development over the last several months. This morning I'm pleased to share that our interpretive and policy statement program was launched internally this week. This program was guided by the Hilliard

Heintze Report. Before the report, we recognized the need for consistency and interpretation of laws and rules. And while this program realizes those specific elements of the Hilliard Heintze Report, it also realizes a longer term goal of the agency.

A particular focus since about mid-July of last year has been designing the operational structure and framework for an interpretive and policy statement processing program. This included creating a broader policy development process, creating and testing forms, drafting procedures, preparing staff training, working with communication staff on getting a new webpage and web page parts ready to go, and a variety of other details. The major programmatic design challenge that I ran into was establishing an initial threshold, or threshold standard, to determine what issue warranted an interpretive or policy statement or guidance document. The internal request form was created and tested to help us make those determinations. The end product of this work will be an online database of interpretive and policy statements available to both internal and external stakeholders.

I want to take a moment to quickly distinguish between interpretive statements and policy statements. An interpretive statement doesn't have the force and effect of law. It's an explanatory document intended to convey LCB's interpretation of law and regulation as it existed at the time the statement was issued. Interpretive statements are not case or fact specific and are not reviewed by internal stakeholders. In contrast, the policy statement speaks to the plan or intentions of our agency. Policies are different from procedures because they apply to the entire organization and are really intended to set direction. A procedure typically includes specific instructions used to establish and to find tasks that may be described in policy. Policy statements are vetted with our stakeholders and we've built that into our review process.

So how will all of this work? How will we operationalize this? First, staff can complete a request for an interpretive or policy statement form. This form asks for specific information such as a concise issue statement links or copies of internal and external communication pertaining to the issue, guidance documents or bulletins that the agency may have issued previously, and anything else that gives us an understanding of the issue. We also want to know how and in what way other divisions within the agency have been involved in the issue. The form is then reviewed at the divisional level and then forwarded on to my team who will then complete an extensive and exhaustive analysis that includes participation of representatives from all parts of the agency and other subject matter experts where needed. Once that's completed and we have a draft interpretive or policy statement, I'll bring it to each of you for review and additional discussion.

When the final statement is approved, I will file it with the code reviser's office and send notice to stakeholders. We'll post the document itself with the conformed notice to our external website and send notification to our stakeholders. And this process is generally described in the Administrative Procedures Act (APA) under RCW 34.05.230.

We're launching this program with a phased-in approach. At this time, we're asking licensees and others to continue to reach out to their enforcement, Licensing and other agency contacts with questions as they normally would. This program is not designed to replace these contacts or minimize relationships that we currently have with our regulated community. Rather, we want to enhance and strengthen those relationships by increasing consistent responses to frequent rule and statutes interpretation. Staff are receiving training on this process on January 14 and 21.

We want to provide time for everyone to become accustomed to and acquainted with it. Once our interpretive and policy statement library begins to take shape, we'll evaluate the effectiveness of this process and determine whether we need to make changes, what areas can be expanded, reduced or

redesigned. We want to evaluate the volume of requests received and whether our timeline is working. We've determined we're going to try for a 60-day turnaround on these and other measures to assure that we're effectively meeting everyone's needs.

The bottom line for our customers is that this is a question of that statute or interpretation or what the agency's general policy is regarding issues or processes, answers will soon be available to everyone on the LCB website. We hope that this program will offer all interested parties a one-stop resource that's continuously available and regularly updated. If someone wants us to consider converting an interpretive or policy statement into a rule, there's a process outlined for this in the APA. Also, if people don't like our interpretive or policy statements, there's a way that they can send a petition to the JARRC Committee (Joint Administrative Rules Review Committee) consistent with the requirements of RCW 34.05.655. There will be more information to come on this but I wanted to provide a general overview that we've got this up and running. We're excited to begin this important work and bring that consistency to our work at LCB. Are there any questions?

Chair Rushford: No questions at this time, Kathy. Thank you for the excellent overview and outstanding work.

Member Hauge: I'm looking forward to plowing into this, Kathy. Very interesting and I hope that you and I can talk about this offline.

Ms. Hoffman: Of course, I'm happy to do that, Board Member Hauge. The other thing I wanted to say, it's the Joint Administrative Rules Review Committee. We use a lot of these words and phrases in the work that we do -- it's easy to forget the full name of the committee. To clarify, one can submit a petition to the JARRC. Thank you very much.

Chair Rushford: Thank you, Kathy. The process is impressive. We look forward to seeing it move forward and have more opportunities to experience it. Casey is next.

#### **4. CANNABIS RELATED RULEMAKING AND TIMELINES**

Presenter – Casey Schaufler, Policy and Rules Coordinator

##### **TIMELINES**

Mr. Schaufler: Review of public comment for quality controls is ongoing and staff is preparing for additional outreach and collaboration opportunities with licensees and other interested stakeholders.

With regards to Tier I, options are being discussed and prepared internally following analysis of surveys and feedback received during listen and live sessions. I expect to bring a more robust update and discussion on this topic later this month or in early February.

For the implementation of House Bill 2826, we've received one comment following the CR 102 filing, this is for cannabis vapor product. The formal public comment period is open now until the scheduled public hearing on February 3. I expect to file the CR 103 on February 17.

This concludes my cannabis timeline updates for today. Are there any questions?

Member Garrett: I have no questions.

Member Hauge: I have no questions.

**ACTION ITEMS (A-E)**

Casey Schaufler, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 4A, 4B, 4C AND 4D).

**ACTION ITEMS 4A-4D:**

- A. Board Extension of Emergency Rules Regarding WAC 314-55-1065 – Prohibition – Vitamin E Acetate
- B. Board Extension of Emergency Rules Regarding WAC 314-55-077 – Marijuana Processor License – Privileges, Requirements and Fees
- C. Board Extension of Emergency Rules Regarding WAC 314-55-079 – Marijuana Retailer License – Privileges, Requirements and Fees
- D. Board Extension of Emergency Rules Regarding WAC 314-55-1055 – Vitamin E Acetate Disclosure Form

Chair Rushford: Thank you, Casey. I'd like to go through the emergency rules, consider a motion and separate these from the CR 103.

Mr. Schaufler: Thank you, Chair. Four action items for A through E (sic)[D]. As you may recall, we extended emergency rules on September 16 of last year to prohibit the use of vitamin E acetate in marijuana vapor products. These emergency rules are now approaching their January 14 expiration date.

Today I am requesting your approval to extend the following four emergency rules: 4A – WAC 314-55-1065 regarding the prohibition of the use of vitamin E acetate; 4B – WAC 314-55-1055 regarding disclosure of THC concentrate ingredients; 4C – WAC 314-55-077(16) requiring marijuana processor compliance with the vitamin E acetate prohibition; and 4D – WAC 314-55-079(12), prohibiting of products containing vitamin E acetate by marijuana retailers.

These emergency rule extensions are unchanged in substance and content to the rules presented and adopted by the Board on September 16. The rule extensions, if approved, would remain in effect for an additional 120 days from the filing date. I would ask for your approval to extend these emergency rule and file with the code reviser today. Thank you.

**MOTION:** Member Hauge: Looking at my copy of the agenda, I think that some of the items were numbered differently. Therefore, I will move approval using the WAC numbers so there's no confusion. I'll move approval of WAC 314-55-1065 regarding vitamin E acetate, WAC 314-55-077 regarding the marijuana processor license, WAC 314-55-079 regarding the retailer license privileges and requirements, and WAC 314-55-1055 regarding the vitamin E acetate disclosure form.

**SECOND:** Member Garrett seconded.

**ACTION:** Chair Rushford approved the motion.

**ACTION ITEM 4E - Board Adoption of CR 103 for Marijuana Certificate of Compliance**

Casey Schaufler, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 4E).

Mr. Schaufler: Thank you. The next item is listed as 4E. Chair and Board members, apologies that there was a mistake on my part on the notation of the previous action items in my script. My apology.

Item 4E is consideration of CR 103 for marijuana certificate of compliance. Substitute Senate Bill 6206 amended RCW 69.50.331, now codified as RCW 69.50.331(8)(e) by adding a subsection E to create a certificate of compliance for marijuana business premises. The amendment became effective June 11, 2020 and requires that LCB issue a certificate of compliance for a marijuana business applicant's premise if the premises meets the statutory buffer zone requirements at the time the application was filed.

The certificate allows the licensee to operate the business at the proposed location notwithstanding a later occurring, otherwise disqualifying factor. This certificate is not a license to produce, process, research or sell marijuana at the location. All other marijuana licensing requirements must be met in order to receive a license or to continue operating under an existing license. The legislation was designed to prevent a competitor from opening a business that would disqualify another marijuana entity's license application. The scope of work for this rule is solely to implement Senate Substitute Bill 6206 and proposes to amend Washington Administrative Code 314-55-020(6).

The rule allows the LCB to issue a certificate of compliance to an applicant if proposed business premises meets the minimum distance requirement as of the date the application was received by the LCB. The rule also allows applicants granted licenses prior to the feature adoption of this rule to operate their business without being affected by a future disqualifying distance factor. There are no costs associated with this rule. The rule does not impose any additional regulatory burden on applicants or licensees nor does it change, modify, add cost or otherwise alter the license application process.

We received one comment during the formal public hearing period, which expressed support for this rulemaking and is reflected in the concise explanatory statement. Please let me know if there are any questions. Thank you.

Member Garrett: I have no questions.

Member Hauge: I have no questions. Thank you Casey.

MOTION: Member Hauge moved to Adopt the CR 103 for Marijuana Certificate of Compliance.

SECOND: Member Garrett seconded.

ACTION: Chair Rushford approved the motion.

Chair Rushford: So moved. Thank you, Casey and Board members. We'll move now to alcohol related rulemaking and timelines. Audrey.

## **5. ALCOHOL RELATED RULEMAKING AND TIMELINES**

Presenter – Audrey Vasek, Policy and Rules Coordinator

### **TIMELINES**

Ms. Vasek: Good morning Chair Rushford and Board members Garrett and Hauge. Thanks for the opportunity to be here and give an update on the alcohol rulemaking projects and timelines.

I have a brief update on the rule project for implementation of Engrossed Second Substitute Senate Bill 5549 related to distilleries. After the CR 102 was approved by the Board at the meeting on December 23, the CR 102 and proposed rules were filed with the code reviser's office. The notice of proposed rulemaking was sent to all GovDelivery subscribers and the website has been updated with information about the rulemaking. The formal comment period opened on December 23, and we've received two comments so far. The public hearing is set for the February 3, 2021 Board meeting. Are there any questions I can answer before providing introductory background on the public hearing?

Member Hauge: I have no questions. Thank you.

Member Garrett: I have no questions.

Chair Rushford: Thank you, Audrey. We'll move to your introduction for the public hearing,

**PUBLIC HEARING 5A - 2020 Legislation Implementation – HB 2412, ESSB 5006, ESSB 6095, and SSB 6392**

Audrey Vasek, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 5A).

Ms. Vasek: Thank you. Today is the public hearing for the rule project to implement 2020 legislation involving four alcohol related bills: House Bill 2412, which is related to brewery keg registration and identification requirements; Engrossed Substitute Senate Bill 5006, which is related to on-premises consumption endorsements for breweries and wineries; Engrossed Substitute Senate Bill 6095 related to interstate common carriers; and Substitute Senate Bill 6392 related to local wine industry associations.

For background, the CR 102 for this rule proposal was filed on November 18, 2020. The purpose of the rule proposal was to align existing rule language with the legislation described. Before filing the rule proposal, we engage stakeholders by offering conceptual draft rule language for informal public feedback through GovDelivery to subscriber lists in September. The GovDelivery messaging and the public feedback we received are documented in attachments to the CR 102 memo, which was presented on November 18. We incorporated some of this feedback into the proposed rule language before the CR 102 was filed. No comments have been received since the CR 102 was filed in the formal public comment period opened on November 18. After today's public hearing, rules could tentatively be adopted on or after January 20. That concludes my introduction. Are there any questions I can answer?

Member Hauge: No questions. Thank you.

Member Garrett: No questions.

Chair Rushford: Thank you, Audrey and such excellent work leading up to this public hearing.

I want to mention before we take testimony that for those who signed in for general public comments, this is not your portion of the agenda. You will speak during the next agenda item. I wanted to clarify because sometimes this gets confusing when we have a public hearing. So we have today Josh MacDonald indicating he'd like to speak on this rulemaking. Thank you, Josh, for joining us.

Josh McDonald – Washington Wine Institute

Thank you, Chair Rushford and Board members Hauge and Garrett for the opportunity to speak on this CR 102. I want to start and finish by saying that your team at the Liquor and Cannabis Board rules making team, Audrey and Kathy, have done just an absolute tremendous job on creating an ability for participation and providing input to improve the rules as they're being proposed.

For our sake, both Senate Bill 6392 and 5006 were ones that we commented on and our comments were incorporated into the rules, which we feel improved the overall rules that we hope are adopted. And so in my time here, this is definitely the most professional, most well thought out and implemented process to be able to be part of the rulemaking process. I just want to say really big kudos to your team for putting that in place and really engaging with us on this. We worked hard to get that legislation passed and to help our wineries be able to continue to do what they can in these times. And so we want to thank you for that. So we are in support of the proposal in its current form and again, want to say thank you.

I know my colleague, Annie McGrath at the Washington Brewers Guild was hoping to provide testimony. If you can't see her, Dustin, I have the authority to say she agrees and is in supportive of the proposal as drafted too. But hopefully she is visible to you and she can jump in to provide comments on behalf of her industry. But in case not, she just wanted me to put that on the record.

So with that, thank you, Chair and Board members. Thank you staff for this fantastic work. We are in support of the proposal.

Chair Rushford: Thank you very much, Josh. And I think we have Annie with us. Thanks again for your comments, Josh. Welcome Annie.

Annie McGrath – Washington Brewers Guild

Thank you so much. Annie McGrath with the Washington Brewers Guild. You would think by 2021, I would figure out how to sign in virtually ahead of time. So, I appreciate your staff allowing me to jump in here having not signed up early enough.

I'd just like to echo everything Josh said about the process going into this rulemaking. We're here today to go on the record in support of the rules for Senate Bill 5006 and House Bill 2412. The process was extremely helpful for not only our association but even members of the public and licensees to be able to provide input on these rules. Our early input was incorporated and staff did a great job incorporating that into the rules draft that reflects the legislation and we think it will provide much needed clarity for licensees as they implement some of these procedures in their businesses.

So again, thank you so much, the Washington Brewers Guild supports the work on 5006 and 2412.

Chair Rushford: Thank you very much, Annie. Appreciate your joining us today. Dustin, is there anyone else that has indicated interest in speaking to this rulemaking?

Dustin Dickson: Good morning, Chair. No one else has registered for the public hearing today.

Chair Rushford: Therefore, this concludes our public hearing. Congratulations.

## 6. GENERAL PUBLIC COMMENT

Chair Rushford: We now move to the general public comment, we have several people indicating their interest today. For those who have not worked with us previously, we ask that you state your name for the record when you begin. We allow four minutes, which is a lot more time than it sounds like. At three and a half minutes, you'll receive a note of 30 seconds from Dustin. Then we conclude at four minutes in fairness to everyone and to be equitable in how we hear these comments.

We're going to start today with John Kingsbury. Welcome, John.

Mr. Dickson: Chair, this is Dustin. John Kingsbury registered to speak but is not online with us today.

Chair Rushford: Please let me know if he joins us as we go through the next steps. Ellen Taft.

Mr. Dickson: Of course.

### Ellen Taft – Citizen

My name is Ellen Taft. I have lived in Capitol Hill Seattle for over 30 years and near the 15th Avenue East urban village shopping district for 24. I am asking the LCB to use RCW 69.50.331 to close Uncle Ike's and the Ruckus pot shops along the corner of 15th Avenue East and East Republican because of the chronic illegal activity by their patrons outside of the premises of those shops.

This is documented in the crime statistics, et cetera, which I have checked online and in my meetings with the police. As a result of the activity of those patrons, crime has gone up in the neighborhood and severely impacted the businesses and the residences.

Although the mayor could petition the LCB to close these shops invoking the RCW 69.50.331, she has not even answered eight letters I sent in August, September, and October of last year, all of which I forwarded to every member of the LCB. I asked her to petition the LCB to close these shops. Nor were two letters answered, sent to our at large city councilors Mosqueda and Gonzalez. Our district representative Kshama Sawant is too busy with ideological concerns to represent her constituents. So I didn't even bother with her. On November 6 of 2019, in response to a petition signed by 12 business owners on 15th Avenue East - and there aren't that many business owners - in which we requested a meeting, Linda Thompson referred us back to the mayor.

So I ask you, what are we supposed to do? How can we be heard? Please respond directly to our complaints. Thank you.

Chair Rushford: Thank you for taking the time to join us today. I know you've had some interaction with others in our agency and appreciate your being on the record today. Mike Dougherty.

Mr. Dickson: Chair, this is Dustin. Mike Dougherty registered to speak but is not online today.

Chair Rushford: Again, if he is able to get online we'll pick that up later. Mr. Sami Saad.

Mr. Dickson: Chair, Sami Saad registered to speak but is also not with us online today.



Chair Rushford: Thank you. For any of you that are not able to get online, please submit your comments in writing. We appreciate having those. Next is Gregory Foster, thank you for joining us.

Gregory Foster – Cannabis Observer

Good morning, Chair Rushford, Board members Hauge and Garrett. My name is Gregory Foster with Cannabis Observer and thank you for the opportunity to speak today.

First of all, I'd like to honor Ms. Rushford for her service as chair of the LCB. While the conclusion of your term is January 15, this makes this the last opportunity to publicly recognize your six years of service to the citizens of Washington State. I just wanted to thank you, and thank you for extending your service while the Governor identifies a new Board member for appointment.

Today, I'd like to suggest one way to solidify your legacy and better position the agency for its ongoing journey. For context, as the Board heard today, Ms. Hoffman has continued to implement the Hilliard and Hines recommendation to centralize rulemaking and better formalize policy interpretation at the agency. And I believe we all owe a debt of gratitude to Ms. Hoffman, as you heard other commentators say today, for her work and the innovations that she's introduced at the agency.

The agency is also hiring a new director of enforcement and education after which Mr. Nordhorn will transition to a director level position overseeing Ms. Hoffman's policy and rules team. And he'll also be responsible for organizing and overseeing a new team focused on communicating with stakeholders about the development of new rules and policies and their interpretations. It's my presumption that this new team will also drive and organize stakeholder engagement with the agency and participation in formal rulemaking and policy development processes.

The organization already has an example of how this new team's members can function in the guise of its public health education liaison, a full-time staff position that's currently occupied by Sarah Cooley Broschart. This unique role, which is not typical of cannabis regulatory authorities, represents evolving public health perspectives within the agency and interfaces with federal, state, and local government organizations where that public health expertise resides. In addition, Ms. Broschart t also represents the perspectives of state and community prevention advocates within the agency and directly interfaces with and helps organize that stakeholder group.

My recommendation is that in standing up this new policy outreach and coordination team, I encourage you to empower staff to help organize advocacy to the organization from particular groups. Aside from your licensees, stakeholder groups engaged by this team should include prevention advocates, as well as patients. I suggest that clearly delineating the outreach to prevention advocates be carried out by this group to empower Ms Broschart to focus on staying informed about contemporary public health research and communicating with federal, state, and local government public health organizations. Alternatively, we could ask Ms Broschart to spend an equal amount of time and effort organizing and coordinating patient advocates as part of her responsibilities as public health education liaison. So thank you again for the opportunity to speak --

Mr. Dickson: Greg, you have 30 seconds.

Mr. Foster: -- and thank you again for the work that you do in very trying times. It is difficult to be a public servant, to interface with the public and to respond to their needs as best you can. So thank you so much for the work that you do.

Chair Rushford: Thank you very much, Gregory, for your comments.

In response to your acknowledgement of my term, it has been a a satisfying and meaningful experience to work with you. I will be around a few more weeks but they're going to go quickly. Thank you again, everyone, for joining us today.

Dustin, was anyone else able to join us for the general public comment?

Mr. Dickson: Yes, Chair. Michael Dougherty has now joined us.

Chair Rushford: Okay, thank you, and thank you again, Gregory. Michael, please state your name for the record.

Michael Dougherty – Citizen

My name is Michael Dougherty, Northern California native looking to hopefully get active here in the movement.

I've been to quite a few of your guys' clubs. I'm not trying to rag on anybody but the quality is -- can you hear me? I'm sorry about that. I had another call. Yeah and so the quality's pretty, you know, it needs some touching up in my opinion.

I also came across some synthetic weed at one of your clubs when the flower broke. And it slit the stem and the inside of the stem looked like white plastic. I just thought I'd reach out and let you guys know.

If you guys open up the door for smaller mom and pop shops, it raises the quality a great deal. You start dealing with people that actually care about what they're doing. And it cancels out the market for fake products. And also when you grow marijuana in high concentrations, it has an extreme tendency for white powder mildew mold and the quality goes down.

I just thought I'd let you know. When you keep getting the big things, money tends to go in other people's pockets that aren't even in this state and really, quite frankly, aren't even in this country. We all know synthetic weed doesn't come from Washington.

I was looking up your consultation laws and whatnot so I need to speak with the lady that's in charge of the rules for the Cannabis Board. I believe I left her a message as well. I left a few people some messages. I wanted to get together with her before I hit that angle. I want to make sure I'm doing everything totally by the book. I was also interested, possibly, in getting a research license and helping you get some good strains going here. Lot of these strains you guys have got out here are not good genetics at all. So I'm not trying to rag on anybody, just --

Chair Rushford: Thank you very much for your comments. I think our licensees do an incredible job toward delivering quality product. But thank you for your comments. And with that, I will see if we have anyone additional. Dustin. Did Sami get in?

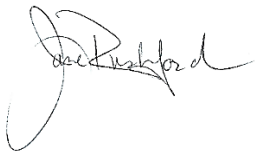
Mr. Dickson: Chair, no I don't see Sami Saad or John Kingsbury online today.

Chair Rushford: Therefore, we have completed the orders of the day and are now adjourned. Thank you again for being here with us.

**ADJOURN**

Chair Rushford adjourned the meeting at 10:38am.

Minutes approved this 3<sup>rd</sup> day of February, 2021



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, cannabis, tobacco, and vapor laws.

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