



Board Caucus Meeting

Tuesday, February 2, 2021, 10:00am
This meeting was held via conference call

Meeting Minutes

CAUCUS ATTENDEES

Chair Jane Rushford
Member Ollie Garrett
Member Russ Hauge
Dustin Dickson, Executive Assistant

GUESTS

Rick Garza, Executive Director
Kathy Hoffman, Policy and Rules Manager
Audrey Vasek, Policy and Rules Coordinator
Casey Schaufler, Policy and Rules Coordinator

APPROVAL OF MEETING MINUTES

Chair Rushford welcomed everyone to the February 2, 2021 Board caucus.

MOTION: Member Hauge moved to approve the December 2, 2020, Alcohol Advisory Council meeting minutes, January 12 and January 22, 2021, Caucus meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Chair Rushford approved the motion.

MOTION: Member Garrett moved to approve the January 19, 2021, Caucus meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Chair Rushford approved the motion.

AGENCY UPDATES

Rick Garza: Good morning Board members and Madam Chair. I have a couple of things I'd like to share today.

As you know, we were before the House Commerce and Gaming Committee along with other agencies last week. Chris and Becky did a presentation which was similar to one we did in November, sharing where we are with respect to the allowances that we've provided. We didn't have much time and didn't

even have a chance to get into the agency request legislation that we're moving forward at the request to the Governor's office. I thought Chris and Becky did a good job.

Also earlier in the week, and I'm sure Ollie will be sharing about this as well, the Social Equity Task Force meeting occurred. Becky gave an update and a review of the process that we went through to license both times, the first time with a lottery and then the second time as we merged with medical. She provided a lot of information and answered a lot of. And of course Ollie was there to assist and providing additional information. I thought the meeting went well.

Periodically, we meet with the small agency cabinet of the Governor. The topic for last week was the employee survey. I don't know that the results have been shared that with the Board, I'll make sure that Megan and I and Claris do that if Claris hasn't already. The results statewide were very similar to the results that we saw in our agency. They really spent a lot of time on the questions that had to do with how people were doing with respect to their flexibility and working from home. The state received really high marks throughout the just as we did in our own agency with respect to our employees feeling that they have the equipment and the communication. We're doing the work that needs to happen in order for us to get our job done no matter where we work from, whether that's in Licensing, Enforcement, IT, HR, the Director's office, or in the Board office. It was good to hear that there was consistency around the state and again with our own agency, that people felt like they were comfortable and satisfied with the job they were doing from home.

Chair Rushford: Rick, at one of our HR executive sessions, Claris was able to provide an overview. We didn't dive into any details but we have seen the results and had minimal discussion.

Mr. Garza: Yes, we have the ability in our one-on-ones with the Board members if they are interested in going into it a little deeper if you'd like, so please let us know and Megan and I can do that for each of you.

Yesterday I met with the Port of Seattle in what's called a "Small Business Airport Advisory Committee". In attendance were concessionaires from the airport, because as you all know there have been business impacts with traffic down at the airports. Some of our Licensing staff and Enforcement staff also participated in discussion about some things that the businesses would like to do such as using areas of the airport where they have sit-down for food to be able to possibly bring alcohol into that area. This would be similar to what we're doing with the restaurants and bars where the cities are allowing for the adjacent property or continuous property off the restaurant, for example, that is owned by the city to be permitted for outdoor service. It was a good discussion with Enforcement and Licensing there. Now we are working on a plan to help them out as they're being hard hit by the pandemic.

As you all know, we became members of CANNRA which is the Cannabis Regulators Association late last year. We voted last week to affiliate with the Council of State Governments (CSG). I know that Russ, you worked with the Council of State Governments for a period of time when you were first with us as a Board member. The CSG serves the legislatures around the country and while it also has judiciary and executive affiliations, it's primarily a national policy association of state legislators. And so they contacted us because interestingly enough, Senator Sam Hunt from Thurston County is, I think, the incoming President of CSG, at least of the Western states. They inquired as to whether we would be interested in joining as a state with legalized cannabis. So, we voted a week ago to affiliate with CSG, which provides a lot of services and also gives us access to legislatures around the country and legislators.

There's a bill that was discussed in our policy meetings, and we've talked about this I think for a couple of years, but mostly in the last year - removing the word "marijuana" from the statute and using "cannabis". I know we supported that bill and even suggested an amendment to it. And I know that, Jane, you have directed Kathy to begin to look at how we can make those changes in our rules. And then Edmond Lee, as you know, is involved in our internal policy. So we were working with Kathy and Edmond to make sure that we have an agency internal policy that directs us to make that change in everything that we do. In our branding, obviously, but also consistent with the bill, consistent with the work that's going to come to you from the rules team in changing the word to "cannabis" wherever "marijuana" is used.

And then, of course, Chandra Brady, the new Director of Enforcement and Education started yesterday. I know she has been hard at work meeting with her team, and is now working with Judy Edwards to schedule meetings with all of us, including our Board members. I know you had the opportunity to meet her a couple of weeks ago.

Any questions of the Board members?

Chair Rushford: I just wanted to clarify a couple of things, Rick, regarding the marijuana shift in statute and potentially in our rules. I encouraged our participation in supporting that bill. But Kathy came up with the unique approach to considering the update in our rules. Also, we have scheduled Chandra to join us for caucus in a couple weeks. We wanted to give her the chance to get acquainted with her team and others first. Time with us will follow an executive management team meeting the week before, but it'll give the Board more "get acquainted time". Any other questions for Rick or comments from the Board?

Member Garrett: I have no questions or comments.

Member Hauge: Thanks for taking the time. And someday when we're face-to-face or closer to face-to-face we can talk more about the Council of State Governments. I would appreciate it.

Mr. Garza: That sounds great. Thanks, Russ. Thanks, Ollie. Thank you, Jane.

Chair Rushford: Thank you. And I know you have many other considerations, Rick, but Ollie is going to give us an update on the task force after Kathy. You're welcome to join us, Rick, or we understand if you need to move on. Thanks for joining us. Kathy.

BOARD MEETING PREP AND RULES UPDATE

Kathy Hoffman: Good morning, Chair Rushford, Board members Garrett and Hauge. I'd like to offer a general update this morning before we move into rules updates. I wanted to share a little bit more about some of the activities that the legal and policy teams have been engaged in and a little bit about what we're planning for the future as well.

You probably know we released our first interpretive statement on January 28 and launched our new web page that will serve as a repository for it and future policy statements as well. This interpretive statement clarifies and confirms rules under WAC 314-55-109 concerning cannabinoid additives and speaks to the ways that these products obtained from a source not licensed under chapter 314-55 can be sold at licensed retail locations.

We're also working on our first policy statement regarding Delta-8-THC. The policy statement was offered in response to multiple stakeholder requests and some internal discussion regarding the status of Delta-8-THC, and the conversion of CBD, hemp, or both to Delta-8 and Delta-9-THC. This issue came to our attention last summer while the program was just beginning to be developed. Some of the tools that we've created to determine whether or not a concern would become an interpretive or policy statement weren't developed yet or in place. Initially, it seemed like this issue might have fallen within the interpretive statement realm. The more research we did, and that included previous agency analysis around this concern along with analysis of the applicable current statutes, as well as outreach to other states and their approaches to the issue, the more the policy statements seemed to be the best approach at this time because our current statutes are pretty clear on this. The policy statement is designed to get additional guidance. I've reached out to our partner agencies to discuss this and we are almost ready to share the initial draft with our industry association.

With respect to outreach, I wanted to briefly share the success of our first deliberative dialogue session around cannabis product testing, and especially thank Board member Hauge for joining us last Thursday. We had over 125 people registered for this session. And we actually peaked at 72 people in attendance. The panel discussion itself went really well and we were able to work multiple positions and understanding regarding consumer perspective around cannabis product testing. We'll be working with staff to begin to unpack the practice approximately two hours of deliberative dialogue that emerge from this session.

Our processor/producer panel is this Thursday, February 4. We currently have 110 people registered for that session. This panel is representative of all three tiers, different production type levels of experience, and really the overall diversity as our license-holders. I really found this model to work well in the virtual environment but I do look forward to a time when we can host these sessions for in person participation.

And then finally, I wanted to speak to strategic rule planning and development because this is something that's been a goal of mine for some time and I think I've shared that in caucus previously. We're beginning to sketch the contours of that plan two years into the future. The plan is designed to project a pathway forward that aligns with the Board's goals and priorities, but also supports regulatory stability through predictable global development. This doesn't mean that there won't be singular projects along the way, but it really encourages people to think about those projects as part of a broader plan and find alignment with Board priorities. I do know that there are at least two large processes that we want to add to this plan initially and the first is modernization of our current alcohol rules, including [indistinct] and possibly redesigning the entire structure [indistinct] areas. For instance, Licensing, Enforcement, [indistinct]. Part of this process including further expansion of our stakeholder engagement models to include the World Café model and similar models to that, it's just a very inclusive process of development. And on the cannabis side, there's been a lot of interest in opening our current advertising rules modernization in response to the rapid expansion of social media platforms. And we've also heard the concerns coming in from the public health and prevention partners that this expansion increases access in ways that are concerning to them. This process will involve multiple work sessions and provide additional opportunity for meaningful engagement. I know that was a lot to digest but I'm happy to answer any questions.

Chair Rushford: I don't have a question, Kathy, but I have a couple of comments. Thank you, Russ, for representing the Board in the activity underway. Kathy, the SharePoint site where you have provided the rules manual as well as rules in progress and the calendar, that is extremely helpful. Thank you for that.

Ms. Hoffman: I forgot to share that with the Board. I think I sent out messaging internally that in March of last year, I started developing a rules manual for LCB. So I think we may have had guidance documents

in the past, but not anything that was specific to the application of the Administrative Procedures Act. We're now on the fourth version of that document which is a little over 50 pages, but it really does go through each aspect of the rule development process in depth and speaks to role coordinators' roles, my role, the kinds of documents that staff and others can expect to see in rule packages and our responsibilities with respect to interpretive statements and rule petitions. There's a lot of information there. And there's our calendar that we keep updated with rulemaking activity that includes "listen and learn" sessions and when public hearings are. We're hoping to populate that with when specific workgroup meetings as well as internal workgroup meetings. Truly a one stop shop for anyone in the agency to access that material and stay on top of what we're doing with rules. And then, of course, people are always welcome to reach out to us but we just wanted to make all of that material more accessible to everyone in the agency. Thank you.

Chair Rushford: Any questions for Kathy?

Member Garrett: I have no questions. Thank you, Kathy.

Ms. Hoffman: My pleasure.

Member Hauge: This is quite a job that been undertaken and I'm happy to be along for the ride. It's very ambitious and I think we're going to come up with really good product.

Ms. Hoffman: Thank you, Russ. It's a pleasure to do it and to work with all of you.

Chair Rushford: I certainly agree. The participation is impressive and meaningful. And again, I join Ollie and Ross in appreciation.

Ms. Hoffman: Thank you, Chair Rushford. If it's okay with you, move to Audrey for alcohol rules updates. Thank you.

Chair Rushford: Thank you. Welcome, Audrey.

Audrey 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.

I have a brief final update on the project related to implementation of the following four alcohol bills from the 2020 session: House Bill 2412, brewery keg registration and identification requirements; Engrossed Substitute Senate Bill 5006, 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. After approval at the Board meeting on January 20, the CR 103 and final rules were filed with the code reviser's office and the rules take effect February 20. A copy of the concise explanatory statement was sent to all those who provided public comment and GovDelivery messaging was sent to all subscribers. The recently adopted rules webpage has also been updated accordingly.

For the rule project related to implementation of 2020 legislation Engrossed Second Substitute Senate Bill 5549 related to distilleries, the public hearing is scheduled for tomorrow's 10am Board meeting. For background, this bill modified the privileges and requirements for distillery and craft distillery licensees and established a new offsite tasting room license beginning January 1, 2021. The bill also authorized jointly operated offsite tasting rooms and conjoined consumption areas for certain licensees. A formal rule

inquiry, or CR 101, was initiated on August 5, 2020 to consider revisions to implement the bill. To engage any interested members of the public in the rulemaking process and gather feedback and suggestions for revisions to conceptual draft rules, a virtual “listen and learn” session was held on November 17, 2020. At a peak, there were over 40 people in attendance. The feedback received during the “listen and learn” session was incorporated into the proposed rule language and CR 102 before it was filed. And a description of the changes made was provided in the CR 102 memo and a follow up email sent to listen and learn session attendees after the CR 102 was filed on December 23, 2020. The formal public comment period opened on December 23, and two written comments have been received so far. After the public hearing tomorrow, rules could tentatively be adopted on or after February 17, 2021. In terms of projects on the horizon, I'm beginning to prepare a CR 101 preproposal statement of inquiry for rulemaking to revise WAC 314-280-70 related to monthly reporting requirements for distilleries to take into account the blue spirits distilling Court of Appeals decision that was issued on December 22, 2020. In terms of timeline, I'm currently assembling the project team and tentatively hoped to have a CR 101 preproposal ready later this month or early next month. That concludes the alcohol rule updates for the day and I'm happy to answer any questions.

Member Garrett: I have no questions.

Member Hauge: Thanks, Audrey. Timelines are clear, I appreciate it.

Chair Rushford: Thanks for the thorough review, Audrey.

Ms. Vasek: My pleasure.

Chair Rushford: Casey.

Casey Schaufler: Good morning, Chair Rushford and Board members Garrett and Hauge. A couple of quick timeline updates for you today starting briefly with Tier I incremental expansion. Internal discussion and contingency planning is ongoing. I continue to expect to have a more detailed update on this topic later this month once those necessary discussions conclude.

As to quality controls, as Kathy mentioned, staff is preparing for the next two of the three deliberative dialogue forums, to reiterate the next panel is for producer/processors. That forum is this Thursday, February 4. And then the third panel for accredited lab perspectives is on February 11. More information on that can be found on our website.

We've received one comment following the CR 102 filing for implementation of House Bill 2826 for cannabis vapor products. The formal public comment period concludes tomorrow and the public hearing is an action item for tomorrow's Board meeting as well.

And finally, the recently adopted rules for implementation of Senate Substitute Bill 6206, for the creation of marijuana business premise certificate of compliance, will become effective this week on February 6.

Quickly, to reiterate, the panel discussion information that has been sent out via GovDelivery and if folks are looking for that information, they can check the GovDelivery archives for that information.

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

Member Garrett: I have no questions.

Member Hauge: No questions, Casey. Thank you.

Chair Rushford: Thank you, Casey. We have two public hearings tomorrow: the 2020 legislative implementation for that alcohol related rulemaking and then, as Casey just mentioned, the THC vapor products. Thank you so much, Casey, for your thorough and impressive work.

Mr. Schaufler: Thank you.

Chair Rushford: We'll move now to the social equity and cannabis taskforce update. Thank you for this, Ollie.

SOCIAL EQUITY IN CANNABIS TASK FORCE UPDATE

Member Garrett: Thank you, Jane. As Rick stated earlier, we had the Task Force meeting last week. The main presentation was Becky updating the Task Force on the process with the merger and processes in general that we use at LCB. She did a great job, I think it was very informative. The feedback from the task force was all positive and the information was valuable. There were things in the discussion from the community that that after going back and looking at some of the things that we did and processes we had, starting even with the community outreach, and now the task force, gives us a lot to look at and to think about for future decisions. It's been very helpful being able to look at some of the things that we do, and some of the unintentional consequences that occur and to start maybe asking more questions and thoroughly vet some of the things that are being brought before us for consideration. It's a lot of good information that comes back from the community, being able to hear what their interpretation and the impact of some of the things that we're doing.

Also, a lot of the conversation was around the funding that was for the Task Force and for technical assistance for the industry, and how it's going to be "lose it or use" it by June, and what that means. After the presentation we went around the table discussing what can be done and what needs to be done in order to not lose the funding.

There was talk about allowing the chairs to be able to amend some things, to see if there's a way that they can use the funding now for existing licensees rather than lose the funding. I don't know what the result of that is going to be.

I think going forward, we're going to start breaking up into three different groups and have each group to try to move forward to speed up the process of coming up with something, which I think is going to be valuable to get more work done and having work groups. [audio dropout].

Chair Rushford: Thank you, Ollie, we lost you for just a moment.

Member Garrett: Okay. I didn't have anything further.

Chair Rushford: Any questions, Russ?

Member Hauge: No. This is another enormous project and Ollie, you're doing the Lord's work, I appreciate it.

Member Garrett: Thank you.

Chair Rushford: I will certainly underscore that, Ollie. We certainly appreciate your leadership in representing the Board so well. I agree that, after I listened to the TVW replay, that Becky did a great job. And, it was a tough job that was a lot of information that was delivered very well. I sent her a note of appreciation. She did a good job.

Member Garrett: Right. There are long meetings, and I think we went maybe 45 minutes over.

Chair Rushford: It's a lot to consider and as Russ pointed out, it's incredibly important work. We appreciate, again, your leadership. Thank you.

We'll move now to any additional Board member comments or reports.

BOARD MEMBER AND EXECUTIVE ASSISTANT REPORTS

Member Hauge: Thank you. I think what would be useful for me to report is my impression of the panel discussion that Kathy and her team put together and what we can expect going forward. It would be possible to look at this and say, "well, wait a minute, we've taken two steps forward, now we're taking a step back", or "we're spending more time than we need to". I strongly disagree. The quality of the discussion was very elevated, and certainly curated and chaired well by our team. But the thing that I was reminded of most was when we took the rule package on the road, went around the state talking about what it is we can do, what we can't do and what is on the table. There's still a lot of fundamental misunderstanding about what the LCB can do. And, speaking frankly, I think that not just the LCB but state government has contributed to that because we've got at least two agencies, maybe three involved in the issues of availability, of the purity, of quality control, of testing protocols, and putting this together in a rational way is going to take some time, and I think it's time we need to spend now.

Chair Rushford: Well said. Excellent process and I've said it before: getting closer to right as opposed to getting it done is the better approach. Ollie, any comments on that?

Member Garrett: Russ, I agree with what you're saying about where we should focus. And one of the things that I am seeing is where our agency and other agencies -- and I think, Jane, this goes back to your 2.0, that the more we can bring in others and work with others the better we will be able to get things right.

Chair Rushford: Kathy, are other agencies participating in any of the activities that you and your team have?

Ms. Hoffman: That's a great question. On our "listen and learn" sessions, yes. I've seen Health Care Authority (HCA), Department of Health and Department of Ecology have listened into some of the "listen and learn sessions". And at the deliberative dialogue, we did have people from the Department of Ecology. I think it was essentially the same group of people overall. So, yes, there are other agencies that are interested in listening to these sessions and I hope that we can expand that even further. I feel like a lot of this work touches more than just ecology and HCA.

Also to share, there was some interest from members of the Washington State Legislature and their staff in these sessions. Our messaging was broadly shared and well received, I think, throughout the community. I hope that helps.

Chair Rushford: Encouraging those that would benefit from the discussion to participate would be worthwhile. It's an important process and a very good one.

Ms. Hoffman: Thank you.

Chair Rushford: Russ, anything additionally?

Member Hauge: No, thank you. I appreciate it.

Chair Rushford: Thank you. I just want to add that obviously, session is well underway. It's starting to move quickly as we approach the first cutoff. Chris is providing a weekly report. I really appreciate that from him. It's an extra step at a very busy time. I've also asked him to connect with the two of you when there are late breaking issues that I want to be sure you know about. We're working to avoid the surprise factor. And there are so many other works in progress as we continue to anticipate the eventual positive shift in the pandemic.

Chair Rushford: I wanted to see if Dustin n has anything for us today?

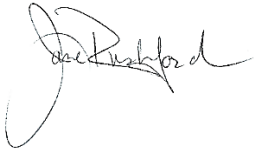
Dustin Dickson: I have a quick technology update. The new platform that we're working on for Board activity, and eventually agency wide, did pass the first round of testing and we'll move into the second phase next week. It's moving along quickly and we are all pretty excited about it.

Chair Rushford: And Dustin know from others that you exhibit great leadership in providing information on behalf of the Board and being there to clarify what it is that we need to do at the open public meetings, that are challenging. So the work ahead will hopefully make this less challenging. And again, we appreciate your leading our effort with IT. I know that they've been very responsive and helpful as well.

Chair Rushford: Is there anything else for the good of the order today? Hearing none, we are adjourned. Thank you, everyone.

Meeting adjourned at 10:41am.

Minutes approved this 9th 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