



Washington State Liquor and Cannabis Board Meeting

Wednesday, June 9, 2021, 10:00am

This Meeting was Convened Via Web Conference

Meeting Minutes

1. CALL TO ORDER

Chair David Postman called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 am on Wednesday, June 9, 2021. Member Ollie Garrett and Member Russ Hauge were also present.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the May 26, 2021, Board meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Chair Postman approved the motion.

3. NEW EMPLOYEE INTRODUCTION

Rick Garza: Good morning, Board members and staff. I did this a day ago for our Board, this introduction. But for our stakeholders and audience that were not part of that discussion, I have the pleasure of introducing the LCB's new Deputy Director, Toni Hood. Toni comes to the LCB after serving as Deputy Commissioner of the Legal Affairs Division at the Office of the Insurance Commissioner. There she oversaw a \$12 million budget, and a large team of attorneys, investigators and paralegals when forced the insurance code for the state. Obviously, her background is as a regulator. She is an attorney herself, earning her law degree from Gonzaga University School of Law, and a Bachelor of Arts in political science from Seattle University. In her role at OIC she oversaw many high profile investigations, helped shape state and federal legislation, and frequently communicated with stakeholders and community agencies. One of the strengths Toni demonstrated to the selection panel was a strong appreciation for the value and importance of working with stakeholders and community partners. This experience was important to our decision making. She'll fit very well with our work ahead. So again, welcome, Toni and I'm happy to introduce you today. Thanks.

Chair Postman: Toni, anything you'd like to say? I don't want to put you on the spot too much.

Toni Hood: No, that's alright. Thank you. I'm very excited to be here and very excited to work with the industry and continue my work as a regulator and as a state employee. Thank you.

Chair Postman: That's great. Well, we're excited to have you and when we were meeting yesterday and we were talking a little more about your background in the regulated field, I mean, this is your bag. So we really welcome the expertise and look forward to whatever input you have for the Board in particular and our staff in dealing with adjudications and things to the sort. So welcome aboard.

Ms. Hood: Thank you.

Chair Postman: Okay. We will move now to our next item, which is alcohol related rulemaking and timelines. Audrey Vasek, the policy and rules coordinator will take us through this. Ms. Vasek?

4. ALCOHOL RELATED RULEMAKING AND TIMELINES

Presenter – Audrey Vasek, Policy and Rules Coordinator

TIMELINES

Audrey Vasek: Thank you and good morning, Chair Postman and Board members. I have a few brief updates on the alcohol rulemaking timelines before the agenda item today.

For the first update I have the rule project to implement 2021 legislation, Engrossed Second Substitute House Bill 1480 related to the COVID-19 alcohol allowances. The CR 101 was filed on May 12 and the initial comment period is currently open. It will remain open until July 2. And we've received one comment so far in support of the rulemaking in general. The internal work group continues to meet to develop conceptual draft rules and our goal is to share those publicly in mid-July. We're currently on track to do so and we anticipate holding one or two "listen and learn" sessions in August to gather public feedback. Following those "listen and learn" sessions and depending on the feedback we receive, I anticipate tentatively bringing a CR 102 rule proposal for the Board to consider in September.

For the rule project to create summary suspension and stay provisions to enforce Governor's Proclamations, the initial comment period on the CR 101 closed on June 5. We received a total of 65 comments during that comment period, all in opposition to the CR 101 between April 14 and June 5. The internal work group is currently reviewing those comments and considering options for moving forward with the project. I anticipate we'll have more updates on the timeline in July.

Finally, with the distillery reporting and payment rules project, the adoption of the CR 103 is on the agenda for today. So, before providing background on that project, I'd like to pause and see if there's any questions related to the other updates.

Chair Postman: None for me today. I don't see any from the others.

Member Hauge: No questions. Thank you.

Member Garrett: No questions.

Chair Postman: Thank you. You can go ahead.

ACTION ITEM (A)

ACTION ITEM 4A - Board Adoption of CR 103 for Distillery Reporting and Payment Rules

Audrey Vasek, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 3A)

Ms. Vasek: Today I'm requesting that the Board adopt final rules and approve filing a CR 103 package for the distillery reporting and payment rule project. For some brief background: this rule project was initiated in February 2021 to consider revising the distillery reporting and payment requirements to be consistent with the Court of Appeals decision in *Blue Spirits Distilling*, which held that LCB rules requiring distillers to pay spirits retailer licensing fees when they acted as spirits retailers were invalid. To develop the proposed rules and engage stakeholders, a set of conceptual draft rules was shared through GovDelivery for public feedback in March. This feedback was included as attachment B to the CR 102 memo. The Board approved filing the CR 102 on April 14. And during the formal comment period from April 14 to May 26, we received one comment on the proposed rules expressing some general concerns but not directly related to the subject of the rulemaking. The one comment we received along with the agency responses included in the concise explanatory statement. Based on this feedback, the final rules are identical to the proposed rules, no changes were made. The final rules remove all the existing reporting and payment requirements for distilleries and craft distilleries by repealing WAC 314-28-070 and 080 and amends some existing references to those requirements in several other sections. If the final rules are adopted and the CR 103 is approved for filing with the code reviser today, I will send that concise explanatory statement to all persons who provided comment and the effective date of the rules will be July 10, 2021, which is 31 days after filing. That concludes my presentation. And if there's any questions, I'm happy to answer them.

Chair Postman: I don't see any questions for you on this today. I think you've been very thorough on this as we've worked on it over the past month or so. And the fact that you had no comments objecting to the rule says something about the work that was done. So thank you for that. And with that I will just ask for a motion for adoption of the CR 103 for the distillery reporting and payment rules.

MOTION: Member Garrett moved to adopt the CR 103 for Distillery Reporting and Payment Rules

SECOND: Member Hauge seconded.

ACTION: Chair Postman approved the motion.

5. CANNABIS RELATED RULEMAKING AND TIMELINES

TIMELINES

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

Mr. Kildahl: Good morning, Chair Postman and Board members Garrett and Hauge. Here is a brief update on cannabis rules in progress today.

Starting with the cannabis quality control rules and consistent with our last update, we now have four internal rule drafting sessions scheduled in the coming weeks to begin cannabis quality control rule redesign. We expect to hear from OFM possibly today on bids concerning our request for an economist to help with drafting an updated small business economic impact statement.

With respect to criminal history background check redesign, our “listen and learn” session was held on June 1 and was attended by approximately 25 people. We received a small amount of feedback on the draft conceptual rules we shared. Our internal project team will meet later this week and we plan to have a CR 102 package for your review by the Board on the meeting held on July 7.

With respect to the permanent rules referencing the State Board of Health vitamin E acetate prohibition, no comments have been received to date on the CR 102 we brought to you for approval on May 26. As a reminder, the public hearing is scheduled for July 7 and under that timeline, we can bring a CR 103 package to you by July 21. Under that timeline, we will be able to allow the current emergency rules we have in place to expire because that expiration date is just a few days after the effective date of these rules.

With respect to the Tier I expansion proposal, two comments have been received thanking the agency for the proposal. Three comments have been received that are opposed to the proposal and one comment has been received suggesting changes to the proposal language. Our public hearing on this rule proposal will be held today. And under that timeline, we can bring a CR 103 package to you for review on June 23.

Finally, two comments have been received on our CR 101 concerning THC isomers beyond Delta-9. Our “deliberative dialogue” session was held on the morning of June 3 and we had 129 attendees participating at the peak of engagement. Our focus for the first session was cannabis plant chemistry. We would like to again, thank our well qualified, diverse group of experts for helping us keep the focus on cannabis plant chemistry. We remain committed to grounding this work in fact and data and we believe that this approach is the most appropriate and productive way to situate that work. And, we now have a great foundation from which to start that work. Next steps are to curate the two and a half hours of dialogue, reconvene the project work group, and plan for the next session. That concludes my update. May I answer any questions?

Chair Postman: Not for me, no. I see no questions. Thank you, Jeff. And now we will move to the public hearing on the tier one. Kathy Hoffman, are you going to set us up for that?

PUBLIC HEARING (A)

PUBLIC HEARING 5A - Cannabis Tier I Expansion

Kathy Hoffman, Policy and Rules Manager, began the briefing with materials (HANDOUT 5A).

Ms. Hoffman: Yes, I will. Thank you very much, Chair Postman and good morning to you Board members Garrett and Hauge.

So, to provide some background before we move to public hearing today, this project began in late December of 2019. It was delayed a little bit by the state's response to COVID-19 but we eventually were able to hold two virtual “listen and learn” sessions in late June of last year that were very well attended by primarily by Tier II and III production licensees and reps. So, very few Tier I licensees were in attendance in that session. We wanted to hear specifically from the Tier I licensees and conducted a survey that was released in two waves using Survey Monkey last year. The first wave started on August 27th of last year, and then the second wave followed in October of last year as well. Our response rate to the survey was well over 50% and results were analyzed by the cannabis rules coordinator at the time, and a detailed report was issued by the agency on April 2 of this year. The most prevalent theme emerging from that

survey was to allow some measure of Tier I expansion to support businesses with the ability to be competitive in an already competitive market. We completed our analysis contemplating the possibility of expansion and that was presented in the CR 102 memo that you were briefed on previously. I won't go into all the details of that memo. It's pretty long. But just a reminder, Tier I production canopy represents 1.94% of total license canopy. So we're talking about approximately 125 Tier I licensees. And those are licenses that we estimate are being used compared to 349 Tier II and 338 Tier III licenses that we estimated being used. So even if every active Tier I licensed producer added an additional 2000 square feet of production capacity, total Tier I licensed canopy would represent only 3.6% of the total active licensed plant canopy. And this is the equivalent of adding less than nine Tier III licenses in terms of total additional canopy, although the equivalency there would be spread out among 125 active businesses. And again, that is assuming that all Tier I licensees double their current production space and we don't expect that that will happen. I think Jeff provided you an update on comments we've received so far on the proposal, so I'll stop there and ask if you have any questions before we move forward.

Chair Postman: I don't see anyone with questions, Kathy.

Ms. Hoffman: Great. Thank you very much.

Chair Postman: Thank you. Okay, we will now move to the public hearing. And first, I'll just ask for a little patience on the part of those testifying because we are doing our first public hearing on Microsoft Teams here. When I call your name, just give us a second to enable your audio and video. And then please state your name and affiliation for the record. Be mindful of the timer. Everybody has four minutes to speak, and at 30 seconds you'll be given an alert that your time is just about up. First on my list is Micah Sherman from Raven Grass.

Micah Sherman – Raven Grass

For the record my name is Micah Sherman. And I'm one of the co-owners of Raven, a Tier II producer processor in Olympia. And just for context, we have about 4500 feet of canopy under production at our facility. So we're kind of operating at what would be a similar size to this new proposed tier one.

My initial response to hearing this proposal as the solution for Tier Is is, there's an old joke that says, "we lose money on every sale but we're going to make up for it with volume". And that is a little bit of like what this solution feels like, is that it's not necessarily a bad thing. I'm not opposed to adding this canopy for Tier I licensees. But I would strongly encourage the Board to not look at this as a solution to the problems that exists with the Tier I license. I don't think that this is going to do a lot for very many people. I think it will do some small measure of good for a small group of Tier I producers.

I think overall the problems that Tier I producers are having and surviving in this marketplace are the same problems that all small cannabis farmers are having. And that's related to market structure and our opportunities to get our product to market in only one particular way. And we've all seen the direction that that's brought the industry overall with a lot of conglomeration, a lot of consolidation, a lot of failed Tier II farms, a lot of failed Tier III farms. So again, I'm not at all opposed to this. I think it's good to bring those farms up to more parity with other operators. But this would be a very small gesture towards a solution that is much bigger and broader than is going to be able to be dealt with by canopy space alone. So I would encourage you all to continue to look at that larger situation of how it is the market is structured and continue to look for solutions that are going to help these small farmers that are going to basically join me in being a small farmer that's struggling to make it at the same size. And I just really don't think that this is

going to solve it for a lot of people and I would keep working on this problem in the broader context of where we are. Thanks.

Chair Postman: Okay. Thank you. Appreciate you taking the time today. The next person we have signed up is Mark Ambler from Tier One Producers Association.

Chair Postman: We'll come back to you, Mark, in a second and try again and see if maybe there is something muted on your phone or laptop there if you're on that. So let us move on to Jim MacRae. Jim?

Jim MacRae – Straightline Analytics

Chair Postman, Board, staff, thank you very much for the opportunity to address you. My name is Jim MacRae. I run a consulting company called Straightline Analytics, fairly centric on the data produced largely by this agency.

On the Tier I expansion, first of all, I want to commend staff for a very focused and brief and extremely understandable set of rule changes. It's so rare that there's no cross referencing or anything like. It's really elegant. It gets to the point and it addresses the expansion of the Tier Is. I think that's a good thing.

I think it's unfortunate that any reference to the production of medical that was part of the original discussions about the need for this are not in here. I think I understand it. It's unfortunate. If the Department of Health were more engaged in things we might be able to make more progress along that line. However, it's a good thing.

I do want to make a couple of comments about the history. It's in the document that was done to prep for this, very good document, good history. Again, thumbs up. Some of the wording and some of the subtleties, this often defines history in the future. But I wanted to emphasize that being there and being part of the process from day one, as were many of staff, but the ones that were writing this perhaps were not. The emphasis on having Tier Is and keeping things fairly small was not just to keep down the large, organized crime, gray market, illegal suppliers. It was to give an opportunity not only for the people who were underground to begin growing at a small scale, but more to the point, it was to put in place an opportunity for small mom and pop type businesses to do their thing. Basically, what I think most of us would consider to be craft. Somebody who doesn't have a huge production line, producing their goat cheese is craft, that type of thing. So this certainly helps those folks.

I do think that there's a couple of things in the rules after having commended on simplicity that maybe should be discussed, at least, so that we know what the long term ramifications might be, if any. And those are looking at the same 314-55-075. (7)(a) and (8) in there still make reference to the agency's ability to decrease the canopy of licensees under a few conditions, such as them not using 50% of their space, blah, blah, blah. It's optional, but it's a power the Board has. I wonder if those are even needed anymore, given that by rule, the maximum canopy is defined as that amount, which is licensed. It's kind of an insane, back and forth and circular. But I think (7)(a) and (8) aren't necessary, given that other rule position, that what is licensed is what is needed, or is allowed.

(7)(b), the ability to basically force a decrease in canopy, it was interpreted if somebody's bought at 50% of their canopy for a tier. That was often interpreted as down-tiering someone if they didn't hit the minimum threshold. Given some of the data that were shared in that wonderful summary document, you're looking basically, and I'll just cut to the chase, today Tier Is represent 179 out of 1088 licensees.

That's as of June 1. 16.5% of the licensees. If the Board were to take a position using the data that are in this document about how many farms --

Dustin Dickson: Jim, you have 30 seconds.

Mr. MacRae: -- how many farms are underutilizing their canopy, it's conceivable that if this rule were adopted, the Board could shift it so that there are a total of 702 licenses that are forced into Tier I because they are currently, years after being licensed, not even doing 4,000 feet of canopy. So if anything else, the rules force a bunch of Tier IIs into Tier I. Thank you very much. Appreciate it.

Chair Postman: Thank you. Why don't we try again with Mark Ambler.

Mark Ambler – Tier I Producers Association

Alright. Thank you. Mark Ambler, Tier One Producers Association. And I'm also a Tier I producer for Breeze Trees, owner with my wife for that. And what I wanted to say was pretty brief.

I feel like this action is going to get us closer to an industry where licensure is available to all people, regardless of physical, societal, or economic status. So if you think about it, if you're in a wheelchair or if society has placed you in a position, maybe together with your economic status where you can't break into the cannabis industry, this gets us closer. And so I think anyone should be able to acquire a license, build their brand, and either pass that on to their children or sell it. That should be across the board.

So, with this new canopy, what I think we should do is focus on brand value and profit versus revenue. So, everybody's talking about revenue. And when all these IPOs go, it's all going to be about revenue. But if you talk to a real, non-speculative investment group or person, they're going to want to know more than just revenue. They want to know, is it profitable? And how valuable is your brand when we go IPO? So this canopy helps us move on new areas as they open up as well, like non psychoactive cannabis products. You know, if we want to create something as simple as like, clothing or rope we're going to need more canopy for stuff like that. And for example, last month, I was talking to Western Washington, I was talking to them about their research. And they're like, okay, we can't do research with your facility yet. But if somebody flips the switch in the government it's going to be a huge, little thing that we need to start developing business models for things like that. And so I talked to the guy and I told him, okay, you're going to be one of my first calls. And he reciprocated. And so I'm really excited for this moment, this moment in time, now until whenever federal legalization happens, if it happens. I don't know if anyone still thinks it's going to happen. So I really hope everybody's excited for this. I hope you vote yes today. And that's it. I yield my time. That's kind of the thought I wanted to get across. Thank you.

Chair Postman: Thank you. Appreciate that. And that's all we had signed up for the public hearing. Let me just check with Dustin to make sure that I've got that right. Is there anybody else?

Mr. Dickson: No, one further, Chair. Thank you.

Chair Postman: Okay. With that, then we will close the public hearing on Tier I expansion. Thank you all for sharing your thoughts as well as being patient with our technology.

6. GENERAL PUBLIC COMMENT

Chair Postman: We now will move to the general public comment part of our agenda. And first, if you've been watching, we do need to just ask everybody for a little patience. It takes a second for Dustin to turn on your monitor and your audio. When you do, if you're on a telephone make sure that you haven't muted your telephone in addition to muting the Teams App. Sometimes I've been known to do that. And so take a look at. If you could unmute your telephone now if you've signed up. Everybody is given four minutes. As a 30-second warning, Dustin will politely interrupt and remind you that you have 30 seconds remaining and we will run through this. We have quite a few signed up today. So as always we'll be keeping a close watch on the clock. First person I have signed up is Jeremy Moberg. When you do get on and connect, please state your name and affiliation for the record.

Jeremy Moberg – Cannasol

Thank you for the time, Board, for public comment today and to the staff. My name is Jeremy Moberg and for the record I am owner of Cannasol Farms, which has three Tier IIIs located in Okanogan, Washington.

I wanted to commend the Board on its work with the Tier I, bringing them up. I do think that a Tier I was not enough canopy to overcome the regulatory hurdles that have been placed upon this industry. And I think that does some to alleviate that. But also, that's in the context of essentially to Micah's point that there's other factors here that are not working well for farmers. And I think that's obvious when you look at the industry in the amount of conglomeration that has occurred over the last eight years. And I think the Board needs to continue to work on that. I'm happy that the Board has considered the economic position of licensees and I think that starting with Tier I is a good place to start. But now the work has to be done for the rest of the industry to create markets that are equitable where people have the chance to succeed.

I would very much disagree with Mark Ambler's statement that this is a step towards opening up free licenses. This is a controlled substance, this is a controlled market, and the LCB has a responsibility to make sure that there's equitable outcomes. So I hope that the Board continues along this.

One of the main things that needs to happen, it doesn't even really take Board action or a workgroup or legislation. It's already within the current authority of the Board to enforce over canopy and overproduction. I mean, that is, at the end of the day, what is hurting us the most, as well as sort of the infusion of hemp into this market. Those two factors right there are making it very, very difficult for midsize farms such as myself and others to be successful in this network. And the rules are already there. We just need a renewed commitment from the LCB to force overcanopy.

The word on the street is that the LCB, since the revision with the compliance officers and whatnot, that there is no enforcement. And we see that with Delta-8 and hemp coming in, even actual marijuana coming in through the hemp line. And we see that with people growing four or five times what is allowed under rule. So now is the time to do that too. Now's the time to focus on that. Just on my road alone we've got farm after farm that has four acre pens. And they got an auto-flower crop there that's going to be mature here in two months. And so now's the time to go and enforce canopy and make a more equitable environment for the Tier Is that just came up to 4,000 square feet and everybody else in this market. So I really would urge the Board to not do anything in terms of changing the rules --

MR. Dickson: Jeremy, you have 30 seconds.

Mr. Moberg: -- Thank you very much -- but just to let everybody know that the LCB does enforce this. And sometimes I think that it's underestimated what just a statement by the LCB can do to correct these things. It's not like we need everybody out there necessarily counting every square inch. Just a

notification to the industry that this is happening could go a very long ways. I thank you for your time today.

Chair Postman: Great, thank you, Mr. Moberg. I appreciate you taking the time. Next up, Micah Sherman again. Micah?

Micah Sherman – Raven Grass

Again for the record, my name is Micah Sherman. I'm the owner of a Tier II producer/processor, Raven, in Olympia. And thanks for letting me talk again.

In addition to being involved in owning Raven, I've spent a lot of the last five years working on a bill to define and differentiate craft cannabis similar to craft brewing and craft spirits. And I recently had the chance to read through the agency's bill analysis of HB 1260, this last year's iteration of that effort. And I had a couple of things I wanted to comment on out of that. The first big thing I wanted to say is that what we're trying to do with direct sales exemptions for craft cannabis producers is not vertical integration. That word has a very specific meaning, especially in the context of agriculture. And what that vertical integration word means is when the large operator conglomerates up or down their supply chain, so they own multiple components of the existing supply chain, like when a big winemaker buys a bottle factory Or when a wine maker buys a chain of retail stores.

What we're asking for is an exemption to the limit on direct sales in order to prevent exactly that sort of conglomeration from occurring, which is what we've been seeing for years. So this is an established normal path to market in agriculture. It is not vertical integration. There's a long history in both economic and academic work that talks about these distinctions and what their intentions are. So I would appreciate it in the future if the Liquor Control Board would accurately identify what it is we're trying to do with that bill, because that's intentionally being used by some others in the industry to kind of confuse everybody about what it is we're asking for here. This is not the first step towards vertical integration. This is us trying to be able to have a path to market and to be able to sell our products to our consumers in the same way that we can do in craft beer and craft spirits. Craft Beer did not lead to a vertically integrated national beer market. And neither is what we're trying to do here. In fact, it's exactly the opposite.

The other assumption that's made in that analysis is that more access points is going to reduce the price of products. That is not bared out in the world of craft spirits and craft beer. And I don't think that we should make that assumption here. Again, this is about bringing a nuanced high level product directly to consumers. It's about consumer education. It's about transparency. And it's about bringing an understanding of the cannabis economy directly to our customers. And that is only going to increase the expectations of those consumers and potentially increase the price and what people are willing to pay for quality produced product instead of things that they are alienated from understanding how they're produced, because of the nature of our current marketplace.

The last thing is, there's some concerns about public health and again, this access point issue. And I really think it's important to understand that these access points are different types of access points that have different intentions. These are not about the race to the bottom. These are about halting the race to the bottom --

Mr. Dickson: Micah, you have 30 seconds.

Mr. Sherman: -- thank you -- so that we can start to have quality conversations with our consumers. And that's going to help public health. That's going to help public safety because that's going to allow people to understand what it really means to be using pesticides. Because they're going to be able to interact with these farms directly and have a real world understanding of what it's like on the ground floor for farmers. And that's going to help us explain what it is we're doing, why it matters, and why those qualities are more important than price alone. Thank you so much.

Chair Postman: Thank you. Next up is Jim Mullen.

David Postman: We'll come back to you, Jim. You can keep looking for that mute button and see how it goes. Sorry about this, we appreciate the patience. Monica Martinez.

Mr. Dickson: Chair, Monica Martinez registered to speak but I do not see her online with us today.

Chair Postman: Okay. If she does connect, we'll come back to her. We will move on then to the next person sign up, Daniela Bernhard.

Daniela Bernhard – Uncle Ike's

Hello, my name is Daniela Bernhard and I'm a co-owner of Uncle Ike's Pot Shops. We're a licensed retail cannabis business with shops in Seattle and unincorporated King County. And I'm here today as a member of the Washington Cannabusiness Association. Thanks for the opportunity to speak with you today.

I'm here to express our thanks and congratulations to the Governor's Office for its creativity and to this agency for announcing the "Joints for Jabs" program. Many cannabis consumers who have been hesitant so far to get a vaccine might see the offer of a free joint as a motivating incentive.

I'm also here to share our mixed reactions to the program. Undoubtedly, we're excited to be included as part of this public health response to COVID-19. And aside from our individual company efforts to be contributing members of society and especially during the pandemic, as an industry sector, we're often overlooked for how we invest in our neighborhoods and communities. The "Joints for Jabs" is a great idea but we're disappointed that our legal and heavily regulated sector continues to be treated differently than our peer sectors in Washington, and even our fellow industries that fall under the regulatory oversight of the Liquor and Cannabis Board. Others regulated by the LCB have been given far more ability to serve the community in this program and increase vaccination numbers. There's some legal issues built into this program and it's a hurdle that many vaccinated authorities won't cross. Uncle Ike's received communications just this morning from two different vaccinating authorities, sharing that their legal departments won't allow them to set up operations in cannabis shops or be directly associated with the offer of free joints at all. And this response wasn't surprising. Simply establishing a clinic inside a regulated cannabis facility is fraught with challenges. Our facilities are monitored and regulated down to shelf and lighting placement. And, the vast majority of license holders would have difficulty within the physical constraints of their space to host a vaccination clinic at all. Additionally, the shorter window and the limited allowance makes it far less likely that this program will be successful in increasing vaccinations.

We have no doubt that the rationale for that "Joints for Jabs" program is correct. Many adults prefer cannabis to alcohol and "Joints for Jabs" is a direct expression of the sentiment that one has to meet people where they are in order to connect with them. We appreciate that cannabis consumers are being

respected in this way. But the challenges and limitations to the success of this public health effort is frustrating. We are as safe, regulated, and community based as a local brewery. And we believe that adults who prefer cannabis over alcohol should have equal opportunity and the same access to incentives for finally getting their COVID shots.

Honestly, the requirement of hosting this in-store clinic for cannabis business seems almost punitive given its logistical difficulties and time constraints in comparison to the ease of the program extended to the alcohol businesses. If we are trusting adults driving with their vaccination cards to get a pint of beer and then responsibly get to their next destination, we can also trust that adults will pick up a joint and enjoy it later in a legal setting. Our hope is that the LCB will work with the Governor's Office to revise this program for success by putting it in alignment with the one extended to alcohol businesses. I thank you for your time and the opportunity to share feedback today.

Chair Postman: Thank you. Let's check back with Jim Mullen.

Mr. Mullen was still experiencing technical difficulties.

Chair Postman: We'll move to Marcus Charles. Mr. Charles, please.

Marcus Charles – Clean Tech

Hello, thank you for the opportunity to participate. My name is Marcus Charles. I'm testifying today as the president of Clean Tech, a cannabinoid life sciences company based here in Washington State. We license hemp source THC technology solely and exclusively to regulated cannabis license holders.

As the rulemaking process continues about clarifying hemp source THC in our state, I'm grateful for the opportunity to continue engaging with the Liquor and Cannabis Board. I understand that legislation will likely be required in 2022 to fully meet this goal. I agree that the rulemaking process is a critical dialogue component and a fact finding effort that will ultimately inform policy and legislation as we move forward. I listened with interest to the panel of scientists hosted by the Board during last week's "deliberative dialogue". I was encouraged that the Board and its staff made the effort to center science and its relationship with public safety at the core of the dialogue.

Since I last testified in support of clearly defining hemp-sourced THC within our regulated marketplace, there has been a continuing public conversation amongst license holders, in the media, and the general public about the need to include all forms of THC in the regulated marketplace. For example, I was heartened to see this past Sunday's Everett Herald editorial board piece, where they reiterated their support for this type of approach. They wrote, I quote, "Washington voters made the determination that the best way to ensure safety, discourage the illicit market, and keep cannabis products out of the hands of minors was to provide a well-regulated and transparent marketplace." Unfortunately, we know from our own internal data analysis of the different social media platforms, the largest segment of the online conversation regarding Delta-8 THC specifically, is occurring among people looking for these products in the illicit marketplace. Right now, it feels like being in a time machine taking us back to pre-2012 when the illicit marketplace thrived, unchecked to the detriment of public safety, and with no guards against access by minors.

I commend the Washington State Liquor and Cannabis Board on its stated mission to quote, "promote public safety and trust through fair administration and enforcement of liquor, cannabis, tobacco and vapor laws," unquote. In service of that mission, I would again urge you to finalize and adopt mandatory quality

control testing for all legal cannabis products in Washington State. Only by centering public health in this way can we ensure that the baseline for future regulation is safety first. Thank you again for the opportunity to share our perspective today and I look forward to the continued conversation with you and your staff in the future. Thank you.

Chair Postman: Thank you. Okay, Jim Mullen.

Jim Mullen – Washington Cannabusiness Association / The Herbery

Good morning. I am Jim Mullen and I am testifying today as co-owner of the Herbery, a licensed retail cannabis retailer in Southwest Washington with four locations. I'm also proud to serve as the Board President of the Washington Cannabis Association.

I want to thank you for the opportunity to share my perspective on the allowance for cannabis retailers to provide one joint at no cost to customers who receive a COVID vaccine at an in-store clinic. And I wanted to share some comments and feedback with you. On behalf of the Herbery team, we welcome the opportunity to be included in helping expand access to vaccinations for more people. We are committed to strengthen public health and safety and to ensure the fullest possible community and economic recovery. However, the "Joints for Jabs" limited allowance only applies when the vaccine is given at a clinic set up at a retail location. And the diligence with which we license holders must be compliant with the law means there are a myriad of questions left unanswered as a part of the announcement of the program.

I won't try to be redundant with what Daniela said earlier. But calling our LCB officer with specific questions is fine. And we have done so. And the response we've gotten back is they're going to double check with Olympia. I'm not sure what specific information has been provided to them or not but we'd love that to also be shared with us. We started calling the Department of Health on Monday. We were on hold for over an hour. We had to leave our number for a call back. We've called Kaiser. We were on hold for over an hour. And they told us finally to call the DOH. We reached out to Providence Health Care and are now awaiting their call back. And the onsite mobile unit mentioned in a previous LCB meeting requires a 30-day advance notice. Those are just a couple of the external logistical challenges that we're going to face. And if you do contemplate the development and release of new additional information, several questions come quickly to my mind. And these are just a few examples. Are there specific ADA concerns that we must address? I mean, please realize that the probability is that none of us or very few of us have ever been involved in setting up a medical facility of this nature at one of our locations. Are there any specific names, phone numbers, or emails with each county's DOH that we could reach out to? It'd be very helpful to know who the LCB is coordinated with already. Is there a list of cities or counties that are willing to participate or not? I've been told by other retailers that there are counties that are not willing to participate in this. A clinic within a store does pose significant logistical challenges. So, can the shots be administered in a parking lot? We've had so many outdoor DOH sites set up for vaccinations. Is that something that could maybe be expanded on for us? And then, if the Pfizer or more during a vaccine is offered, can someone receive a second joint when they come back for a second shot? But more importantly, with a window of only five weeks and we're already into the first week, if we went to Labor Day then people can come back to our facility to get the second shot. So we tell people, we're going to shut down in July. And they're going to go --

Mr. Dickson: Jim, you have 30 seconds.

Mr. Mullen: -- June 20. And I just got my first shot. Where do I get my second shot? How do we communicate that? These are just a few examples of questions that have come to my mind. But similar to

an earlier comment was that I know you extended a lot of opportunity for liquor and wondering what we could do to kind of get it some equal footing, if you will, even if it's just show us your vaccine card to simplify the process and to continue to incentivize and encourage people to come in. I know I'm not alone in willing to participate.

Mr. Dickson: Jim, that's your time.

Mr. Mullen: Okay. We do have a number of challenges. And we thank you for your help and time.

Chair Postman: Great. Thanks, Mr. Mullen. Appreciate your patience with us this morning with the technology. Next is Jim MacRae from Straightline again. Jim?

Jim MacRae – Straightline Analytics

Thank you very much. I wanted to briefly again commend staff. Kevin and Kaitlin two weeks ago, after the question that I raised at the Board meeting, reached out to me before the end of business that day and spent some time and clarified my questions regarding how to appropriately use the cannabis applicants file, licensing file that's posted on the frequently requested list. I was really very pleasantly surprised by that outreach. It was proactive. It was pleasant. It was surprising on both a relative and absolute level. I wanted to give two big thumbs up. In years of interacting with the agency, I was not expecting that. And it was really nice to see. So thank you to Kevin and Kaitlin. I want to recognize that.

On the "Joints for Jabs" program, I agree with Daniela Bernhard and others that it's a great idea. Yesterday on Facebook, I actually posted and I will quote, "'Joints for Jabs' as a good move on the part of the WSLCB. See? I can be complimentary when it is justified." That immediately got a number of responses from people that I respect in the industry that know what's going on and you're hearing from some of them today. So I'm not going to belabor the point. But when you look at the allowance conditions that were put forward for cannabis and you compare them side to side with the allowance conditions that were put forward for alcohol as it relates to vaccinations, the biggest fundamental difference that's impacting things here is of course, the need to have a vaccine clinic not only on the site but if you read the allowance conditions, there's an implication that it has to be quote unquote, "inside a licensed retail location." And it has to respect the age restrictions and all that. I really have to question that. A couple of the allowance conditions very clearly make it hard to simply have one of these things. One of them really just continues this whole local obstructionism is allowed and encouraged and would have to be superseded by any state or local health rules. Cool, I get that. Part of that is requiring the clinic to be in the facility. The public health and safety ramifications of this, my goodness. I just got my second vaccination yesterday. So in two weeks I'll be fully immune, blah, blah, blah, all that good stuff. I could conceivably, as I understand this program, go out in the next three weeks to literally 1000s of alcohol establishments with my vaccine card and get free drinks. And if I can -- I feel like I could get pretty drunk for the next 21 days for free. With cannabis, the way you've set this up, it's limiting it to a maximum of one joint per vaccine, per person, possibly to if they can figure it out that way if they're getting first and second in the time window. Now, on a public health and safety -- for goodness sake, cannabis is the safer of the two alternatives when you just compare those two products. That is unambiguous in the science. It's certainly a step backward in --

Mr. Dickson: Jim, you have 30 seconds.

Mr. MacRae: -- with what you have done with regards to that. So I would encourage the chair to look at who in the organization put those poison pills in that nice little "Joint for Jabs" program. Thank you.

Chair Postman: Thank you. We will go back and check Monica Martinez. Are you with us?

Monica Martinez – The Calyx

Okay, good morning. Thank you, Chair Postman and Washington State Liquor Control Board of Directors for hearing me today. My name is Monica Martinez. I am the managing partner for the Calyx Company. We are a minority and women owned tier two producer processor. We have been licensed for seven long years and we also participate in a craft winery.

I want to discuss the impact of synthetic D-8 and D-9 in Washington and the importance of craft cannabis. Synthetic D-8 and D-9 are having devastating effects on Washington cannabis farms that operate in the highly regulated system referred to as I-502. If our highly regulated market has direct competition with the world's hemp synthetically derived psychotropic D-8 and D-9 THC, then Washington's I-502 system will be null and void. We saw this when CBD was allowed to be imported into Washington from anywhere in the world. The I-502 CBD market crashed. As cheaper synthetically derived D-8 and D-9 continue to infiltrate I-502, United States hemp farms and other world markets than Washington's regulated and compliant farmers will go out of business. If synthetic products continue to be allowed, the I-502 system will be riddled with subpar products, as they are much, much cheaper to produce.

Furthermore, the lack of transparency about as well as potential health effects from the heavy duty solvents used to create hemp derived THC products are very real and very scary not only for the patient and recreational consumer, but also the to the environment. Allowing these products will push medical patients and recreational consumers to buy from their neighborhood illicit medical card growers unless craft cannabis legislation is passed.

Craft cannabis can be a solution. Medical patients represent a scarce percentage of customers at I-502 retail stores to this point. Medical patients and consumers want to know their grower and visit the farm they are purchasing from. They do not want to go to the closest retail shop which in some instances may be up to three hours away, especially if they are sourcing synthetic THC products. By creating the farm to consumer patient relationship, an increase in access of medically compliant and organic Washington grown cannabis and CBD products can be safely delivered to consumers and some of our most vulnerable patients.

Every business owner in the I-502 system has sacrificed for this industry. Some have greatly succeeded. Others are barely making it but all have sacrificed. Whether it's a lack of banking and the inability to get a mortgage or loan, bad looks from the neighbor, spending your whole life savings at a chance to grow legal cannabis and have nothing to show for it, random compliance checks and strict time consuming expensive regulations. I could go on. And possibly the most important is the enormous stress on many families. Allowing hemp synthesized D-8 and D-9 opens the door for many to unfairly take advantage of this highly regulated closed system without having to comply in regulation. The closed marijuana system consists of an extremely limited amount of retail outlets and more than enough high THC cannabis farmers. I-502 is overburdened with flower and lack of sales outlets. It will not support the addition of synthetically derived psychotropic hemp products. They will destroy small, independent farmers. There is no place for these products in Washington. I would urge the Washington State Liquor Control Board to immediately take action --

Mr. Dickson: Monica, you have 30 seconds.

Ms. Martinez: -- okay -- take action and ban all synthetic D-8 and D-9 THC products from Washington's I-502 system and support legislation to outlaw the practice, just like Colorado and 11 other states have done.

And second, I urge you to support craft cannabis now and in the legislation's next session.

And one other thing I am very concerned about is kids' access to the D-8 products. They are searching it online because they can get it online and learn how to create the psychotropic drugs on their own through the online network.

Mr. Dickson: Monica, that's your time.

Ms. Martinez: Thanks.

Chair Postman: Appreciate that. I would encourage you and your colleagues to be engaged in the rulemaking on Delta-8 as that's starting up and going forward. We need to hear a wide array of voices there. So thank you for that. I think that's everyone we had signed up.

I just want to address some of the issues around the vaccine plan that several people talked about in which we're working on. First of all, Jim Mullen, I think you raised a good point. We need to figure out who it is that can answer those questions. LCB does not regulate vaccination sites so I couldn't tell you what you need there. But we should be able to figure out between DOH and what that allowance does allow between the Governor's Office and DOH. So I will ask staff who are listening now to help us try to figure out who that is and we'll get that information out. We should be able to answer those questions. I don't believe that there's anything that would require this to be inside a store. In fact, the vision we had was a drive thru because that's often what they are. And that's how the idea came to us.

I do want to say, the statement that this appears punitive, that's lost on me, I don't understand where it is, is this idea that is in that allowance came to us from somebody in the leadership of WACA (Washington Cannabusiness Association) with a specific request to the Board on May 26, I think it was, and said that they had been talking to a local provider and had the opportunity to do this and thought that this would be a good way to do it with being able to have the proper controls around public health and the current regulated environment that the retailer operates in. I immediately thought that was a great idea. So did Board staff who had been talking to the Governor's Office about various ideas. So to be clear, this was the one time somebody from WACA came to the LCB Board, the three of us, and made a presentation on this subject. I think we moved really quickly to try to make that happen.

And to say that it's different than alcohol, it is. There are some differences. One of them that we really had to look at and consider was the difference between consumption on site and takeout, essentially. And I understand the point from Jim MacRae that you could go up and down and buy beer everywhere, every day. Right. I wish there was a way we could control that. I wish we could punch the card, so to speak so you couldn't do that. What you do have is consumption on site that by law and regulation is monitored to stop over serving or serving of minors or anything else. So it's just a different environment. I mean, I think we all have to recognize it is different. And so we looked for a way that could be done in some fashion. And we didn't expect this to happen everywhere. We don't expect every bar to give away free drinks either. From what I've heard, that's not the case so far. So there's going to be some inherent differences.

The other thing which nobody mentioned, one of those differences, the important differences, is that we gave the cannabis retailers a relief on taxes that we did not give on the alcohol side. Because the way the

tax structure is set up between those two products, the retailer on the cannabis side would have been required to pay a larger percentage of the taxes. You can't just say, "oh, we're giving it away for free and we're not paying taxes". We had to waive that. And we did. So we gave the cannabis industry a privilege that the alcohol industry was not given and would have liked. So they're not exactly the same. But there's nothing punitive about it.

I will say, very clearly, we are further ahead than any other state in the nation on this front. And we often hear from WACA that we're behind every state. We're not. From what the Governor's Office says, and I haven't done this research, there's one state that's allowed one store to do this. That's not our approach. So we are out ahead on this. This is what the Governor's Office thought would help and the Department of Health thought would help promote this. The goal is to promote vaccination, right? We're not promoting alcohol. We're not promoting cannabis. We're trying to get more people to get vaccines. And I appreciate that the industry wants to be a part of that. I think there's other ways the industry can be a part of this. We've talked about this with some retailers as well, without giving away free product, feel free to message your constituency, your customers. They're an important group of people. And you can be a part of the community effort to have more vaccinations. But this is, of course, the first time we've ever faced a pandemic like this in any of our lifetimes. The first time that there's been any sort of free giveaway in this regulated marketplace. No one else in the country is doing it. It's all untested. So of course, there's going to be some bumps. Of course, there's going to be some lack of clarity at some point. But it's certainly not punitive. It's not picking favorites. We're dealing with two very different products. One of them, of course, is still illegal under the federal law. So the foundation of these two is very different.

I guess I just beg for a little understanding of one, where this idea came from, the responsiveness of the LCB and the Governor's Office to try to address this in what we thought was an innovative way that came from a WACA member, a member of WACA leadership. And if it's not the right thing then that'll be too bad because I think we all need to get as many people vaccinated as possible. But I don't believe it's punitive by any stretch. It is different. In some ways, there's an advantage to cannabis that was not given to alcohol. And that's because we don't treat those two products identically for a lot of reasons. So with that, I will pause and see if either of my fellow board members have anything to add on that or anything else today before we adjourn.

Member Garrett: I would just say that was very well said.

Chair Postman: Thank you.

Member Hauge: And I would like to second that.

And I'd also like to, I guess, ask for a point of privilege, to congratulate our rules coordinator, Kathy Hoffman on successfully defending her dissertation. Many people might not know that in addition to her more than full time job here, she is pursuing a PhD. And in fact, she is at the final stage where the only thing that is left is the dissertation. So her title now is Katherine Hoffman, PhD, ABD. And that is quite an accomplishment.

Chair Postman: It is. Congratulations.

Ms. Hoffman: Thank you very much, Board member Hauge. I appreciate that. I was not expecting that today. But thank you very much. I just cannot wait to contribute to the agency and citizens of Washington with this increased education that I've managed to accumulate over the last five years. So thank you very much.

Chair Postman: Thank you, Dr. Hoffman. We appreciate it. I told Kathy yesterday, I considered a great success if I'm able to do my job and my laundry. And she's been able to do her job and get a PhD. So it is really impressive.

And if I may add on your point of personal privilege, we should also congratulate Dustin Dickson, our Board's Executive Assistant who today graduates from Thurston County Leadership, which is long established and really fantastic program for young leaders in the community. And I noticed that even some of our current staff are alumni there and other people I've worked with over the years have come through the program as well. So Dustin, congratulations to you too to be able to do your job, be a dad, and continue your education on the outside. Congratulations.

Mr. Dickson: Thank you, Chair. I appreciate it.

Chair Postman: With that we will adjourn today's meeting. We have an executive management team meeting this afternoon that the public is invited to. So, we'll see some of you there. Have a great day. Thanks for participating.

ADJOURN

Chair Postman adjourned the meeting at 11:21am.

Minutes approved this 21st day of July, 2021



David Postman
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.

Complete meeting packets are available online: http://lcb.wa.gov/boardmeetings/board_meetings
For questions about agendas or meeting materials you may email dustin.dickson@lcb.wa.gov or call 360.664.1717