



Washington State Liquor and Cannabis Board Meeting

Wednesday, June 23, 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 10:07 am on Wednesday, June 23, 2021. Member Ollie Garrett and Member Russ Hauge were also present.

2. APPROVAL OF MEETING MINUTES

Chair Postman announced the consideration of the June 9, 2021, Board Meeting minutes was postponed

Chair Postman announced an amendment to the agenda, informing that Brian Smith, Communications Director, would provide an update on the "Joints for Jabs" vaccine incentive program.

Brian Smith: Good morning, Chair Postman and members Garrett and Hauge. Thank you for the opportunity to provide a brief rundown as to where we're at. We got some encouraging news today that I'm excited to tell you about.

The "Joints for Jabs" program, you may remember began with an allowance that we provided to the alcohol industry to let them give away a free beer or glass of wine or a cocktail to customers with proof of vaccination. We had similar requests from the cannabis industry, but there are, as you know, some complications, differences between the two industries. For example, the ability to have on site consumption of a beer or a glass of wine and it's prohibited at a retail store. But we did hear from one (cannabis) retailer in particular who asked for the ability to host an onsite clinic. And she had already worked with the Spokane health community and had found a provider and was ready to host a clinic if the LCB permitted it.

So, on June 7 with the Governor's and the Board's support, we announced that we would provide a temporary allowance to retailers to hold vaccination sites on site. And if they do so, they can provide one free joint tax free to participants. This allowance would be in place until July 12.

As Chair Postman pointed out at the last Board meeting, while this allowance didn't go as far as many in the cannabis industry wanted it to, there was something that was provided to cannabis retailers that wasn't provided to the alcohol industry and that was that their giveaway could be given away tax free. And with the amount of taxes on these products, that's pretty significant. That's nearly \$2 per unit per

giveaway. So, that is a difference that the cannabis industry would enjoy by having that giveaway, as opposed to the liquor industry.

We later clarified after a particular retailer reached out to us that they wanted to host it in their parking lot. That was already always part of our allowance, but I don't think it was that clear in our message. So we put that message out to retailers that they could host it in their parking lot. And that retailer called it a "game changer". So, that was a big deal and something that we could do to put to put that out.

As you know, our goal has always been about vaccinations, not consumption. And we don't exactly know how many retailers have held clinics because they don't have to report to us. The ones that I am aware of, and I would say that there's probably at least ten but I'm confident that there have been more that have held clinics. And some of the reasons that I've heard for a slow start to this has been that some public health providers have been reluctant to be involved due to the federal funding that's involved with this. Two, that the State Department of Health didn't know which providers were willing to actually host it at a clinic. So they couldn't necessarily pair the two. And anecdotally, I heard from a retailer who said that other retailers were just saying that it was "just plain difficult" and so weren't going to participate. So we had been working with our public health partners since the launch of this to try and find a way to be able to open it up a little bit, make it easier for them to be able to participate.

I got some other encouraging news this morning based on our most recent conversations that in a recent message to providers, the State Department of Health acknowledged the choices that are being made at the local level. But they provided them a forum and they said if you want to participate, fill in this form, send it back to us. And when a retailer reaches out to us, we'll pair the two. We'll pair you up with a provider, which is a huge help. We're very thankful for the Department of Health for taking this step. And so following today's meeting, we meet after this with a policy group, and then we will announce that out to retailers. And so we've got until July 12 that this ends. We now have people that can be paired together we think quickly. And we think it's a good jump start with the amount of time we've got left.

Chair Postman: That's great news. Let me check for questions from Board members for Brian about "Joints for Jabs". No? Okay. Thanks, Brian, I know you helped try to untangle some of those knots and it's much appreciated. And I also appreciate the people that came forward with the questions last week. And that we were able to respond. Ten clinics so far is not bad. Those are probably people that might otherwise not have gotten the vaccine and that's what this is about. The Governor is pushing us all hard to do what we can. So, I think that's great, and I look forward to more updates. Thanks for your help on it.

Mr. Smith: You're welcome.

We're going to move to get an update on our rulemaking timelines. We'll start with alcohol and Audrey Vasek, policy and rules coordinator. Ms. Vasek.

3. ALCOHOL RELATED RULEMAKING TIMELINES

Presenter – Audrey Vasek, Policy and Rules Coordinator

Ms. Vasek: Thank you Chair Postman and good morning, Board members Garrett and Hauge. I have a few brief updates on the rulemaking timelines for alcohol rules. And, these are updates I shared yesterday during caucus but I'll share them again today for the benefit of members of the public who might be listening and weren't tuned in yesterday.

For the first update, the rule project to implement 2021 legislation, Engrossed Second Substitute House Bill 1480, related to COVID-19 alcohol allowances, the initial comment period is currently open and will remain open until July 2. We've received one comment so far in support of the rulemaking. The internal LCB workgroup continues to meet to develop these conceptual draft rules. We've met four or five times already. We'll meet a couple more times and our goal is to share those conceptual draft rules publicly in mid-July. We're currently on track to do so and once those rules are developed and shared, we anticipate holding one or two "listen and learn" sessions to gather public feedback in August. Following those "listen and learn" sessions, depending on the feedback we receive, I anticipate tentatively preparing a CR 102 package for the Board to consider in September.

Next, for the rule project to create summary suspension and stay provisions to enforce the Governor's Proclamations, the initial comment period on the CR 101 closed on June 5 and we received a total of 65 comments in opposition to this CR 101 between April 14 when the CR 101 was filed and when the comment period closed. Those comments have been shared with folks within the agency and Board members. The internal workgroup is currently reviewing those comments, considering options for moving forward. And I anticipate we'll have more updates in July.

Finally, for the distillery reporting and payment rules project, the *Blue Spirits* rule project, the Board adopted the final rules and approved filing the CR 103 at the last Board meeting on June 8. Those rules were filed with the code reviser, the LCB website was updated, and the concise explanatory statement was sent out to everyone who provided comment. So, this will be my final update on this rule project and the rules will take effect on July 10. That concludes all my updates for today. If there's any questions, I'm happy to answer them.

Chair Postman: None for me. Any questions from the Board?

Member Hauge: No questions. Thank you.

Member Garrett: No questions, thank you.

Chair Postman: Thank you, Ms. Vasek and we'll turn to Jeff Kildahl, the policy and rules coordinator on the cannabis side for an update there. Go ahead, Jeff.

4. CANNABIS RELATED RULEMAKING AND TIMELINES

Presenter – Jeff Kildahl, Policy and Rules Coordinator

Mr. Kildahl: Thank you. Good morning, Chair Postman, Board members Garrett and Hauge. Here is a brief update on cannabis rules in progress today. And this is the same update that I provided at the Board caucus yesterday.

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. Last Friday, we received one bid concerning our request for an economist to help with the drafting of an updated small business economic impact statement and we will review that bid in the coming days.

With respect to the 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 shared. Our internal project team met shortly after that and we plan to bring a CR 102 package for your review at the Board meeting 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. Under that timeline, we can bring a CR 103 package to you by July 21. Also, under that timeline, we will be able to allow the 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, our public hearing on the proposal was held on June 9. A total of six written comments were received and three people offered oral testimony. Originally, we had hoped to bring the CR 103 package to you for today's Board meeting. However, because some of the written comments were extensive, we are still in the process of transcribing oral testimony and we will bring the CR 103 package to you for review on July 7. This extra time will allow us to meaningfully respond to comments received, both in support and not in support of the proposal.

Finally, only two comments have been received on our CR 101 concerning THC isomers beyond Delta-9. I want to note that the public comment period on the CR 101 or Delta THC isomers beyond Delta-9 ends on July 2, 2021. As you know, our "deliberative dialogue" session was held on the morning of June 3. We remain committed to grounding this work in fact and data. And we believe this approach is the most appropriate and productive way to situate that work. Now that we have a great foundation from which to start, our next steps are to complete curation of the two and a half hours of dialogue, reconvene the project work group, and plan for a follow-up session. That concludes my cannabis update today. May I answer any questions?

Chair Postman: I don't see any today, Mr. Kildahl. Thank you very much.

Mr. Kildahl: Thank you.

5. GENERAL PUBLIC COMMENT

Chair Postman: And that brings us to the general public comment portion of the meeting. Today we have about ten people signed up at this point. So we will ask you, as always, to be mindful of the time. When I call your name, first, just give us a second until we're able to enable the audio and video. Then state your name and your affiliation for the record. Please then be mindful of the timer. You'll have four minutes to speak, and when you have 30 seconds left, Dustin Dickson will interrupt just to give you a heads up that you've got 30 seconds. And we ask you to wrap up at the end of that 30 seconds. Let me pause for a second. Member Hauge?

Member Hauge: Yeah, just a point of procedure. As we did yesterday, I understand we're recording this in real time and it's going to be put up immediately after. We probably should make a record of that before we accept public comment.

Chair Postman: Yes, okay. I think the meetings always been recorded. The difference is we're using teams here. Dustin, can you clarify that?

Dustin Dickson: Yes, Chair, thank you. We're having a little bit of technical issue with this particular meeting. We did make a recording of caucus yesterday, but Teams is not allowing me to record this

meeting today. Just as every meeting I do take an audio recording that is kept in files and is available for public records requests. It's too big to send over our Outlook email, but that's available to the public as well. I am working directly with Microsoft to troubleshoot some of these things.

Chair Postman: Okay, great. And the goal of that, once we're able to do it as we did yesterday, is it'll be available within an hour of the meeting, whereas now the recording that we're required to take is just as not as nimble.

So again, please be mindful in the timer. Thank for your patience and we'll start with Luke Hunter.

Lukas Hunter – Harmony Farms

My name is Lucas Hunter. I'm here representing Harmony Farms. I've addressed the Board in the past about with my concerns with CBD conversion to Delta-8, Delta-9, other cannabinoids and today I'm here to question how these products have continued to make their way into the regulated market.

Aside from business to business interactions, I'm far more startled with how they've made it to the shelves of our regulated cannabis stores. Since the issuance of the interpretive statement on CBD conversion issued in late January, industry has yet to see any enforcement action on selling synthetic cannabinoids to consumers. Despite the clarity in the interpretive statement and the clarity in statute about the legal business practice of selling synthetic cannabinoids, we still see these products present and they continue to depreciate the value of our legal cannabis products. This is greatly surprising to me as historically I've personally seen the Liquor and Cannabis Board react far more timely to removing a list of products from the shelves of various businesses, including liquor, tobacco and cannabis.

It seems that there's been a debate about the term "synthetic". It's true Delta-8 and many other cannabinoids are found naturally occurring in the cannabis sativa plant. However naturally occurring, their prevalence is minor in comparison to other cannabinoids. And there are legal means of extracting Delta-8 from cannabis. However, it's cost prohibitive because you're starting with such a small percentage, the amount of cannabis you would have to extract to get the concentrations we're seeing in products just doesn't really pan out financially. And then what does pan out financially is CBD to Delta-8, Delta-9, Delta-10, whatever it may be through a synthetization process.

As a result of the lack of enforcement and WSLCB intervention, we've seen an increase in multiple products containing these high concentrations of Delta-8 and I just want to come to you today as a further reminder that this is depreciating the value of our biomass and our distillate that's used in a variety of products in the cannabis marketplace. It's alarming to us here at Harmony but it's also been alarming to many other farms in the cannabis industry. And further, how quickly it can be identified. I've gone out and done some shopping to just see some products where you have 20 to 30% THC and then the total cannabinoid count will be in the 80s to the 90s. This shows a great discrepancy of other cannabinoids, presumably Delta-8 that's making up that remaining percentage.

So, I do see the Liquor and Cannabis Board making steps towards regulating the synthesized cannabinoids. However, with every passing day, I just want to be another reminder that it's bringing damage to the industry. And I personally believe because there are residual byproducts through the conversion process, not for every conversion process, but it is easy to do with poor lab practices, that we could see health impacts on our consumers as well. I appreciate your time today. And I'll follow up with my comments in written form. Thank you.

Chair Postman: Thank you. Everybody in the public, if you're not speaking please keep your camera off and muted of course, too, if you have that ability. So thank you for that. The next person we have signed up is Karen Jackson.

Mr. Dickson: Good morning, Chair. Karen Jackson registered to speak but is not online.

Chair Postman: Okay. Then we'll move to the next, Micah Sherman.

Micah Sherman – Raven Grass

Good morning. Thanks for the opportunity to give comment today. I'm also here to once again comment about this situation with illegal synthetic cannabinoids being sold in the 502 system.

There's been a lot of letters from lawyers floating around the last few days that have been positing some pretty basic factual misrepresentations of what's going on here. I sent the Board a letter yesterday and I just wanted to make a comment on the public record that the claim that these molecules are not synthetic is absolutely false. There's a comparison and a conflation being made between artificial molecules and synthetic molecules. And just to be very clear, artificial molecules are synthetic but not all synthetics are artificial. This is a very, very, very basic fact of chemistry. It is not up for debate. It is not a gray area. It is not confusing. It does not need research. It does not need investigating. It needs action.

We cannot allow wealthy interests to continue to ruin our industry for their bottom lines. I understand that there's a position being taken that the Board cannot take action based on market distortions and market impacts. Just to me, as somebody who's been running and operating a legal cannabis business since the beginning of this industry, it flies in the face of history for that to be told to me, someone who has been restricted in every single way that they could, every moment of the day by the rules and laws that created this market. This is a manufactured market created by an initiative, implemented by the state, the products we can make have been determined for us, who we can sell them to, has been determined for us. What we can call them has been determined for us. And now we're being told that somebody can come in, use a completely, obviously illegal product that's 100% synthetic, there's no debate about that. They've now admitted it in letters and there's still nothing being done about it.

I really, really appreciate what the action that has been taken thus far by the Board on this matter. I think the agency staff is at this point being negligent in their responsibility. And it's putting farmers out of business. And I understand that someone told you guys that that's not your problem. But I think it is your problem. And the law says it is your problem. I-502 initiative gave instructions to the state to maintain an industry that had small farmers at the center of the productive capacity. And you guys are now at a point where that is being disregarded and is not the spirit of the law and we really need strong and immediate action. I'm not asking anybody to fine people or throw them in jail or anything like that. That's not what we want here. We just want clarity so the stores know what they are and are not allowed to sell. And I think it's very obvious that these things are not allowed to be sold by law, and they are being done so anyway. And it's being obfuscated by wealthy interests that are paying lawyers to--

Mr. Dickson: Micah, you have 30 seconds.

Mr. Sherman: -- confuse the situation.

Another thing about all this is, I don't really care about this issue. I have really important things that I want to see happen in the cannabis industry and this is a distraction from that. And it's preventing us from

moving forward on the things that we really need to do. You know who I am and you know what I've been trying to do for the last five years. I think it's really important that we put this behind us and move along to making sure that Washington State is ready to go into a national market with farmers at the center of our industry --

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

Mr. Sherman: -- as it was always intended to be. Thank you.

Chair Postman: Thank you, Micah. Jeremy Moberg.

Jeremy Moberg - Cannasol

Thank you, Board members for the opportunity to comment. I am commenting today on the allowance of synthetics into the market.

This is a long theme that we've seen developed over time now. The two other commenters that said the time has passed for action are right on. The time has passed and the damage has done. And every day that the LCB allows for these conductors to clearly violate the rule is doing damage to existing licensees. Some of these legal opinions that are being offered are borderline absurd. Well, no, they are absurd. I mean, they've understood now all of the ways that they have actually violated the rules. And now they're trying to do legal contortionism in order to figure out ways to just create enough ambiguity for the Board to not take action. And the latest is quite astounding, that they understand that the House Bill (HB) 2334 that allowed cannabidiol inputs to the system was meant as an enhancement for cannabidiol CBDs. And so now they're saying, okay, we're actually in compliance because we're taking a cannabinoid, we're inserting that into a product with just above .3% and we're calling that an enhancement. And then there's something that happens. We're not going to call it synthetic. We're not going to call it anything really. And we're going to come out with 90% THC while we somehow are in compliance. It is absolutely preposterous. It is a crazy legal mumbo jumbo that this board needs to wholeheartedly reject.

There are a litany of other rules that are being violated in the process. There's no labeling going on. There are no disclosures on the solvents that are being used. The list goes on and on. It was never the intent of the legislature, when they passed [HB] 2334, to undermine the existing licensees. And that is exactly what their current interpretation of that law and the inaction on the LCB has allowed. And I'm pretty sure that if the LCB were to go ask the legislature and they looked at today's situation, they would agree that it was never the intent for that law to circumvent licensees in the production of THC. And that's what's happening.

I think it's very important that the LCB recognize where these opinions are coming from. They're coming from wealthy interests that have already infiltrated this market, to the extent we don't know. But we've seen estimates of 60,000 liters of the synthetics into the market, replacing up to 40,000 pounds of biomass that would be grown by licensees. It is quite astounding the impact that that this lack of enforcement has caused. And that's what we have to call this. This is just a lack of enforcement. And it really brings into the question all the other rules out there that I think the industry is starting to realize that --

Mr. Dickson: Jeremy, you have 30 seconds.

Mr. Moberg: -- I think there's a question about whether you can call anything in 502 "not hemp" until there's a test. I think you guys face that reality of people being able to say, "oh, that marijuana, that's actually hemp". And unless you test it, you don't know. And so that's why there's no tags on it. That's why I'm not doing any inventory. This really does represent the beginning of the breakdown of the LCB's ability to enforce the rules way beyond just this.

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

Mr. Moberg: -- for something so major is really damaging and I hope action is taken soon. Thank you.

Chair Postman: First, let me check again if Karen Jackson has joined us. And if not, Crystal Oliver has signed up next.

Crystal Oliver – Washington Sungrowers Association

Good morning, Chair Postman and members of the Board. For the record I am Crystal Oliver, Executive Director of the Washington Sun Growers Industry Association.

We very much appreciate Board member Hauge's leadership on this issue and board member Ollie Garrett's careful consideration of the issue.

We are here today to urge the LCB to take immediate action to enforce the laws and rules of Washington State. The law is clear. The sale of synthetic cannabinoids is not allowed. Yet we have licensees who are being permitted to sell chemically synthesized cannabinoids to the public with no transparency or truth in labeling. We have looked at peer reviewed literature, definitions of "synthetic", consulted with chemists and doctors. There is much agreement everywhere else that when THC is created via chemical conversion from CBD, the resulting THC is a synthetic cannabinoid.

The law is clear. CBD may only be used as an additive to increase cannabidiol content of a marijuana product. Yet we have licensees who are using it to increase the tetrahydrocannabinol content of their products.

The rules are clear. Any solvents, chemicals, or compounds used to produce a product sold on a regulated market must be disclosed on packaging. Yet we have licensees who are hiding behind claims of a proprietary process who are not disclosing to consumers what chemicals are being used, including the use of acidified ethanol and ethanolic hydraulic acid.

The rules are clear. Processors are limited to the methods, solvents, and mediums that can be used to manufacture concentrates. Yet we have licensees using unapproved chemicals and solvents. We have not adopted any regulations to effectively regulate nor test these synthetic cannabinoids. We are not testing for the most common byproducts created during conversions, nor the presence of residual solvents used to chemically synthesize these products. The current pesticide and heavy metal tests are insufficient to ensure consumer safety of these synthetic cannabinoids.

We are standing at an important crossroads in the evolution of our market. The good news is that we've been here before so we can let history guide us to best protect public health and safety. Initially, tobacco was also sold in whole plant form to customers. It was dried, cured, and ground and early cigarettes did not contain other additives, much like cannabis sold on our legacy market. During the evolution of tobacco, large processors in the tobacco industry started to innovate and began adding chemical

compounds and additives. These chemicals increase the addictiveness of their products, the long term health effects from smoking, and their bottom line. Over time, nearly every major tobacco processor had to adopt the same strategy to remain viable. We saw how that played out for public health.

We know that the public's best interest is not served when we allow wealthy interests to skirt the law, influence policy, and avoid disclosure of chemical processes and ingredients to consumers. A lack of enforcement of Washington's current laws and rules is placing Washington on a trajectory where the only viable business model will be to sell synthetic cannabinoids. We are talking about a future without marijuana farmers. We want products that are safe and regulated. We want truth and transparency in labeling. Our farmers, processors --

Mr. Dickson: Crystal, you have 30 seconds.

Ms. Oliver: -- deserve better than the status quo. We need the state to take immediate action to stop the illegal importation, manufacturing, and sale of synthetic cannabinoids to an unknowing public. Washington needs to enforce the law now. Thank you.

Chair Postman: And next is Scott Berka. Good morning.

Scott Berka – Aloha Botanics

Good morning. My name is Scott Berka, with Aloha Botanics out here in Okanogan, Washington. First of all, I wanted to thank the Board members for this opportunity to speak to you all and specifically applaud Board members Russ Hauge and Ollie Garrett for the clear message and direction of the dialogue they've had over the past few calls that I participated on, again, trying to send a clear message that what's going on in our state right now is a clear violation of the rules.

Why am I here speaking to you today? I wanted to be a small business owner and aid in rural business development in the state of Washington. And for the love of the plant, the plant that we grow in our fields. It's as natural and organic as a process that we can to sustain a commercial operation. But what we're here discussing today is really the intention and legal action of these processors that are illegally importing this synthesize material.

Really, rules are rules. And you expect us to follow these rules as we expect you to enforce them. And when we clearly have material in mass coming from other states and encroaching on our 502 marketplace, it really does send the wrong message. And I'm seeing a lot more reporting agencies and discussion boards outside of the state of Washington calling attention to this matter. And it's frustrating because really the one thing that I promised my family, my mother, specifically when I joined 502 was to keep my material, my products safe, safe for the public health, safe for the consumers. And really, I ask you, are you really willing to risk your reputation in allowing this to continue? I mean, we're at the precipice of this invasion of material that could be sourced from other states, other countries. There's no documentation whatsoever on what's being put in this material. And I certainly wouldn't want to risk my reputation as a business owner and a member of the 502 industry by allowing this to continue.

So really, I'll be short, I'm asking, I'm imploring you, please, please take immediate action and stop this proliferation of material that nobody knows where it's coming from. Nobody knows whether or not it's safe. And I do believe that the Board members have the authority to do this. I believe that you have the ability to make a motion and stop this today. And that's what I'm asking you for. Thank you very much for my time today.

Chair Postman: Thank you. Now we'll move to Jeff Newton.

Jeff Newton – Citizen

I'd like to thank the Board for allowing us to comment today. And I'd like to recognize Russ Hauge and, and Ollie Garrett for their interest in hearing this topic for the industry.

I simply would like to ask the Board to take action on enforcing the law and the rule that disallows synthetic THC. I think it's pretty clear that it's not allowed. I understand how it's been brought into the system but then when they do that chemical conversion to create a synthetic THC, it's clearly in violation of the WACs. So, in that regard, I would like to see a motion and a vote made to disallow that. That should be an emergency rule.

Secondly, there are health issues involved in that. And that's been recognized now by 11 states that have disallowed this exact thing. Colorado has very recently disallowed it. It wouldn't be a pioneering thing to stand up and enforce the laws that have been put in place in this state. The 502 industry has been set up as a very restricted industry with very strict rules as to who can produce, with which licenses, who can process, who can retail. So it really kind of boggles my mind that all of a sudden out of nowhere, we're allowing synthetic THC to be introduced into a market which has the ability to undermine every financial model of this market, which ultimately, the only people it really affects are the producers. And I can't imagine having a marijuana industry and cannabis industry in a state that actually in the end could very well have no cannabis producers. So, I'm just asking that the Board take an emergency action and enforce the laws that are in place. Thank you.

Chair Postman: Thank you. Ryan Sevigny.

Ryan Sevigny – Landrace Brands

My name is Ryan Sevigny and I am the president of Landrace Brands. I appreciate the time to comment on synthetic cannabinoids today.

I want to give a quick, sincere thank you to Board members Russ Hauge and Ollie Garrett, who's shown a strong understanding of what is happening and a willingness to drive some action. So, very appreciative of that. I think it's a two prong approach and I think you've heard a lot of great commentary. So I'll make sure to keep this a little bit quicker and we can get through this for everyone to have a time to speak.

At the end of the day, the 502 market is a closed system. If you rewind history and look back a couple years, we got a little Mike Tyson gut punch when we allowed the importation of CBD and opened the box for this paradigm to even happen. So, I think with Delta-9 being a regulated cannabinoid, being used in how we determine total cannabinoids, I think we have a direct link to try and drive action to halt the process of this. But I think that's the avenue that might be taken to alleviate this concern from a lot of the farmers.

However, I think the biggest issue is consumer safety and consumer protection. The ability to synthesize these cannabinoids is not a one in and one out process. There is a lot of unknown compounds left in the conversion mix that are unlikely to be benign plant matter. The process starts when CBD is in its purest form and it moves into the various isomers of THC. But like I said, it's not one to one in and one to one

out. It's a lot of residual. And at the end of the day, we've heard a lot of great comments about it being safe and other things.

This is a concern for me, for you guys, is what happens if some consumer does fall ill rather quickly and there is all sorts of legal aspects that are now thrown into the wind? And I just think that it's unnecessary risk from the state's point of view to allow this to happen. And that's pretty much my commentary. I really appreciate the time. Thank you very much.

Chair Postman: Okay, and next up is Dave Varshock.

Dave Varshock – Aloha Botanics

My name is Dave Varshock. I'm the general manager and weed grower for two Tier IIs and two Tier IIIs in North Central Washington. I'm here to comment today regarding the synthetic THC derived from CBDs.

At this point severe frustration is setting in. So, moving forward, I really want to express some sincere gratitude to Board member Hauge and Board member Garrett for supporting the industry as a whole and insisting that the rules are enforced equally across the board on this. It surprises me a little bit that Board member Hauge, being a longtime good standing attorney, isn't being listened to a little bit more thoroughly on this one because I think he has some insights that would prove the Board well and serve them well going forward. Because damage has already been done. They're still occurring. And the industry is going to demand liability at some point from somebody.

I'm asking that the rules be enforced that are on the books. They're already there. Please use them. And with all due respect, while the LCB is putting together working sessions, working groups, people are losing their jobs, their labor forces, market share, investments, and public safety is being completely ignored right now. Not in the future, not in the past, but right now, still currently today. I'm hearing that political donations and contributions are being made to people. And that's starting to direct public policy in regards to this industry that we've all fought so hard to move down the field.

In closing, I fully support WSIA's (Washington Sungrowers Industry Association) stance, Crystal Oliver's very eloquently put the situation today right before you. Micah Sherman, I wish I could just duplicate exactly what he brought forth today. I'd encourage you all to please, please take action on this now. Literally lives are being destroyed on this one. So thank you.

Chair Postman: Jason Poll.

Jason Poll – Gorge Gold

Thank you for your time and I appreciate all the Board and taking the time to think about this.

I support what everyone basically has been saying. What I'm worried about is, as an owner and manager of four farms in Grant County and as a user of cannabis, I wouldn't use any of these products. And I think that we're in danger of having a little bit of a myopic sort of leadership stance where for a business, you just go out of business. But we're going to get sued and who pays for that? Because this stuff is dangerous. It's crazy. This is just like tobacco. So I think the LCB has taken all kinds of enforcement action and pulled people's product and done whatever. How this is happening is bizarre. But who cares? Let's just try to fix it. Because in the end, the customers who are bringing all this tax money is going to lose faith in what's going on. And I think that most people are good actors and it seems that is being

punished. And that seems foolish. So a role needs to be defined what the LCB is trying to do. Because there's no real rules that this is going on. Period. So that's basically all I have to say. And again, thank you for your time. That's it.

Chair Postman: Okay, I'll try one more time for Karen Jackson, who's the last person signed up. Dustin, anybody else sign up in the meantime?

Mr. Dickson: No, Chair. And Karen is not on the meeting.

Chair Postman: Okay, so that is it for the general public comment period. I was going to turn to you, Member Hauge to see if you had anything you wanted to add to the discussion of the public comments.

Member Hauge: Thank you, Chair Postman. I did not have anything prepared. However, again, I see this as a pretty straightforward matter. The points have been made that the LCB has a history of vigorous enforcement, particularly in the cannabis realm. And I share some of the frustration and the, I guess, just questioning as to why we're choosing this issue, where things seem to be so straightforward, to take our time.

What I've heard here today is backed up with what I've found out on my own and I sincerely hope that we will take this into account and not let the industry and our experiment suffer. We've been doing really good work, I think, in the state of Washington showing how cannabis, a formerly illegal substance, can be regulated and utilized in the system. We have a lot of work to do this issue. If we continue to ignore it, I think has the potential to derail if not all, a lot of that work.

Chair Postman: Okay, Member Garrett? Did you have something you want to add?

Member Garrett: No, I just think everyone has said it all. I want to put emphasis that all three Board members are taking this serious. And I'm hoping that by next Board caucus on Tuesday, we have made some progress on being able to see what it is we can do as a Board. I know we want to go through the process of gathering all of the facts and make decisions for long term, as I said yesterday, from the big picture. But I'm hoping we're able to have enough information by next Board caucus to see where we can go forward, what we need to do here.

And, David, I know you're just as committed to this. And like I said, all three Board members, I know we have a process we would try to go through for the big picture. But then we put some emphasis on what we can do in the short term is, I think, very important.

Chair Postman: Thank you for that. I appreciate that. It's clear from the Sun Grower's talking points that I am seen as the bad guy here. I think that's unfortunate. It's also incorrect.

And let me address, real quick, Member Hauge, a few things you just said. We talked a little bit about this yesterday, but I know for sure that staff is not ignoring this. I don't believe that this is the issue that we've decided to quote "take our time on". I only have a couple of months' experience as a Board member. Some prior to that observing and helping to oversee the Board. It's my experience that one of the things that's made the Board, and I speak of that as an agency wide entity, successful, is that it's been very rigorous in how it goes about doing its business in all sectors that it has to regulate. The idea that any of this would happen or has ever happened this quickly, I just don't see it.

The fact is, there has been a process in place. If you look back at the policy statement, as well as the clarifying statement that Sun Growers seem to think was a homage to one part of the industry, it speaks specifically to exploration of this question. So, it's not been ignored. It is not being ignored. And I knew it would come at some point because I've been getting these emails but, Dave Varshock, the idea that political donations have anything to do with what we do here is just a load of BS. It is the last vestige of the unhappy here that it has to be corruption is the only answer. There's never disagreement. There's never policy considerations. There's never a process or legal restraints. It's always corruption. And if that's the way you think, we're just not going to be able to communicate about this. And again, Crystal Oliver started with that last week in the midst of our meeting that was still going on accusing us of having been captured by the other side and in a form of regulatory corruption. And it's just untrue.

And so, it's unfortunate that when I speak about those things and I urge lobbyists on all sides of this issue not to question the motives and insult staff and Board members and make these sorts of accusations, that that scene is opposition to the issue. It's untrue.

I also, as the chair, am charged with protecting the integrity of the system. The Board members sit as the final adjudicators of an enforcement case. And because of that, we're restricted in what we can do prior to that. It's very carefully restricted. We have attorneys that also are screened off. Some of them, we have a Board counsel, he doesn't get to talk to the enforcement people before these cases come to us. It really matters because when they go to court, if they go to court, this is part of that argument. So we have that system and I'm going to protect it. Even if it means you all think I'm the bad guy and do that.

What we don't do and should not do is that the Board either collectively or individually should announce any particular operator guilty of something and assume that there's wrongdoing there. That's not the way this works. What we do is we can question the staff, we can push the staff, we can work with the staff collaboratively, particularly in the areas of developing policy like this one, to do the right thing.

And I've got to say, Micah Sherman, to say that staff is negligent on this, I can tell you is wrong. It's absolutely demonstrably false. Staff is doing what they should. They have throughout this. They had some bad information and they've been trying to sort this out.

I can tell you this right now, there is an enforcement investigation. I can't tell you any more than that and I won't because I don't know any more. I should not know more. That's not my job. But to suggest that this should have been launched last week during an emergency Board caucus that we had 24 hours' notice on when the law wouldn't even allow a vote by the Board at that special Board caucus -- the law doesn't allow it. We checked with counsel before. I checked with counsel after. The law does not allow it. And if you've been led to believe something else, I'm sorry. But that's not possible.

Meanwhile, staff has never stopped looking into this in all aspects of what we've laid out from the beginning of our conversations about Delta-8 et al. And if you go back and listen to the Board meetings and caucuses and the EMT, meeting, since I got here at least, we've been very clear about this being an iterative process and looking to be as global as possible, not just specifying Delta-8. And Kathy Hoffman did that on purpose. We know what's going on. And if you read those statements, it makes it clear that that can be part of it.

I don't think, I know for a fact, it's not my job to conduct an investigation. I know that Sun Growers is attempting to do their own investigation. I know Crystal Oliver suggested to one Board member that they could run a kind of rogue undercover investigation to get a product from China and have it delivered to LCB headquarters. I don't know what the outcome of that inquiry was. I don't think it's necessary. I don't

think that's a good idea. It just goes on. We need to be able to talk about policy, especially in a fast-moving, changing world like this. We need to be able to sit down with different segments of this market and talk about how to make these things work. If your only answer when either there's a question or we don't just jump to it immediately, is that we're corrupt, we're not going to get anywhere.

I think it was Micah also was talking about the issue of market control. You said there's position taken by the Board to not act on market impacts. I don't believe that's true. I'm not sure who is saying that. I've certainly heard lobbyists for other organizations say it. I think I told you and Jeremy Moberg this the other day when we met. But largely what you said about the system that's been created by the voters in the legislature hence here is what I talked to you about. There is market structure in our law. It is our job to enforce the law that would continue that market structure. Unless we have different direction from the legislature or the voters, that's what it should be. We have a tiered system, right? We have canopy caps. We have lots of some of which I know you don't like but we have a lot of restrictions on which parts of the market can do certain things. My feeling is we should be working to protect what the voters outlined and which the legislature and this agency have implemented. So I don't think that's what's happening.

I don't think we should act at the behest of one segment of the industry, whether they grow outdoors or indoors. I don't think that wanting to be thoughtful about it means that we're ignoring it, that we're sitting on our hands, that we're negligent, that we're just deciding to take our time. That's the way we do things - small to big. This agency leans on data and a process that is incredibly open, run by Kathy Hoffman, which has been complemented by many of the same people who now are accusing us of regulatory capture, as a new way to make rules for regulators and the regulated to work together.

My email is still coming in now with people, including this one guy who's anonymous, who keeps calling me all sorts of things. And it's just not going to work. So I don't know what else to tell you, other than that this agency is doing what it should do. We are taking this seriously as we have from day one. What we won't do is to declare outcomes at the beginning of a process.

I don't think it's a Board member's job to launch investigations. I think we need the Board members to be able to participate as the adjudicators if and when a case comes to us. And if we're involved early in this and we're pointing at one or the other then we're not going to be able to do that. And for Sun Growers to suggest that we should have been able to do this a week ago, last Wednesday, does not reflect our reality and does not reflect the law. I think that my comments obviously won't calm this because the emails are still coming in. And I understand others have different feelings. I'm going to pause and turn to member Hauge, who's asked to speak again.

Member Hauge: Thank you. I just want to make a couple of points. I think in the spirit of what you're trying to accomplish here, which is basically, we need room to do our work. Now, reasonable minds can differ as to how much room we need. And I think that's what the public is seeing here. We are all three committed to a resolution. I have no doubt about that. We're all three committed to a fair and equitable marketplace. It's a question of how we get there.

I would like to, again, make the point. At no time did I demand an investigation or ask for an investigation. This is not about me getting my feelings hurt because somebody told me "no". This is my concern after having visited a number of small farmers who live from hand to mouth, whose core business is being undercut by a practice, that to me, on its face is illegal.

Now I understand I'm one Board member. That's my opinion, we're working it out and I'm committed to that process. And I appreciate your leadership on this. And I think that the good news that I would like to,

and correct me if I'm wrong, is that we recognize that this is something that has to be resolved. And these disagreements that we have or the issues that are being pointed out here are issues that we all three are committed to resolving and moving on from because damage is being done, if not to the market then to our credibility. And we need to get on to the other side of this issue. Above all, that's what I want. Let's get this behind us. Let's fix this and let's move.

Chair Postman: Member Garrett, did you want to add something? No? Okay.

I think that the process is happening as it should. I don't think that it will happen or could happen quick enough for the people we heard from today not to believe there's something untoward happening. And I think that's unfortunate. It makes it difficult to move forward.

I think it's unfortunate that there are emails being sent to Board members about specific licensees. Our staff works hard to try to screen those from us because it can taint the process. And I'm not sure what will happen at this point. And I think we need to be mindful of that. And I would ask people in the public to try to be careful of that as well and not make allegations to Board members about individual licensees. But they obviously have the right to send whatever emails. We may not be able to read them.

Just so people know, the issue came before us last week on very short notice. Now I know you will say "it's been going on forever". Yes, but -- one of my very first meetings was with Crystal Oliver. And she did not say, "I'm concerned about the synthetic conversion to Delta-9." And nobody has brought those concerns to me as they were to member Hauge. So last week, Tuesday, midday, Member Garrett and I got emails saying that member Hauge wanted to have a special caucus meeting the next day. And the only question to me was, should there be staff? I think what Member Hauge suggested that if we wanted staff, that would be fine. I said, yes, we should have staff.

Within a couple of hours of me learning about that, Sun Growers had started their letter writing campaign urging us to act. And the meeting, the Board caucus happened on Wednesday of last week. And as we've already discussed, even before that meeting was over, we were being criticized for being corrupt and in the pocket of WACA.

There's just no scenario where action takes place within that window. So, for future reference, we just learned about this, the specifics. And as little as we know, that's what we know.

I'm sorry, I continue to be distracted by the person who has sent me about 15 emails, each increasingly angry. So I'm going to stop. I'll just pause for a second if either member has anything else. Seeing none, we're going to adjourn for today. Thank you all.

ADJOURN

Chair Postman adjourned the meeting at 11:12am.

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

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