



Board Caucus Meeting

Wednesday, June 16, 2021, 10:00am

This meeting was held via web conference

Meeting Minutes

CAUCUS ATTENDEES

Chair David Postman
Member Ollie Garrett
Member Russ Hauge
Dustin Dickson, Executive Assistant

GUESTS

Rick Garza, Executive Director
George Williams, Chief Information Officer
Kathy Hoffman, Policy and Rules Manager
Audrey Vasek, Policy and Rules Coordinator
Jeff Kildahl, Policy and Rules Coordinator

EMPLOYEE INTRODUCTION – GEORGE WILLIAMS, CHIEF INFORMATION OFFICER

Rick Garza: Good morning, board members and staff. For us today and the public I wanted to take a minute to introduce George Williams, who became our IT Director recently and I just hadn't had the chance to introduce him to all of you. As of May of 2021, George serves as the CIO for all IT managers and 30 staff members, just so you're aware. He started with the LCB in January of 2020 as the IT operations manager, overseeing our desktop, service desk Telecom, network, and infrastructure units. Previous to working with us, George was an operations manager with the Department of Natural Resources for almost five years. I won't go into all of the areas that he covered. George also serves as a Major in the US Army National Guard. And I think you're anticipating retirement next month, right George? And so obviously, we want to thank you for your service to our country. He's a graduate of Eastern Washington University with a Bachelor of Arts in Education and English, and in May of 2018, completed the Information Professional Managers Association leadership program. So, we're just really happy to have George with us taking the place of Mary as our IT manager. And I'll give you an opportunity to say a little bit if you would, George, about some of the priorities that you bring to our agency with respect to IT and anything else you might like to share. Thank you, George.

George Williams: Thank you, Rick. Hello, Board and everybody attending. As Rick said, my name is George Williams. I'm the new CIO for WSLCB. And I am retiring next month from the Washington National Guard after 25 plus years of service. I'm pretty happy about that and breathing a sigh of relief, no longer have to worry about the uniform. But it's been a nice long run for that. I'm very excited about continuing focusing on this job for the foreseeable future.

As Rick mentioned, my priorities for IT and WSLCB are making sure that we make business driven IT decisions across the board. We need to be collaborative partners with all of our business lines with the public in mind, leveraging all the current trends and future trends of technology to ensure the success of what WSLCB is trying to accomplish. So those are my big focuses for IT.

Chair Postman: Great. Welcome, George. We're glad to have you. The interview you did for this was one of the first I was able to sit in on and clearly you were impressive in that interview and had a vision. And I know a lot of the priorities that you have were kind of made for you from our ongoing projects. So, appreciate your effort on all of that. And let us know if we can ever do anything to help you, I'm sure you'll hear from us. I'll just pause for a minute to see if either of the Board members have anything to add or ask.

Member Hauge: I just want to thank George for his attention to detail here. One of the first contacts I had with him was after a little glitch. He immediately followed up with one of the techs. I appreciate that attention to detail and I'm looking forward to working with you going forward.

Mr. Williams: Thank you, Russ.

Member Garrett: And I just want to say welcome, George. I look forward to working with you.

Mr. Williams: Thank you all, I appreciate it

Chair Postman: Thank you, George. Appreciate that. Welcome aboard in your new role. And Rick, I'll keep it with you for any other agency updates you have for us today.

AGENCY UPDATES

Mr. Garza: Sure. Thank you. I'll start inside the office. I want to just thank Gretchen Frost and the lead support team that helped put together last week's employee recognition drive thru. It was 190 of our employees, which is almost all of them, came through here at headquarters. And we had, also, events occurring in the enforcement divisions across the state. Some of them are going to be organized a little later than last week. But it was a really fun event. I just want to thank Russ and David for being there. And I know Ollie, you wanted to be there but you had things that you needed to do that day. But it was just really nice to have all the directors and lead support and two of our Board members there. Many of these folks we have not seen in 16 months, and I think they really enjoyed it. I just thought the way it was put together and I think we have some video and in the intranet site, there's some pictures and stuff up of the event. But again, I didn't know that two months ago, Licensing and Becky had done a drive thru with their employees. And I'd spent part of that day with them and I just thought it was something we should do for our employees. And I think they really enjoyed it. So again, I want to thank everybody that was part of that.

Chair Postman: Russ had a comment. Russ.

Member Hauge: I just want to echo what Rick said and point out that not only did we see people after 16 months' absence, we saw people that I had never seen before that we had developed a really close professional relationship with through electronic media. And it was really wonderful to actually see people and actually, in some cases, shake hands and give a hug. It was a really good opportunity. I appreciated it.

Chair Postman: Yeah, me too. I know the staff team worked really hard on it. Dustin from our team was part of that and we appreciate it a lot. And for me seeing that I started in the middle of that or toward the end of that period of time, a lot of people I saw for the first time ever and had to put together like this much of them that I've gotten to know with the rest of them. And by the way, George Williams is very tall, it turns out. So I learned some valuable things while I was there! It was really a cool event.

Mr. Garza: Yes, it's surprising how many people were hired during the pandemic that we've never met in person, and even babies that were born through the pandemic that we got to meet in the car as new moms and dads came to the event last Tuesday. So again, thanks to everyone for being part of that.

Secondly, inside the organization, I would say we're all anticipating what reentry may look like. And just so you're all aware and I'll be sharing those messages, or Toni will, in the next month, but we're looking at putting a plan together that will allow folks to reenter the building. And as we've stated before, we were able to do our business from our home and so it looks like a lot of folks will choose that and we'll share with you exactly what that looks like as we get closer are going to choose to work for the most part from home. And like I said, we'll share more details of that as we make those decisions in the next month or two. So that was what I wanted to share inside the organization.

Also I'll share about a couple of meetings that occurred. I'll start with the last one that we had, which was I believe on Thursday. We had a meeting with Senator Murray's staff. And as you know, we've been talking not only as part of CANNRA, the Cannabis Regulators Association, but obviously as we've been awaiting a federal proposal to legalize cannabis, we've been hearing that Schumer, Wyden, Booker have a proposal that we'll be hitting the streets soon. And it looks like from what we've heard in the last week, at the end of this month, if not maybe a little bit sooner. And so you're aware that we had a spring meeting on June 23 with CANNRA state members and we invited all of our congressional delegation from each of our states. Remember, there are 27 states that are part of CANNRA to be part of a discussion with us. And many of the staffs of the members in the House and Senate joined us for that. We did a presentation of, really, suggesting what are the areas that we think are priorities. I've shared with you and please let me know by email if you'd like it, we sent a letter February 11 to the leaders of both the House and the Senate outlining eight priorities that the states are interested in. Obviously, in our state, the biggest concern that we shared with Senator Murray, David was on call, Chris Thompson, our legislative director, and Jillian Shower, our public health liaison was with Sarah – we share that one of our concerns would be that the overlay, if it's created federally, not conflict with programs that we have in our states. Obviously, that's a real concern for Oregon, Colorado, Washington because we've been doing this for quite some time. And so attending that meeting was Mindy Lindquist, who's the Chief of Staff for Senator Murray, Caitlin Backfields, who Senior Counsel for the FDA, and then Evans Shots, who's the Staff Director. Senator Murray chairs the Senate Committee on Health, Education, Labor, and Pensions, which is referred to as HELP. Her aim is really in the area of public health. And so it gave us an opportunity to kind of share our concern that, again, a belief that the states who have started and especially been in this for quite some time, that the federal framework not conflict. It was a great meeting, a good opportunity to begin a discussion with them so that when that proposal comes from the federal government, we'll be prepared to give them our thoughts on areas of concern, or not, in general. But I thought it was a good meeting. David, if you'd like to share anything, I'll give you that opportunity, please.

Chari Postman: The only thing I'll add is that we did talk about the CANNRA letter and a lot of discussion around the public health issues. But I also want folks to know, we are going to work with our members in the congressional delegation and look at that bill carefully to make sure there's nothing in it that we feel conflicts with any piece of the Washington system that's important to us. And we don't know all what's going to be in there or how they're going to go about, frankly, the states' rights issue of the existing cannabis markets out there. So, we will be very mindful of what we want to see in there and what we don't want to see in there. And luckily we have Senator Murray and I think Senator Cantwell too will be great allies and helping us protect what we have.

Mr. Garza: Thank you. Secondly, as we often do, as far as staff and Board members also, we get invited to trade association meetings. On June 23, we were part of what was referred to as executive panel for WACA's (Washington Cannabusiness Association) spring meeting, entitled The Next Ten Years. And that was myself, had an opportunity to introduce Chandra Brady, our new enforcement director, Sheri Sawyer, the senior policy adviser to Governor Inslee. And then, of course, Kathy Hoffman, our policy and rules manager. A couple of issues that we shared, obviously, we shared the response and the things that we put in place with respect to Hilliard and Hines and went into some detail with that. Obviously, introduced Chandra with that. She spoke specifically about her priorities and the work that she's been doing the last few months. It gave Kathy an opportunity to give a rules and policy update for them, which included discussions of the advisory with respect to Delta-8. And also the discussions and concerns that are occurring with respect to Delta-9 that's entered into the marketplace. Also gave Sheri an opportunity to share some thoughts with respect for the governor and the cannabis industry. I thought it was a good discussion. It followed a panel with perspectives from the legislature, Senator Curtis King, Marko Liias, Ann Rivers, Representatives, Cloba, MacEwen, Wicks, and Wylie. They're all folks who are very involved or part, typically, of the Policy Committee, the Commerce and Gaming Committee in the House and the Labor and Commerce Committee in the Senate. They gave their perspectives. Really the meeting was set up to think about and talk about, what's the future going to look like? So it was kind of an opportunity for me to also share CANNRA and the work that it's doing, and the belief that we need to work with the trade associations in the cannabis industry, as we look at federal legalization probably happening in the next two to four to five years and be prepared for that just as I spoke earlier. So I think that's what they did later in that meeting is do that. And so, just wanted to share with you that we had that meeting.

Chair Postman: Pause for a second. Russ has a question or comment.

Member Hauge: I'm sorry, I missed it. This was the Washington Cannabusiness Association?

Mr. Garza: Yes, that's right, Russ. They have meetings from time to time. And we presented -- we usually do a rules update or legislative update or any kind of updates that they're looking for. And that was their spring meeting. Any other questions, Russ?

Member Hauge: Not at this time. Thank you.

Mr. Garza: Okay. Thanks Russ. I don't have anything else unless you have questions of me.

Chair Postman: Any other questions or comments from Board members? Looks like not, Rick. Thank you. Alright. We now we're going to go to Board meeting prep and rules update. We've got the whole team here: Kathy Hoffman, Audrey Vasek, and Jeff Kildahl.

BOARD MEETING PREP AND RULES UPDATE

Kathy Hoffman: Thanks for the opportunity to update you this morning and then prepare some prep for our Board meeting tomorrow. Going to kick it off with Audrey first and then move into Jeff and I presenting, since a lot of the rules work is being transitioned over to Jeff. There's some I will retain and some that Jeff is taking over. So I'll start with what I have in Board prep for that and then Jeff will move into his rules update and board prep for that. So, Audrey if you would start us off, that would be great. Thank you.

Audrey Vasek: Thanks, Kathy. Good morning Board members. I have a few brief updates on the alcohol timelines. For my first update, the rule project to implement 2021 legislation, Engrossed Second Substitute House Bill 1480, related to the COVID-19 allowances. The initial comment period closed last Friday on July 2. We received three comments between May 12 when the CR 101 was filed and July 2 when the CR 101 comment period closed. One general comment and two comments related to public health and prevention and traffic safety suggestions for safeguards related to the to-go alcohol sales.

The internal rule drafting workgroup has met a total of seven times so far to develop the conceptual draft rules. We've completed initial conceptual rule drafting work for the three endorsements created by House Bill 1480, so, that's for the sale of the manufacturer sealed alcohol products, the cocktails and wine by the glass and the growler endorsements for curbside takeout and delivery. We are still working on developing rules for the outdoor alcohol service areas and the food service requirements. Our original target was to complete those by mid-July but to allow more time for rule drafting we're extending that timeline out by a few weeks. Our new target is to develop those conceptual draft rules by early August. Once those are developed and shared, as I mentioned before, we anticipate holding those "listen and learn" sessions to gather public feedback. And, I still anticipate preparing a CR 102 package in September but probably in mid-September rather than early September. Are there any questions on that timeline before I move to my next update?

Chair Postman: No, I don't see any for you, Audrey.

Ms. Vasek: Thanks. So for the next rule project, to create summary suspension and state 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 in opposition to the CR 101 between April 14 when the CR 101 was filed and June 5 when the comment period closed. That comment table has been shared with the Board and internal workgroup for review. The internal work group has finished reviewing the comments and with the June 30 statewide reopening last week, we're recommending letting the emergency rules related to the project expire as scheduled on July 15, which is next Thursday. So, I'll be scheduling internal meetings with staff in the coming weeks to discuss options for next steps with the permanent rulemaking project, including whether withdrawal or revision of that CR 101 is appropriate. That concludes my rule updates for today and I'm happy to answer any questions.

Chair Postman: One quick one on the emergency suspension. So, that will come to the Board for action to withdraw that? Is that correct?

Ms. Vasek: Yes.

Chair Postman: When would that happen? Tomorrow?

Ms. Vasek: No. Just to clarify, for the emergency rules, those are set to expire on July 15. And that doesn't require any action by the board. Those will just expire. But for the CR 101, to look at making the permanent rules, if withdrawal is the direction that the agency wants to go with, a withdrawal form would be required, so that would require Board action. And I don't know if that'll be the next Board meeting or the following Board meeting, but I'll be scheduling some meetings in the near future to discuss those options with folks.

Chair Postman: Interesting. I appreciate that. Other questions from Board members for Audrey? No. Okay. Thank you.

Ms. Hoffman: Alright. Thank you very much for that update, Audrey. I'm going to go ahead and start with the rules update on the one rule package that I will continue to work on and that is the rule package concerning Delta-8 and Delta99 derived from hemp, et cetera. So I'll give an update on where we are with that rule project and then talk about the presentation for tomorrow and then also brief you on the additional presentations for tomorrow as well. Then Jeff can give you an update on the other cannabis related rulemaking projects.

To that end, we continue to both discuss concerns related to THC compounds and engage all of our community members in discussions around those things. And that community includes not only our LCB licensees, but the hemp industry, public health, prevention, and many others. And I know you're aware that this is a multi-dimensional concern that we've been discussing for a while and we've heard strongly held positions for many involved. To maintain our agency's strategically planned and charted pathway forward with this work and to assure that we're leveraging limited rulemaking authority we currently have, I will be asking for your approval to withdraw the original CR 101 in this manner so we can file a revised CR 101 that contemplates effectuating the full provisions of RCW 69.51.342(1)(m) related to prohibition of the use of -- and this is from the statute -- "any type of additive, solvent, ingredient, or compound used in the production and processing of cannabis or marijuana products..." and after consultation has occurred at minimum with the Washington State Board of Health. So, the current CR 101 contemplates products other than Delta-9, and that was in our policy statement. And when you approved that original CR 101 in mid-May, it appeared that this was where we needed to concentrate our efforts. But since that time, our inquiry into rulemaking should be expanded and the proposed to CR 101 seeks to accomplish that.

And then as a side note, to support that work, we will be reconvening our initial "deliberative dialogue" panel on July 20. So, just a few weeks from now. Jeff's done a really good job of curating the content from the original panel to inform follow up questions to help us drill down even further into our understanding of cannabis plant chemistry. Information concerning that follow up session will be available I'm hoping by the end of the week. Any questions on that before I move forward?

Chair Postman: In the CR 101, specific language or anything that gets proposed, we had talked about this earlier obviously. I was looking at the policy statement you put out that when I read it, I thought, we did cover this. You pointed out that it did, but it wasn't reflected in the 101. Even without specific language in the CR 101, are we able to get that concept in there then? Is that kind of the goal here? And do you know what we would say to really open the focus a little bit, widen the focus?

Ms. Hoffman: The original CR 101 said THC compounds other than Delta-9. And now we understand that we need to include THC compounds, all THC compounds, including Delta-9 that may or may not be derived from marijuana as defined in statute. And there's that limiting factor in our original CR 101. So in order to be able contemplate the universe, as it were, of those compounds, we need to broaden that scope. Does that help?

Chair Postman: I was just looking to see if there are other questions from Board members for Kathy on this question. Okay, seeing none then, thank you, Kathy. You can move on to the next item.

Ms. Hoffman: So, I will be bringing the CR 103 for Tier I canopy expansion to tomorrow's Board meeting. Jeff is going to give you an update in his rules update in a couple of minutes here. But just to summarize, we received a handful of written comments, half in support, half in opposition. We received oral testimony that was largely in support I think of the proposal. So that's reflected in the concise explanatory statement. So, I will be bringing that to you tomorrow and we can close that project.

The final item that I will bring to you tomorrow is rescission of Board Interim Policy 04-2018 that will be replaced with a policy statement consistent with our current agency practices and the Administrative Procedures Act. So just for a little bit of background, I'm just going to call it BIP - Board Interim Policy 04-2018, was approved to allow retail cannabis licensees who are prohibited from opening stores in jurisdictions where local ordinances prohibit cannabis sales to apply for a title certificate. Since legalization in 2012, some of those jurisdictions passed and maintained moratoria and placed other prohibitions on the sale of cannabis. And then in some areas these ordinances prevented retail licenses from opening. So, current statutes require that cannabis licensees comply with all licensing requirements, whether they're able to open or not, like having a qualifying location and fulfilling security and other requirements. That original BIP was created to allow those licensees located in those jurisdictions to apply for a title certificate instead. Under the BIP, title certificate holders are not required to maintain retail cannabis license requirements related to physical location, security, et cetera as long as all other requirements are met. And, title certificate holders were also required to reinstate their license within six months of their jurisdiction allowing retail cannabis licensees to open stores. So, the original BIP was designed to be rescinded upon adoption of permanent rule. And it also contained a statement that the agency would reevaluate the need for title certificates four years after the date of that original BIP or by April of 2022. The agency took a review of that existing BIP and determined that converting it to a policy statement was appropriate at this time. So while the new policy statement renews a lot of what that BIP contains, it streamlines the provisions quite a bit and also removes that four year cut off for review. So, it allows some flexibility for title certificates holders to hold on to those title certificates until a moratorium and ban are lifted. So that really is it in a nutshell. It seems like a lot but really it's just a shift, a clarification, and then the removal of the four year timeline.

Chair Postman: Okay. Questions for Kathy on this BIP? Obviously, the adoption of that BIP was before I got here. You said that it was done with the assumption that it would be rescinded when permanent rules were in place. My only question is, we're not doing that now. We're not doing permanent rules. We're just doing a policy statement. Is there any issue around that? And that's what will come to us. We would vote to rescind the BIP and then that puts in place that policy statement, correct?

Ms. Hoffman: That's correct. Yes. And as I understand it, I've had quite a bit of communication with licensing who really initiated the original BIP, they're getting ready to share information with licensees as soon as the Board meeting happens tomorrow. And we're assuming if the original BIP is rescinded, I will immediately file the new policy statement with the Code Reviser's office and then that communication will go out. So, really, it provides more flexibility for our title certificate holders.

Chair Postman: Okay, that's great. Thank you. You can move on to your next one.

Ms. Hoffman: Alright, Jeff. Your turn. Take it away.

Jeff Kildahl: Thank you, Kathy. Good morning, Chair Postman and Board members Garrett and Hauge. Here is a brief update on cannabis rules that are in progress today.

Starting with the cannabis quality control rules and consistent with the last update, we now have completed two internal rule drafting sessions and we now have two more sessions scheduled this week to continue work on the cannabis quality rules. We received only one bid concerning our request for an economist to help with drafting an updated small business economic impact statement, and we plan to meet with ORIA (Office for Regulatory Innovation and Assistance) on July 8 to review the bid.

Second, 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 shared. Our internal project team has met and we will bring a CR 102 package for your review to the Board meeting tomorrow, July 7, 2021.

With respect to the permit rules referencing the State Board of Health, or SBOH, Vitamin E acetate prohibition, no comments have been received to date on the CR 102 brought to you for approval on May 26. The public hearing is scheduled for tomorrow, July 7. We plan to 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.

Third, 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 approval at the Board meeting on June 23, 2021. However, because some of the written comments were extensive and we were still in the process of transcribing the oral testimony, we will bring a CR 103 package to you for review at the Board meeting tomorrow, July 7. This extra time allowed us to meaningfully respond to the comments received, both in support and not in support of the proposal. And this concludes my update for today. Can I answer any questions?

Chair Postman: None for me and seeing none from the Board Thank you, Jeff.

Mr. Kildahl: Thank you.

Chair Postman: And let me just double check with Kathy then are we through all the rules updates?

Ms. Hoffman: Yes, we are, Chair Postman. That's it for us. Thank you very much for the opportunity this morning.

Chair Postman: Great. Thank you. We'll see you all tomorrow. And that brings us to the last segment of our agenda, which is Board member and executive assistant reports.

BOARD MEMBER AND EXECUTIVE ASSISTANT REPORTS

Member Hauge: We did receive an opinion letter from the Attorney General's Office late last week regarding the hypothetical conversion of CBD into Delta-9 and introducing it into our system. That memo is privileged. I intend to talk about it with staff and I have a meeting with Rick later on today. And we probably should get some guidance from the AGs as to how we can use this memorandum of opinion going forward in a public fashion. I do not want to inadvertently waive any privilege that we have with the Attorney General's Office so we're going to need their guidance there. But this remains a priority issue and I hope we can work through that very quickly.

Chair Postman: Okay, yes, I agree. Anything else, Russ?

Member Hauge: Not at this time, no. Thank you.

Chair Postman: Ollie, anything?

Member Garrett: No. Russ just covered what I had and to understand next step. Now that we have this, what do we do?

Chair Postman: Okay, we will get on that and figure out how to do that while making sure we don't jeopardize the attorney/client privilege that exists as of now on that document. So I will check with AAG to figure that out and go forward. Dustin, anything from you for us today?

Dustin Dickson: Good morning, Chair and Board. Just a quick update on our continual transition into Teams. I worked with Microsoft directly on a couple of some of the hiccups that we had at the last meeting, so I have a representative from Microsoft as well as representative from our own IT division that will be joining us tomorrow. If and when anything arises or comes up, we'll have that backup and support with us as we continue to finesse the different aspects of this new platform. More to come on that. As far as recordings, we realized after the initial recording that there's a safety firewall within the state at WaTech that doesn't let us make the recordings available to the general public. They are for agency only. But we did find a way to supersede that or surpass that and to be able to create links so that we can post the recordings online. We can make them available to the general public. It's a couple extra steps on our end but definitely worth it so that we can have those recordings online going forward. It's just the way the tenant is set up for state agency structures, but we did find a way to get past that. And so hopefully going forward, starting tomorrow, ideally, we can start posting those meetings again.

Chair Postman: The default should be that you can make it public. You should have to go through the steps to not make it public. But I'm glad you're staying on it.

Mr. Dickson: Agreed, we're working on it. So more to come on that but making progress definitely. And like I said, we'll have Microsoft representatives and IT representatives online with us as "presenters" tomorrow. So if you hear voices kind of popping in if people are having issues, it'll be one of those two men that will be joining us.

Chair Postman: Okay, great, thank you, Dustin. That ends our Board caucus meeting for the 6th. We will have a public Board meeting tomorrow we'll see many of you there. Thank you.

Meeting adjourned at 10:41am.

Minutes approved this 13th day of July, 2021.



David Postman
Board Chair

Not Present for Approval

Ollie Garrett
Board Member



Russ Hauge
Board Member

Minutes Prepared by: Dustin Dickson, Executive Assistant to the Board.