



## Washington State Liquor and Cannabis Board Meeting

Wednesday, July 7, 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, July 7, 2021. Member Ollie Garrett and Member Russ Hauge were also present.

Chair Postman began with points of information about the meeting, including:

- Meeting is being recorded on the Microsoft Teams platform
- Public should remain with cameras off until they are called on to testify
- Given the number of people registered to testify, the allotted time to speak would be reduced from four to three minutes each, with a 30-second warning
- Any additional comments are always welcomed in writing

#### 2. APPROVAL OF MEETING MINUTES

Chair Postman announced the consideration of minutes would be postponed to a later date.

#### 3. ALCOHOL RELATED RULEMAKING TIMELINES

Presenter – Audrey Vasek, Policy and Rules Coordinator

Ms. Vasek: Good morning Chair Postman and Board members. I have a few brief updates today on the alcohol rulemaking timelines.

First, an update for the rule project to implement 2021 legislation Engrossed Second Substitute House Bill 1480 related to the COVID-19 alcohol 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 of these comments was general in nature and two comments were related to public health and safety and traffic safety suggestions for safeguards related to alcohol to-go sales. The internal rule-drafting workgroup has met a total of seven times so far to develop conceptual draft rules. We've completed initial conceptual rule drafting work for three endorsements created by House Bill 1480 for the sale of manufacturer sealed alcohol products, cocktails, and wine by the glass, and growlers to-go for curbside takeout or delivery. We're still working on developing rules for outdoor alcohol service

areas and food service requirements. Our original target was to complete conceptual draft rules by mid-July but to allow more time for rule drafting, we're extending the timeline out by a few weeks and our new target is to develop conceptual draft rules by early August. We anticipate holding one or two "listen and learn" sessions to gather public feedback later in August. And following those "listen and learn" sessions, I anticipate tentatively preparing a CR 102 package for the Board to consider in mid or late September.

Next 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 in opposition to the CR 101. A comment table has been shared with the Board and internal work group for review. The internal workgroup has finished reviewing those comments, and with the June 30 statewide reopening last week, we're recommending letting the emergency rules related to this project expire as scheduled on July 15, which is next Thursday. No Board action is required to allow those emergency rules to expire. So, for next steps, I'll be scheduling internal meetings with staff and Board members in coming weeks to discuss options for the permanent rulemaking project including whether withdrawal or revision of the CR 101 is appropriate.

That concludes my rule updates for today. And if there's any questions, I'm happy to answer them.

Chair Postman: None for me. Any other questions from the Board? Seeing none, thank you Ms. Vasek. Next item here is cannabis related rulemaking and timelines. Kathy Hoffman are you leading that?

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

##### **ACTION ITEMS (A-D)**

Presenter – Kathy Hoffman, Policy and Rules Manager

Ms. Hoffman: Yes, thank you Chair Postman. I'll be updating the Board on policy and rule work related to THC compound since Jeff, our new policy and rules coordinator, will be working on quality control rules and finishing up some of the other projects that we have in the queue for cannabis. So he'll be updating on those during his segment at the Board meeting today. So to that end, I will be speaking to the revision of our CR 101 concerning THC compounds in agenda items for B and C in a moment. Jeff will present updates before he presents on agenda items for E and F. So with that in mind, if I may, I'd like to move to Board item 4A.

Chair Postman: Sounds good, Kathy.

Ms. Hoffman: Alright, thank you very much.

##### **ACTION ITEM 4A - Board Rescission of Board Interim Policy 04-2018 Regarding Cannabis Retail Title Certificates**

Kathy Hoffman, Policy and Rules Manager, began the briefing with materials (HANDOUT 4A).

Ms. Hoffman: Since cannabis legalization in 2012, some local jurisdictions have passed moratoria and placed other prohibitions on the retail sale of cannabis. In some areas, these local ordinances have prevented retail licensees from opening. In April 2018, Board Interim Policy, or BIP, 04-2018 was approved to allow retail cannabis licensees to apply for a title certificate in jurisdictions where local ordinances prohibit or restrict those licenses. Current statute requires retail cannabis licensees to follow

all license requirements, whether able to open or not, such as having a qualifying location and fulfilling security requirements. BIP 04-2018 provides that title certificate holders are not required to maintain those cannabis license requirements. And it also provides that title certificate holders are required to reinstate their license within six months of their jurisdiction, allowing retail cannabis licensees to open stores.

This BIP was designed to be rescinded upon the adoption of permanent rules. It also contains a statement that the agency will reevaluate the need for title certificates after four years of the date of the BIP approval or on or before April of 2022. So, the agencies reviewed the existing BIP and determined that converting it to a policy statement is appropriate at this time. While the majority of the new policy statement renews the current BIP, it primarily removes the title certificate maximum validity date of four years, while streamlining and clarifying existing language. As a result, BIP 04-2018 is no longer necessary.

So, I'd like to ask for your approval to rescind BIP 04-2018. If the rescission is approved, the agency will file policy statement "PS21-03", with the office of the Code Reviser today. Messaging will go out via GovDelivery as we normally do, and existing title certificate holders will be notified of the removal of the expiration date and the conversion of the BIP to a policy statement consistent with the Administrative Procedures Act. May I answer any questions?

Chair Postman: Any questions from the Board on this action item?

Member Garrett: Kathy, I have a question. I just caught the part about once the moratorium or ban is lifted, they have to open within six months or apply to convert the certificate back into a license within six months?

Ms. Hoffman: Yes, it looks like they are required to reinstate their licenses within six months.

Member Garrett: Okay, reinstate the license. Thank you.

Ms. Hoffman: You're welcome.

MOTION: Member Hauge moved to rescind Board Interim Policy 04-2018 Regarding Cannabis Retail Title Certificates

SECOND: Member Garrett seconded.

ACTION: Chair Postman approved the motion.

**ACTION ITEM 4B - Board Withdraw of CR 101 for THC Compounds Other Than Delta-9 and  
ACTION ITEM 4C - Board Approval of CR 101 for Evaluating Tetrahydrocannabinol (THC)  
Compounds**

Kathy Hoffman, Policy and Rules Manager, began the briefing with materials (HANDOUT 4B).

Ms. Hoffman: Thank you very much. I will now move on to items B and C. This concerns the withdrawal of the CR 101 related to THC compounds other than delta-9, and the request to approve a new CR 101 related to all THC compounds.

As you know, we continue to discuss concerns related to THC compounds and engage all dimensions of our community. That community includes not only our licensees, the heads of industry, public health and prevention, and many, many others. I know you're aware that it is a multi-dimensional concern and we've heard strongly held positions from many involved. But, to maintain our agency's strategically planned and charted pathway forward with this work and to assure that we're fully leveraging what limited rulemaking authority we currently have, I'm asking for your approval to withdraw the original CR 101 in this matter so we can file a revised CR 101 that contemplates further effectuating the provisions of RCW 69.50.342(1)(m) concerning the Board's ability to prohibit the use of any type of additive, solvent, ingredient, or compound used in the production or processing of cannabis or marijuana products.

The current CR 101 only contemplates products other than delta-9. And indeed, when the Board approved that original CR 101 in May, it appeared that this is where we needed to concentrate our efforts. But as of mid-June, it appears our inquiry into rulemaking should be extended and the proposed CR 101 seeks to accomplish that. So, the proposed CR 101 before you expands the scope of development, rule development, that is, to all THC compounds, rather than just compounds other than delta-9.

I want to reassure the Board that we have not lost momentum on this work but rather these efforts are helping us to maintain focus in a constructive, data driven, and effective way and rulemaking is just one of those efforts.

A second "deliberative dialogue" session is scheduled for July 20. That's another effort. And we'll share information on that by the end of the week. Additional efforts are underway throughout the agency.

So to date, we've received a handful of comments on the original CR 101 expressing many of the same sentiments and positions we've heard in Board meetings recently. If the original CR 101 is withdrawn today and the new one approved, I intend to include and consider all of the received comments in our work moving forward. Comments would not be precluded from offering additional comment. But I want to make sure that those original comments are recognized if a new CR 101 is approved today.

So, with that, I would ask for your approval to withdraw the original CR 101 in this matter and approve the new revised CR 101 before you today. May answer any questions?

Chair Postman: We're going to have to do both of these separately but we can go ahead and discuss them together. Member Hauge?

Member Hauge: I just want to express my appreciation, particularly the remark you just made, Kathy, that I know is backed up, that we are not losing momentum here. In fact, what this is doing is focusing our efforts where they need to be focused. I appreciate the attention to detail, very much so.

Ms. Hoffman: Thank you, Board member Hauge.

Chair Postman: Member Garrett, any comments or questions?

Member Garrett: Not from me.

Chair Postman: I appreciate the work you and the team have been putting in on this. And I think that it does better reflect the breadth of the effort we have going on. I know it adds work but I think it's well worth that effort and I look forward to the "deliberative dialogues" and others that will be added onto this.

So, I'll ask for a motion for the first one, which is board rescission of CR 101 for THC compounds other than delta-9.

MOTION: Member Garrett moved to withdraw the CR 101 for THC Compounds Other Than Delta-9

SECOND: Member Hauge seconded.

ACTION: Chair Postman approved the motion.

Chair Postman: Next I'll call for a motion on the Board approval of the CR 101 for evaluating THC compounds.

MOTION: Member Hauge moved to approve CR 101 for Evaluating Tetrahydrocannabinol (THC) Compounds

SECOND: Member Garrett seconded.

ACTION: Chair Postman approved the motion.

#### **ACTION ITEM 4D - Board Adoption of CR 103 for Tier I Canopy Expansion**

Kathy Hoffman, Policy and Rules Manager, began the briefing with materials (HANDOUT 4D).

Ms. Hoffman: Thank you very much, Chair Postman. So, moving on to item 4D, this is the Tier I expansion CR 103. I'm going to spend a little time on this describing our background because we've been working on this project for some time and I'm very happy to bring rules for adoption forward today.

I'd like to request your approval to file a CR 103 that would adopt rules to expand Tier I canopy from up to 2000 square feet to up to 4000 square feet of cannabis production space and adjust Tier II growing space from 2000 square feet up to 10,000 square feet to 4000 square feet up to 10,000 square feet. There's quite a bit of background to this work and so I will take a moment to revisit that.

This project began in December 2019 following requests from medical cannabis patients and segments of the industry to increase the availability of Department of Health compliant product. The agency also learned at that time that Tier I production licensees - these are the smallest in both number and size of our cannabis production licensees - were concerned about business viability based on canopy state space restrictions. This project was delayed somewhat by the state's response to the COVID-19 pandemic. But, we eventually were able to host two virtual "listen and learn" sessions in late June of last year that were well attended but primarily by tier two and three production licensees and representatives. Very few Tier I licensees were in attendance, and we wanted to hear specifically from those licensees. So, we conducted a survey that was released in two waves using Survey Monkey.

The first wave started on August 27 of last year and the second wave, which attempted to pick up those who hadn't responded to the first survey went out on October 16 of last year. Our response rate was well over 50%. We were pleased with that. And survey results were analyzed by the previous cannabis rules coordinator and a detailed report was issued on April 2 of this year. The most prevalent theme emerging from that survey was to allow some measure of Tier I expansion. We completed an analysis contemplating the possibility of expansion.

And I won't go into all the details here but I want to emphasize, Tier I production canopy represents a little under 2% of total licensed canopy. So we're talking about approximately 125 Tier I licensees and those are licenses that we estimate are being used, compared to approximately 349 Tier II and 338 Tier III licenses that we estimate are being used. So even if every active Tier I licensed producer added an additional 2000 square feet of production capacity, Tier I license capacity would represent just a little over 3% of the total active licensed plant canopy. This is the equivalent of adding less than nine Tier III licenses in terms of total additional canopy. Although that equivalency would be spread out across 125 businesses, it also assumes that all Tier I licensees would double their current production space. And we don't anticipate that that will happen.

The public hearing on this was held on June 9. Three people testified and a transcription of that testimony is provided in the concise explanatory statement. That public testimony was especially in support of the proposal. We also received a total of six written comments, three opposed and three in support of the proposal. These comments did not result in any revision to the original proposal, so the rules before you for adoption today have not changed since that time. If approved for filing, the rules would become effective 31 days after today or August 7 of this year. Are there any questions?

Chair Postman: I don't see any. Seeing no others then I certainly think this is the way to go. It's not the cure all for everything we hear about struggles but I think it's a step in the right direction. I'll call for a motion to adopt the CR 103 for Tier I canopy expansion.

MOTION: Member Garrett moved to adopt the CR 103 for Tier I Canopy Expansion

SECOND: Member Hauge seconded.

ACTION: Chair Postman approved the motion.

Chair Postman: Great. And then that motion is approved. Thank you Ms. Hoffman. We will move to our next action item and Jeff Kildahl, all the Policy and Rules Coordinator on the cannabis side. I will turn it over to you, Jeff.

Jeff Kildahl: Good morning, Chair Postman, Board members Garrett and Hauge. Chair Postman, I would like to give a brief rules update before moving to agenda items 4E and F.

Chair Postman: Great. Absolutely. Thank you.

Mr. Kildahl: Thank you. Here is a brief update on cannabis rules in progress today, June 7, 2021.

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

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 I will present the proposal package to you during the next agenda item.

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. The public hearing is scheduled for today's Board meeting. I will describe the project timeline and background when we move to that agenda item.

That concludes my update. May I answer any questions?

Chair Postman: No, I see none. Let's head to our next item, then. Thank you.

#### **ACTION ITEM (E)**

Presenter – Jeff Kildahl, Policy and Rules Coordinator

#### **ACTION ITEM 4E - Board Approval of CR 102 for WAC 315-55-040 (sic)[314-55-040] – Criminal History Background Checks**

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

Mr. Kildahl: Thank you. The next item is the approval of the CR 102 for WAC 315-55-040 (sic)[314-55-040], criminal history background checks.

This morning I would like to request your approval to file a CR 102 that proposes to amend current rules that frame the standards and thresholds for current criminal history checks for marijuana/cannabis licensees. This proposal moves toward creation of socially equitable conditions for individuals who have been disproportionately impacted by cannabis criminalization by revising and more fully describing the background check threshold review process for cannabis license applicants and renewing licensees.

Among other things, it redesigns the existing criminal history point system that may have created barriers to entry in the legal cannabis market. For a brief procedural history on this particular rulemaking, we filed a CR 101 for this project on February 17, 2021 and notice was published in the Washington State Register on March 3, 2021. The formal public comment period for the CR 101 ended on March 31, 2021. No comments were received during the public comment period. However, four written comments unrelated to the draft conceptual rules were received after the end of the comment period. These comments concerned the future availability of cannabis licenses.

As part of the rule development process, a public “listen and learn” session was planned for May 13, 2021 but was rescheduled and held on June 1. The session was attended virtually by approximately 25 people.

Attendees of the “listen and learn” sessions shared a small amount of feedback on the draft conceptual rules, and their feedback is collected in the comment table as “Attachment A”.

Feedback received in the “listen and learn” session included the following topics:

- The effect of the changes to cannabis license applicant background checks on true parties of interest contained in WAC 314-55-035,
- Possible changes to draft conceptual rule language to expand beyond Washington State Patrol and Federal Bureau of Investigation background checks only,
- Possible changes to draft conceptual rule language to state that delegated LCB staff will review background check information,
- Re-ordering some sections of the draft conceptual rules related to the criminal history threshold review,
- Differences between the threshold review and the existing criminal history review,
- Concerns about consideration of active state supervision and active federal supervision status in the threshold review,
- Concerns for applicants who are paying monetary sanctions to Washington courts,
- Increasing or eliminating the 90-day hold period for applicants with pending criminal convictions and the basis for the 90-day hold period,
- The appeal rights of a threshold review, and
- The need for fingerprinting each time an applicant submits information for a background check.

If approved today, the public hearing would be held on August 18, 2021 and we would bring a CR 103 to you for consideration on September 1, 2021. Assuming that no substantive changes are made to the proposal, the rule will become effective 31 days after, on October 2, 2021.

I would ask for your approval to file the CR 102 proposal today. Thank you and may I answer any questions?

Chair Postman: Any questions on the criminal history background check rulemaking. Hearing none I'll ask for a motion for approval of the CR 102 for the WAC 315-55-040 (sic)[314-55-040] on criminal history background checks.

MOTION: Member Hauge moved to approve the CR 102 for Criminal History Background Checks

SECOND: Member Garrett seconded.

ACTION: Chair Postman approved the motion.

## **PUBLIC HEARING (F)**

### **PUBLIC HEARING 4F – Enforcement of State Board of Health Prohibition of Vitamin E Acetate in WAC 314-55-077 & 079**

Jeff Kildahl, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 4A).



Mr. Kildahl: Thank you. The next item is the public hearing on WAC 314-55-077 and 079 concerning vitamin E acetate. The rule proposal before you today for public hearing concerns a permanent cross referenced in our cannabis processor and retailer rules to the State Board of Health permanent prohibition of vitamin E acetate.

By way of background, the LCB prohibited use of vitamin E acetate by any person licensed under Chapter 69.50 RCW or the Controlled Substance Act by emergency rule last September. The LCB prohibition applied to cannabis processors and retailers and emergency amendments were added to WAC 314-55-077 and 079 that would allow the Board to take disciplinary action if a licensee failed to comply with the LCB prohibition.

At the same time, the Washington State Board of Health, or SBOH, was working on a permanent prohibition of vitamin E acetate that would also apply to any person licensed under the Controlled Substances Act. That rule became permanent last November. As a result, and as intended when we began emergency rulemaking, the proposal makes permanent reference in WAC 314-55-077 and 079 to the permanent State Board of Health vitamin E acetate prohibition.

If these rules are subsequently adopted, the LCB prohibition can be rescinded. This CR 102 was approved and filed on May 26. Since then, no comments have been received. May I answer any questions?

Chair Postman: No, I see none. And also at this point, we have nobody signed up to testify during the public hearing. So I think we will just then be done with that piece of it. Thank you Mr. Kildahl. Was there anything else?

Mr. Kildahl: No, thank you, Chair Postman.

Chair Postman: Great, thanks for bringing forward all of that today. You've done a lot already.

## **6. GENERAL PUBLIC COMMENT**

Chair Postman: Now we'll move to general public comment.

A couple of things of note. One, in case you weren't on at the very beginning, we're going to have to limit comments to three minutes instead of the usual four because of the long list that we've already gotten of people who do want to offer comment today. So, please be mindful of the clock. When you're 30-seconds from the end, Dustin Dickson will jump in to politely let you know that your time is just about up. Please listen for that and follow suit. Again, everything is recorded at all our public meetings and in this one, we are recording it through the Teams app that we're using. When I call your name, we'll give you time to unmute yourself. We'll try to move through these as quickly as we can. State your name and the affiliation. And, just give us a second as we connect you up and if you want to check to make sure you're working, go ahead and ask and we'll let you know if we can hear you loud and clear.

So with that, I will start with the top of the list I was given. Number one is Joshua Rutherford.

Dustin Dickson: Good morning, Chair. Dustin here. Josh Rutherford registered to speak but I do not see him online. Same with Jeff Wilhoit, he also registered to speak but is not showing as online today.

Chair Postman: Okay, how about Jade Stefano? Are you with us?

Jade Stefano – Puffin Farms

Hi, guys. Good morning. I am co-owner of Puffin Farm, a family owned and operated producer processor licensed since 2014. I'm also a naturopathic physician.

First, I'd like to plead with you to continue to allow the minor children of producer processors onto the licensed premises. Given that children are still unable to be vaccinated, childcare is not a safe option for our kids. Even if it was safe, it's also completely unaffordable to many family farmers and processors. I ask for equal treatment as craft alcohol producers, whose children are allowed at their distilleries.

The market for craft cannabis has declined 30% since the pandemic began and the increases seen in the market are almost exclusively being seen by larger corporate processors, many of which are selling synthetic cannabinoids derived from hemp. The saturation of the market by super cheap synthesized THC appears to be the last straw that will break the camel's back of Washington State's hard working independent cannabis businesses.

These products are not being labeled as synthetically derived. They present a safety hazard to the public with undisclosed processes. And, there are potentially dangerous, containing unknown and untested for byproducts and residues. It is entering the market illegally via a loophole in the hemp and marijuana rule.

We've spent hundreds of thousands of dollars a year on compliance and regulatory costs to grow THC. Delta-9 THC can now be created hundreds of pounds at a time by a simple synthetic reaction, where the precursor molecule is hemp CBD, which incurs one of the compliance and regulation expenses of traditional THC production. The farm bill that legalized hemp did not intend for CBD to be used to create THC. It is unethical for consumers and it creates an unfair business environment for the rule following I-502 licensees.

And one last thing, another topic. Thanks for taking action on the vitamin E acetate situation. The Board should be aware that there is another dilutant called [indistinct] which has been linked to baby illness in Oregon. And Oregon has already taken action on that substance and banned it. The Board of Directors should take emergency action to ban [indistinct] and other novel dilutants that are not proven safe. And because these things keep popping up, it's like a whack-a-mole situation. So, probably a blanket ban on dilutants, unless it's one that's known to be safe, probably [indistinct] which I do not agree with but it is what they use in E cigarettes. And so it's proven safe and so maybe that should be the only allowed dilutant. I don't know what the answer is but there are a lot of potentials for more dangerous chemicals to pop up. Thank you.

Chair Postman: Thank you. Appreciate that heads up. Next on our list is Shawn DeNae.

Shawn DeNae – Washington Bud Company

I'm concerned about the process of the hemp-derived THC that's coming into the market. And I've heard that the LCB's hands are tied about emergency rules on this because we haven't had any health scares that we know of. But I'd really like to pose to you that the health of the industry is at stake here. And I think that's, if not as important, it certainly is greatly important.

It feels like bringing THC from unregulated hemp into our highly regulated market is shooting holes in our boats. So other than a high tide raising all boats, we've got low tide coming in that's just going to sink us. And so it's up to our regulatory body, that is you guys, to control this. Because as the rulemaking drags on and we're waiting for possible legislation, the companies that are doing this are continuing to gain market share. And so, there's holes in the boat and we need you guys to patch them quick. Thank you.

Chair Postman: Thank you. Quick reminder for people to leave their cameras off unless they're commenting. Next up is Charles Ijadi, a medical marijuana. Charles?

Charles Ijadi – Medical Marijuana Patient

I'm Chuck Ijadi. I am a medical marijuana patient and have been for the last 20 some odd years. I also was a 502 qualified medical marijuana consultant, which I gave up, in part because of the lack of ability to explore the science with patients because of the restrictions that the LCB has put in. I applaud you for your trials.

I'm here to comment on the fact that we cannot allow THC derived from CBDs into our community. There are terrible side effects that are not being disclosed. It is driving the price down of cannabis, which is detrimental to our craft producers. And it's just not really -- you guys have taken so much effort to regulate us -- some things I agree with, some things I do not. But this is something that you need to get a handle on as quickly as possible.

On a slightly unrelated topic, you guys really have screwed the medical marijuana patients. I have been a patient for 20 years, licensed with a letter of recommendation from my neurologist for 20 years, not a naturopath. And a 37% tax on disabled people who live on a fixed income as I do is just ridiculous. I'm lucky enough that I am able to grow my own. And I do. But for those that are on disability, 37% is just too much. I agree that there should be something for administrative purposes. But if a registered patient is in the system, they shouldn't be paying 37% because that really is medicine. And I don't know about you, I don't pay for penicillin. I also don't pay for a prescription, which is one of the reasons I don't think naturopaths should be allowed because many of them are selling prescriptions. I've also been an activist for 20 some odd years on the [indistinct]. And I'm also active in the Covington City Council.

Mr. Dickson: Chuck, you have 30 seconds.

Mr. Ijadi: Okay, that's all I wanted to say. Thank you very, very much for trying your best.

Chair Postman: Great, thank you. I appreciate that. Thanks for your comments. Next up is Scott Berka.

Scott Berka – BroCo Investments

I want to thank everyone for taking time out of their days to testify today. My name is Scott Berka. I'm a WSIA (Washington Sungrowers Industry Association) member and owner of three 502 producer processor licenses in Okanogan, Washington. Our farm complex is made up of Tier II and Tier III licenses. We consider ourselves a small craft producer that employs an organic growing regime that produces some of the finest and safest grown cannabis flower in Washington. We've been working in the 502 marketplace since its inception, with one of our licenses being one of the initial 100 producers approved to operate in the state.

By definition I'm a stakeholder in the 502 regulated cannabis marketplace in Washington State. By definition, the Liquor and Cannabis Board is the state agency tasked with regulating this highly regulated marketplace. Notice hemp is not mentioned anywhere. Because it has no business in our business. By definition of state law, synthesized THC is illegal to sell in the 502 stores. Why are we even having this discussion? Kathy Hoffman's April 28 policy statement clearly said that delta-8 THC as well as derivatives, extracts, cannabinoids, isomers, and CBD isolate from hemp may not be produced or processed in LCB facilities and may not be sold in licensed marijuana retail stores.

Why am I here today? As a craft cannabis producer, we want the ability to select only our best material to be sold in 502 stores, which means the remaining material will be considered wholesale cannabis material deemed not for retail package sale. As such, we have relied on our wholesale processor partners protected and governed by state law to sell that material to year after a year, which accounts for about 30 to 40% of our overall annual revenue. That wholesale marketplace is under assault and is being saturated with illegal foreign material not being produced in the licensed and regulated 502 producer space, which is a clear violation of Washington State law. This has resulted in the near elimination of wholesale sales opportunities and/or forced the sale of material well below the cost to produce it. As a result, we have been forced to cut staff, limit the hours of operation, and begun to fall behind on monthly expenses and are becoming even more concerned about making future payment commitments if this continues.

But the people being affected by this continued lack of enforcement of state laws the most as it relates to synthesize cannabis material --

Mr. Dickson: Scott, you have 30 seconds.

Mr. Berka: -- are our staff and their families. I'm here fighting for their livelihoods, for their paychecks, for their jobs.

These violators should have been immediately sanctioned and punished by the penalty structure outline in WAC 314-55-509. This is not the Liquor, Cannabis, and Hemp Board. The time to act was months ago but I'll be satisfied with right now please. Thank you very much for your time today.

Chair Postman: Thank you. Another quick reminder to turn your cameras off. We have about 100 people online so everybody can't be on camera. So we've just asked all members of the public to keep their camera off unless they're commenting to the Board. We appreciate that. Thank you, Scott. Next up is Steven Walzer.

Mr. Dickson: Good morning, Chair. This is Dustin. Steven Walzer registered to speak but I don't see him online.

Chair Postman: Okay. Next up then is Jessica Straight.

#### Jessica Straight – Eagle Trees

My name is Jesse Straight. And together with my brother Kenny we own and operate Eagle Trees, which is a Tier II producer processor up halfway between Bellingham and Mount Baker.

We've been licensed since 2016 and we grow sun grown cannabis with regenerative farming techniques and we don't use any chemicals at all. We create all of our own compost. I mean, it's pretty much the most pure cannabis that you could ever get. Many of our varieties are DOH (Department of Health)

certified. To get that you have to just go through all these hoops and pay a bunch of money, which we have done just to prove that all of our products are DOH compliant. Maybe some of them aren't -- we just haven't paid the money to get some of our strains certified.

What I want to talk about today is the system itself. Our very first season, we had half of our canopy in CBD because we knew that it was going to be a big deal. CBD was going to be a big deal. By the second season I think, you all had already allowed foreign non-502 grown CBD into the marketplace. Why? There was a thousand farms waiting to create this product that people wanted. There was no reason to do that. We are only allowed to sell our product to shops. And we have only ever sold our products to shops. And that is a very difficult thing, especially if you're a sun grown high quality type of farm because a lot of shops have this in their head that high quality and sun grown don't go together. It's a real uphill battle for us. But now with the hemp being able to be brought in, now the processors have come up with some kind of situation where they can transfer it into actually delta-8 and delta-9.

So, the original sin was allowing the CBD to come in from a non-502 farm in the very beginning. I know that's probably going to be real difficult, but you know what? You can get CBD at the gas station, at the supermarket. You can get CBD anywhere. Why do we allow it into our regulated market? It doesn't make any sense to me whatsoever. The stuff we're creating is not Chinese isolate. Its soil grown, beautiful, CBD that is going to work a lot better than all this isolate coming from China.

Mr. Dickson: Jess, you have 30 seconds.

Ms. Straight: Alright. The other thing that I really wanted to talk about is allowing the children back into the -- I heard just now actually that the kids aren't going to be allowed in the compound after the end of this month. Have there been any problems? Really? I mean, my kids are grade school age and it's really helpful for me to be able to bring them in even just to eat lunch.

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

Ms. Straight: Alright. Please, please help us out here. We're kind of suffering. Thank you.

Chair Postman: Thank you. Appreciate that. Next on the list is Kent Haehl from the Atlas Group.

#### Kent Haehl – Atlas Group

Alright, thank you so much. Appreciate the opportunity to give public comment today. My name is Kent Haehl. I'm testifying as president of Washington based Atlas Group. Our company is a supply chain partner. We produce vape carts and terpenes for legal cannabis processors nationwide.

I'm testifying today to urge you to include all forms of THC derived from the cannabis plant in our state's regulated marketplace. In Washington, as in other states, we're seeing waves of innovation that will continue to offer adult users and patients a greater choice.

I'd also like to provide you greater context from our perspective for your rulemaking. I've heard others testify that Washington is experiencing record low prices in the THC oil market. An analysis of market trends as well as the state's own traceability system shows that this issue is real and driven by an oversupply of cannabis biomass grown inside I-502 for extraction. So how did we get here?

Cannabis businesses were deemed essential during the 2020 pandemic and remained open. Stimulus checks resulted in significant increases in sales. To supply the increased demand, producers maxed out canopy and many farmers increased their use of auto flower, an innovation of outdoor cannabis production enabling a second or even a third harvest. In September 2020, when stimulus checks stopped, retail demand pulled back, but it was too late for outdoor farmers to adjust. The auto flower yield was already in market and the second was growing. The result: a substantial oversupply of cannabis in relation to actual demand.

Unfortunately, 2021 is going to be even worse. And those who have doubled down again on additional outdoor harvest know it. Projections for the outdoor harvest alone in 2020 are expected to be over 500,000 pounds, more than the current market demand requires. And this bumper crop of auto flower will be on top of the surplus of products still available from the 2020 harvest.

To solve this issue, we need to be honest about what the root cause of the issue is. And hemp-derived THC is not the problem. In Washington's regulated market, hemp derived THC accounts for, at most, 200 liters of distilled oil per month, or eight to ten percent of the market's current demand.

Mr. Dickson: Kent, you have 30 seconds.

Mr. Haehl: And the oversupply problem is far greater than that. It's clearly not caused by hemp-derived THC. This is an issue and we need to work together in industry to solve it. But, we need to be honest about what the issue is or we're not going to be able to fix it. Thank you very much for the opportunity to speak today.

Chair Postman: Great. Thank you for joining us today. Appreciate that. Next up is Brian Wilson.

Mr. Dickson: Chair, Brian Wilson just messaged me and asked to be removed from the list today. He's not going to testify.

David Postman: Okay. We'll move to Jeff Newton.

Jeff Newton – Citizen

Yes, good morning, Chair and the Board of the LCB. I spoke at the last meeting and my stance hasn't changed much other than I would like to thank the Board for changing the rule on research into synthetic THC to be included with other compounds. But, I think the way that the synthetic THC is impacting the extract market, and therefore the biomass market for product that isn't baggable and sellable in stores, just as Scott Berka had referred to, is a real issue. And I really fail to understand why it's allowed into the state. We are a highly regulated market and we're allowing a compound that is not regulated, hardly at all, by the LCB it's not regulated.

In a retail shop, you can't even sell a shirt or a hat or anything that has the name of the shop on it or anything that isn't paraphernalia or cannabis related. So to allow a compound in from the hemp market that's completely going to decimate our extraction market, I don't understand why that would be allowed when we're not even allowed to sell a T-shirt in a retail store.

So, I do thank you for the step you took today. But I would like to see immediate action, an emergency rule, to stop the sale or distribution of synthetic THC within the 502 to market. Thank you.

Chair Postman: Thank you. Next on the sign up list, Dave Varshock.

Dave Varshock – BroCo Investments

First, thank you very much for taking the time to hear us today. I want to agree explicitly with Jade Stefano and Shawn.

Shawn brought up something that's very relevant and could be a key to you guys having some emergency rulemaking authority here and that's the health of the industry. If the health of the general public is important then the health of the industry as we support the general public and provide to them should be equally so. I know the amount of people that I simply had to lay off. It breaks my heart. They still have full time bills now but they don't have full time jobs.

So three points today, consumer safety is the first one. And I'm pretty sure that's the top of your guys' list. Right now we have pretty much zero idea, none, nada, zilch as to what is left over from this stuff when they do this acid bath conversion they're doing to CBD to turn it into THC.

Second, the importance of consumer confidence in our industry. Everything that's been fought for, worked for, strived for in the industry in this state is at stake here. You erode consumer confidence, you get rid of that, and the industry falls. It's gone. Back to black market days, buying weed down at the corner.

Third and probably where I'm coming from the most today and why I'm sitting here vibrating talking to you guys, is the revenue losses for the farmers, the processors, and ultimately the state and tax revenue. They haven't seen it yet but they will when producers and processors start to fall and go out of business because of this. But we hear revenue losses for farmers all the time. You hear about farmers losing revenue because it's a labor of love that we do this.

The jobs for the people that are costing right now, man, are very real. People are out of work. And they need to be able to rely on the regulators that regulate this industry to offer some protection to the people that provide them jobs. And right now I don't see that happening. I really don't. So, my support to everybody who's taken their time to speak today. And I just really encourage you guys to find a mechanism that you can use some emergency rulemaking authority to get this done because we all need some help. Thanks.

Chair Postman: Thank you. Next up is Monica Martinez.

Monica Martinez – The Calyx Co.

Good morning, Chair Postman and the Board. My name is Monica Martinez and I am one of the owners of a Tier II outdoor farm located in Prosser. This is the third Board meeting I have come to speak about the effects that synthetically derived THC from hemp and its effects on our industry.

My farm in particular, has barely sold any flower this year despite having dropped our prices to the lowest they have ever been. And we still cannot sell our flower. It has been estimated that at least 40,000 pounds of hemp derived synthetic, delta-8 and delta-9, have come into the I-502 system. I'm sure that number is even higher by now. That is enough to replace at least 100 small farms that are currently operating in the regulated I-502 industry. Many of these farms started with minimal money and with no capital or access to banking like an operating fund. They will soon be out of business if they are not

already. The remaining farms may have some funds to keep going for a while but there is not one cannabis high THC I-502 farm that can compete with the prices of synthetic hemp derived THC. Not one.

Synthetic high THC derived from hemp has infiltrated every aspect of I-502, from concentrates and edibles to delta88 infused hemp flower for smoking. The importation, processing, and sale of synthetically derived high THC products from hemp is illegal and unfair business practice and must be stopped immediately. Hundreds of farms will not be able to recover from the damage that has already been done, including mine. What are hundreds of farmers going to do with their products with absolutely no legal place to sell it?

I completely understand that there is a process. However, certain situations deserve emergency action and this is one of them, especially since the CR 101 concerning synthetically derived delta-8 and delta-9 from hemp must be refiled. I am urging the Washington State Liquor Control Board to immediately implement emergency rules to remove all high THC derived from hemp from the retail shelves and stop the importation, processing, and sale of any high THC synthetically hemp derived products from I-502. The situation we are in now is creating an atmosphere of noncompliance, impossible product diversion into the illicit, unregulated market, creating yet another public health and safety issue among the many other concerns already around hemp synthetically derived high THC products. Hemp does not have a place in the regulated high THC cannabis market.

If I have a little time, on one other note, I would like to urge the Board to also permanently extend the ability of minors into cannabis farms. Thank you for your time.

Chair Postman: Thank you. Appreciate the comments. Next up is Blade Bolden.

#### Blade Bolden – Unicorn

Hello and thank you for the opportunity to participate. My name is Blade Bolden. I'm a proud resident of Southwest Washington. I've worked in the legal cannabis industry here in Washington for several years and currently work at an I-502 licensed processor in Pacific County, where I serve as a production and product development manager.

I'm testifying today in support of the Liquor and Cannabis Board including all forms of THC derived from the cannabis plant within our state's regulatory framework for the legal cannabis marketplace. My background is primarily in I-502 processing and in product testing so I will focus my comments on my perspective as a professional in those areas.

In our company, we employ proprietary technology to safely and efficiently process hemp-derived THC that we then sell to fellow I-502 license holders. Before I describe what our process is, I would like to first clarify what it is not. We do not manufacture synthetic cannabinoids, such as K2 or Spice. Those are artificial molecules designed to both mimic the effects of THC and also evade law enforcement detection and drug tests. Those are different molecules entirely and they're dangerous. They're illegal and they have zero relationship with anything that is sourced from a cannabis plant.

In contrast to criminals cooking up chemicals to sell on the internet and elsewhere, we produce a safe tested legal and quality controlled product derived from the cannabis plant. We start with near 100% pure CBD isolate sourced from hemp grown by farmers in the Pacific Northwest. I'd like to give you a snapshot of our process.



The hemp processors provide certified test results for the CBD isolate which is tested for pesticides, heavy metals, potency, and residual solvents prior to purchasing. The CBD isolate is then entered into Washington's traceability system during intake, labeled with an inventory ID number, and follows all requirements within WAC 314-55-109. Then this hemp-derived CBD isolate is again sent out for quality assurance testing, this time by Washington State certified analytical testing laboratories. The material is kept under quarantine until it successfully passes all tests, per WAC 314-55-109. Compliance requires testing for pesticides, heavy metals, potency, residual solvent, mycotoxins, and micro biologicals. We leverage propriety technology --

Mr. Dickson: Blade, you have 30 seconds.

Mr. Bolden: -- to convert the CBD into THC products using a process identical to processes long established in the food processing industry that are safe and efficient, resulting in clean THC product. This completed THC distillate sample is then sent out for analysis again, including another pesticide test.

As a professional with an extensive background in product testing, I do not believe that all technologies are safe. But to the contrary --

Mr. Dickson: Blade, that is your time.

Mr. Bolden: -- processing sector processing cannabis for adult consumption should be subject to strict oversight and regulations so that consumer safety is protected. Thank you for your time.

Chair Postman: Thank you. Next step is Jeff Merryman.

Jeff Merryman – Citizen

My name is Jeff Merryman. I'm a producer/processor here in South Thurston County.

Seems like everyone wants to really talk about how the synthetic THC is affecting our market, which it is. I mean, it's unfair competition. We shouldn't be allowing anything, including CBD from an outside market into our market that we pay quite dearly to participate in. But, I do want to applaud the Board for making a black market stronger than ever before, because your guys' regulations is pushing more stuff out the back door of farms and creating a black market that has a safer product than our regulatory market. So I do want to applaud the Board on doing that for our industry.

The other part is kids on our farms. We've shown that that can be done No harm comes to our kids or anything like that. I personally like it because it exposes my child to farming. And the types of farming I do help generations in the future. I just ask the Board to consider keeping the rule on the books for kids on farms. And to please look at our regulatory system that we all pay dearly to participate in, but we are being railroaded by the agency that's supposed to look out for our best interest. That's all I have to say.

Chair Postman: Next up, Dion Walter.

Dion Walter – Praxis Holdings

Good morning, Chair Postman and members of the Board. My name is Dion Walter. I'm the owner of Praxis Holdings, a Tier III outdoor producer located in Okanogan.

I'm adding my voice today to those requesting immediate, and ideally, emergency action to remove synthetic THC products from the production in retail stores in Washington. As a 502 business contributing to Washington for many years now, this is particularly important to me as synthetics violate the spirit of 502 and represent unfair competition in the market, ostensibly not held to the same standards and costs that I am as a producer and contributing farmer for many years.

I just want to thank you for this opportunity. And again, I would hope the Board earnestly considers my remarks and others before me. This concludes my statement.

Chair Postman: Thank you. Appreciate that. Next is Taylor Balduff from Forbidden Farms.

Taylor Balduff – Forbidden Farms

So, just want to say good morning and thank you to everybody from the Liquor and Cannabis Board and allowing me to speak today.

I ask for the Board's careful consideration on the synthetic THC that's being pumped into our system. Contrary to other comments made, it is greatly affecting this industry and affecting the livelihood of everybody that's worked so hard in this industry. I'm not going to sit here and say the same things that you guys have heard over and over and over. I please ask for an immediate change to the rules and enforcement to remove this. Thank you very much, guys.

Chair Postman: Thank you. Next –up is Crystal Oliver.

Crystal Oliver – Washington Sungrowers Industry Association

Good morning Chair Postman and members of the Board. For the record, Crystal Oliver, Executive Director for the Washington Sungrowers Industry Association, representing the hardest working folks in the industry, our sun and craft growers. We represent more than 50 businesses who hold more than 100 LCB licenses. Today we have two requests of the LCB and Board.

Firstly, we want to again urge the LCB to take immediate action to enforce the laws and rules of the state and stop the unfair and illegal manufacturing, importation, and sale of chemically synthesized THC to an unknowing public. There was comment that it's the auto flowers that are impacting the market. It's simply not true. I've analyzed the data and at least one of these companies that selling these chemically synthesized THC is responsible for displacement of at least 29,000 pounds of biomass. So, that's 29,000 pounds of marijuana that was not bought from a Washington farmer. Instead it was made from a CBD that's been chemically synthesized and sold to a customer who has no idea what they're consuming. An average farm will grow 2,000 to 3,000 pounds in a season. That's significant. We're talking one business doing this is enough to put 10 small businesses out of business. And I don't know if you guys have ever looked an employee in the eye when you've done mass layoffs. It is a difficult thing to do. And that is what you are forcing the farmers of this state to do right now in favor of allowing these chemically synthesized THC cannabinoids to be continued to be sold to an unknowing public.

The absence of enforcement is having a significant impact. It has already contributed to millions of dollars of lost revenue for our farmers, processors, and the citizens of Washington State due to decreased tax revenue. We have already seen impacts to tax revenue and those impacts will continue to grow. With COVID recovery, we could have invested that tax revenue in such better things than lining the pockets of millionaires who want to sell the public synthetic THC.

Blade described a process to you. He described a process to you where he takes CBD, puts it in a product to increase the THC. The RCW is clear. CBD can be added to a product to increase the cannabidiol content only. If you are adding CBD to increase the THC, you are clearly violating the law. We need you to enforce that law.

Mr. Dickson: Crystal, you have 30 seconds.

Ms. Oliver: And secondly, I do want to request that the LCB extend and permanently implement the allowance for licensee children and grandchildren to be present on premises for producers and processors. I sent a note kind of explaining some of the impacts we're seeing. COVID-19 impacts have continued in our rural communities. Those impacts have not ended. There are childcare facilities that are still permanently closed. Many are full, at capacity, have no current openings. We have farmers who have lost grandparents and family members to COVID --

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

Ms. Oliver: -- who had provided a care. Please see that email for additional details on that. But it's something we need to do to improve the equity of our industry. Thank you.

Chair Postman: Next up is Chuck O'Brien.

Charles O'Brien – Canna-Med

My name is Charles O'Brien. Good morning, Chairman and the Board. I have a Tier III producer processor license. And much of what I have to say is just reiterating what other folks have said on this call. This is the first time for me participating on one of these meetings.

One thing that hasn't been brought up is, marijuana is not federally legal. It seems to me that this is in violation of commerce. If you bring across material that's being turned into THC or possibly being turned into THC even outside the state. So that seems to be a concern.

The other issue I haven't heard folks talk about is it seems to be very parallel to the issue that we had with vapes. We don't know what's going into this stuff. And we just had this issue with vapes. We had to shut down the whole vape industry there for a period of time and determine what is in it, and then carefully reopen it. And so there seems to be a parallel here.

Other than that, of course, there's the unfair practice. There's the WACs own regulations that say that synthetic THC is deceptive and is unfair. I'm simply asking you to enforce your own regulations.

So yeah, basically I'm just reiterating so I don't want to do that. I don't want to take your time to reiterate what other folks have said. But I do agree with what the other farmers are saying. So I appreciate your time. Thank you for listening.

Chair Postman: Thank you very much. Appreciate that. Next up Jeremy Moberg.

Jeremy Moberg – Cannasol

Thank you for your time, Board Postman and the rest of the Board. For the record, my name is Jeremy Moberg. I'm the owner of Cannasol Farms.

Today I provide comment to the LCB to enter into the record how it came about that the LCB, through inaction, has chosen to protect the interests of non-licensed entities and to turn their backs on the farmers that have up until now been the backbone of this industry. It is with frustration and bewilderment that I trace the history of how we came to the point that the interests of a few wealthy non licensed players trump those that have played by the rules.

The WSIA first brought synthetic THC to the attention of the LCB all the way back in November. After month of deliberating, on April 28, the LCB issued a notice of adoption of policies statement citing the laws and rules that would prohibit the synthetic conversion of CBD into THC and allowed in the market. In this statement, Kathy Hoffman under the section title authority and analysis cites the State Controlled Substances Act RCW 69.50.204. This RCW clearly gives the LCB the authority to regulate THC and all of its isomers. She goes on to reference RCW 69.50.455, which describes "synthetic cannabinoids in relation to unfair or deceptive practices under RCW 19.86.020 as follows: one, it is unfair or deceptive practice for any person or entity to distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell to a person any product contains any amount of any synthetic cannabinoid. The legislature finds that practices covered by this section are matters vitally affecting public interest for the purpose of applying the Consumer Protection Act." This is the statement of the LCB. This is the LCBs interpretation of the rule. We do not need emergency rulemaking in order to solve this problem. We just need action.

She goes on to cite the rule that limits the addition of CBD to product as an additive for the purposes of increasing CBD content. She writes, "The agency interprets this to mean that CBD, regardless of origin may not enter the I-502 system by any means other than as an additive to a product that is approved for sale within the system. This precludes turning it into synthetic THC and adding it."

The LCB has done its job and for a minute it appeared that these unfair and deceptive practices were going to be stopped. But then came the clarification statement days later, which effectively reversed this clear statements that synthetic THC was illegal and a deceptive business practice and threw the issue into limbo and called for rulemaking effectively delaying any resolution.

So what happened? Well, the interest behind synthetics hired lobbyists and got to work. They post nonsensical interpretation of the law.

Mr. Dickson: Jeremy, you have 30 seconds.

Mr. Moberg: -- definition of synthetic, claiming that they aren't like K2 or Spice. Of course, we all know these are artificial [indistinct] legal opinion, how converting it into THC is an additive. It's laughable. It's absurd. But it worked. Because putting money into politics can change the conversation even at the level of the LCB. And it should be protected for some influences. It's not the kind of corruption that we think of in movies. It's a kind of corruption that sways government agencies away from the clear facts that they worked hard to establish and throw enough doubt amongst --

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

Mr. Moberg: -- regulators to not act in such a clear violation of rule. In closing, the LCB --

Mr. Dickson: Jeremy, that is your time.

Mr. Postman: That's your time.

Mr. Moberg: Well, I wish we would have had the full four minutes. People prepared for four minutes and I think these issues need to be heard. Thank you for your time.

Chair Postman: Next up is Matt Taylor.

Mr. Dickson: Chair, Matt Taylor messaged me. He was having some technical issues and will be unable to testify today.

Chair Postman: Okay. Then next up from Lazy Bee Gardens, Matt Frigone.

Matt Frigone – Lazy Bee Gardens

I'd like to start by thanking the Board for having this opportunity for us to speak to you guys on these particular subjects. I'm the owner again of Lazy Bee Gardens. We started in 2015. We're a Tier III producer/processor in Winthrop, Washington. We focus mostly on craft growing.

Much of the same of what a lot of others are bringing up, I would like to talk about this synthetic THC issue. I think it's actually dishonest for anyone to say that it's not a problem in the industry. We all know what we have to deal with. We have to individually tag every single plant with a 16-digit barcode. We have to have cameras all over our pins. We have to have heavy loads of insurance. We have to have eight foot fences. We have to have all sorts of regulations that are not required of the CBD market. So to allow that then into our market is kind of a slap in the face. And I don't know how anyone can see it as a fair practice.

We want to say there is an issue with auto flower being grown a lot, but to say that the importation of CBD and being synthesized into THC is not affecting our market I think is not true. While it may not affect every individual farm, I know a lot of farms personally that operate specifically on the wholesale side. And so their hope is to be able to sell their product to an extractor. Now when CBD is being imported from God knows where with zero regulations on the pesticides and on the approved list of even fertilizers that are allowed to be used, it's going to make its way in our market and there's no way for us to actually compete with that.

I think the Liquor Control Board has an obligation to, as Jeremy said, either enforce the rules that are already on the books or start an emergency declaration of some sort. But something has to be done to protect the farms. The farmers, they work really hard and I think they deserve a fair shot in this industry and letting people undercut them with CBD hemp just seems like it's an unfair advantage to the other side.

That's all I really have to say. I appreciate your time. And I appreciate you guys letting me speak my piece here. Thank you.

Chair Postman: Absolutely appreciate you making time to share your comments. Brandy Heinrich.

Mr. Dickson: Chair, Brandy registered to speak but is not online today.

Chair Postman: Okay, how about Jason Poll? Jason?

Jason Poll – Gorge Gold

Hello. I just want to back up what everyone's already saying, and just point out that we need to be careful with this artificial and synthetic. We're losing some confidence with the marketplace. I really appreciate you guys taking the time to listen to us all and put this thing together because I think that we are moving in the right direction. I know there's a lot of people (registered) so that's all I have to say for today. Thank you for the time.

Chair Postman: Great Thanks, Jason. Jim MacRae? Jim, we'll try you again in a moment and see if you are able to connect. We'll move to Galadriel Walser from Buddy Boy Farms.

Galadriel Walser – Buddy Boy Farms

Galadriel Walser from Buddy Boy Farms. We're a Tier III over here in Eastern Washington. We've been licensed since 2014.

We just want to echo the sentiments of most everybody else here of the fact that allowing these synthetic cannabinoids into the market has severely limited our ability to sell our trim, like everybody else. Saying that bringing that in isn't affecting sales is just untrue. It's affecting sales from everyone we know, every farm we know. It's affecting our sales.

It's also driving the price down significantly. And we've spent so long building this business to then have someone be able to grow thousands of acres of hemp and then bring it into the market is just such an unfair advantage. We own 640 acres and basically you guys are telling us we'd be better off going outside growing hemp and stopping this business altogether. That's probably not the message that we want to have out there to everybody, especially those of us that have worked so hard to do this legally and do it within the rules that you guys have defined.

One of the gentlemen had mentioned that they test all this product that they're bringing in. While they may, they're unregulated. So how do we know others are? We don't know everybody's doing that. And I think that's great that they say they are but again, they're unregulated. We have to prove that we've had product tested. They don't. Again, highly unfair and the amount that we have to spend on testing.

I think that's pretty much all I have to say other than we also would really appreciate if you guys would let kids stay in the grow. It has definitely helped us this summer also with our children and it would continue to help. So I appreciate your time. Thank you.

Chair Postman: Great. Thank you for your comments today. Let me double check for Jim MacRae.

Jim MacRae – Straightline Analytics

Thank you very much, Chair Postman, Board members and staff. Appreciate the opportunity to talk. I'll try to be brief.

First of all, thank you to all involved on your end for closing up that leakage of information relating to the medical cooperative grows. I very much appreciate that. And I'm sure that the potentially affected individuals do as well.

I didn't want to speak about this stuff affecting the market that everybody's talking about today, but I will briefly promote a different perspective, one of a potential consumer of regulated cannabis. And I underscore potential. Right now, if I chose to consume cannabis in the state of Washington, to be quite frank, and it's not just this issue, it's sort of a culmination of many things, this being one of them, I would not choose regulated cannabis as my source. Nor would I recommend, right now, my friends to do the same. There are better places to get it. There are places I trust more. There are certainly some regulated growers and processors that I trust very much. But I don't see anything that indicates that your agency has any regard whatsoever for the differentiation between what I as a consumer would consider to be a good player and a bad player.

So to that end, Crystal mentioned, looking at some data and chasing some things down. I would really suggest to the agency that they might want to do the same thing. Without naming names, at least one player has been suggested as being involved in some of this importation/conversion stuff. Why don't you just take a look at the downstream people that are buying their intermediate products and putting it into things out there. I have done that. And I'm not publishing names because I don't want to get a lawsuit against me. But to be quite frank, it turned my stomach and that's what turned me off of product. It's not just oil, it's not just vape carts, edibles. Some of the big producers are buying from these folks. Your mom doing an edible could be eating this stuff. Doesn't mean it's bad, doesn't mean it's going to hurt them. But it certainly is not supporting the industry and the 1,000s of licensees, the majority of them, that you're responsible for overseeing, your agency.

So what I wanted to talk about was criminal history reports. The thing you're doing that's great through the rulemaking. I want to point one thing out. I made a request 3.5 years ago today, to the day, to list the criminal history reports associated with every retail license that existed at the time.

Mr. Dickson: Jim, you have 30 seconds.

Mr. MacRae: Thank you – or that was in process.

I got a final response, supposedly sometime early this year, late last year that's said "we're done". And 14.7% of the licensees, there were zero criminal history reports associated with. So we're going back and forth and to the credit of staff, they're trying to chase them down. But don't change the rules when there's a real chance the agency is lacking criminal history reports for a number of existing licensees. Please, please get that right before you change a rule --

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

Chair Postman: Thank you. I'll ask about that. Appreciate the comments, Jim.

Dustin, that's what I had on my list. Do you have anything else?

Mr. Dickson: Nothing additional. I went back and checked and the couple folks that had registered that weren't online still are not online. So, that should conclude the list for today.

Chair Postman: Okay, I thought I just somebody popped up there who was on the list, but apparently not. Then we will end the public comment period. I'll just pause for a second to see if either Board member Garrett are Hauge have anything they want to add before we adjourn.

Mr. Dickson: Chair. Josh Rutherford has come online.

Mr. Postman: Okay. I thought I saw your name pop up. Joshua Rutherford, if you want to have your three minutes now, please go ahead.

Josh Rutherford – Darling Growers

Thank you guys. I'm a Tier II producer processor and I'm probably one of the smallest operations that we have going on. I do everything myself until this year. I was able to bring two guys on.

I'm well known in the national community. I put on a regenerative conference and I teach over 2,000 growers, experienced 10, 15, 30-year growers how to grow regeneratively. And I'm well known in the community and respected for what I do. And I've had to pivot into education outside of the system because my struggles in my 502 business.

I used to be really successful in the medical business. I served 24 stores making a great range of products. I obviously don't think that having this stuff is good in the system. I agree with most of the comments. I really agree with what Jeremy Moberg was saying that we already have rules and we need those enforced essentially. What I would ask is that the LCB work with us to loosen the rules that we have so that we can compete as we look forward to national changes and these things coming ahead.

The things that are really hindering us are the cameras, the traceability is too hard, we can't have our children in. I have to take care of my son Thursdays and Fridays. And now I have a six month old so two kids. It messes my family up for us to not have this. If we could have work there, we could create a truly craft market, where we are producing things and we could have direct farm sales. And we could create a scenario where people want to come to Washington to smoke our weed.

I'm a breeder. I breed cannabis. I'm putting my whole life into this, whether I have a 502 license or whether I operate under hemp, this is what I do, because I'm passionate about it.

I also have a hemp license. And I also bring that hemp CBD into my 502. And I've sold it in RSO. And mixed in just like the rule allows for. And I think it's a wonderful thing. It's tested, it's growing regeneratively on my farm the same way I do, the rules are a lot less so I can grow more of it and get more into the market. And it's a great thing.

I don't agree with the synthetic (expletive). No one does. We need to have some accountability there. But honestly, I think the real thing that all of us, if you can just hear our hearts, we need some help because the rules are so overbearing. And if we could really have that I think we could do a cool thing in Washington. And I for one have been going through crazy populations of seeds. And I wouldn't give the genetics away to this community to build a scene here, to build support for our Washington --

Mr. Dickson: Josh, you have 30 seconds.



Mr. Rutherford: We're known for apples. We're known for beer. We're known for hops. We're known for wine in the Columbia Valley. And we could do something really cool if we all could work together. And I would love to hop in and be involved in any part of that process. Thank you guys.

Chair Postman: Great, thank you. Appreciate the comments and appreciate the offer of help. Dustin is that it for the list. Anybody else come back in?

Mr. Dickson: That should be the end, yes, Chair.

Chair Postman: The only thing I want to say before we go just because there seems to be continuing misunderstanding about this, a lot of comments today about the LCB not acting. I said on June 23 and I'll say it again, there is an enforcement investigation underway. I can't say more than that. I don't know more than that because the Board members are not allowed by law to know more than that. That's the way it's supposed to work. So we're not sitting on our hands. There is an investigation going on. There's a lot of work going on. The work around the rules is one piece of it. It's a lot. Every meeting that I've had now for weeks, this is the subject of that. Units around the agency are engaging on this, including our legal counsel from the AG's office and others. So it is happening. And we need to let that process happen.

Firm belief of wrongdoing on the part of some growers is not enough for the enforcement team to act, of course. Nobody would want that to be the standard used against them and so we are taking this very seriously. It's taking a lot of our time. And we will continue to do that.

I will just also note that, once again, the Sungrowers found somebody to come and say that the board is corrupt. And that is not the way to find action. I was going to say middle ground. I don't think there's a search for middle ground. But you will not get any faster action by making accusations about the character of the Board members or of the staff, just so you know. You've always got the right to say it but it will not change the approach we take. We respect the process. And I have confidence in our investigative team, our licensing division, our director's office, and our legal counsel, our chemists, and others all who are at the table working on this important issue. And we're going to just keep making sure everybody moves as quickly as they can, do this in a responsible way, do it in a way that it's upheld.

If we take action, it's multipronged. That's why we have rulemaking. That's why we're looking towards the 2022 legislative session. There was a suggestion that it was only on the clarification of our policy statement that suddenly rules were called for. That's not true at all. From the day I got here, we've been talking about the need for an iterative approach that would start with rulemaking, go to the legislature. We have many tools available to us. We're going to look at every one of them. So just trying to keep the record clear.

If anybody feels like they didn't have time for everything they wanted to say to us, you can email us and we'll be sure to read it. We always do. And other than that, we will have other opportunities every other week for continued public comment. So with that, we will adjourn today's board meeting. Thank you all.

## **ADJOURN**

Chair Postman adjourned the meeting at 11:31am.

Minutes approved this 4<sup>th</sup> day of August, 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](http://lcb.wa.gov/boardmeetings/board_meetings)  
For questions about agendas or meeting materials you may email [dustin.dickson@lcb.wa.gov](mailto:dustin.dickson@lcb.wa.gov) or call 360.664.1717*