



## Washington State Liquor and Cannabis Board Meeting

Wednesday, July 21, 2021, 10:00am  
This Meeting was Convened Via Web Conference

### Meeting Minutes

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#### 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 21, 2021. Member Ollie Garrett and Member Russ Hauge were also present.

#### 2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the June 9, 2021, and June 23, 2021, Board meeting minutes.

SECOND: Member Hauge seconded.

ACTION: Chair Postman approved the motion.

Chair Postman: Those are approved. Thank you. We're going to postpone consideration of the July 7, 2021, Board meeting minutes. Those were the really long ones from the other day and we're still getting that ready to go. So we'll put that off until our next Board meeting.

Next up is alcohol related rulemaking timelines. And I'll turn it over to Audrey Vasek, the Policy and Rules Coordinator on the alcohol side.

#### 3. ALCOHOL RELATED RULEMAKING TIMELINES

Presenter – Audrey Vasek, policy and Rules Coordinator

Ms. Vasek: Thank you and good morning, Chair Postman, Board members Garrett and Hauge. I have a few brief updates today on alcohol rulemaking timelines, the same ones I gave during caucus yesterday, but I'll go again for the benefit of the public listening today.

For my first update for the rule project to implement 2021 legislation Engross Second Substitute House Bill 1480 related to the COVID-19 alcohol allowances, the internal rule drafting workgroup has met a total of nine times so far to develop conceptual draft rules. We've completed initial rule drafting work for the three endorsements created by House Bill 1480 for the delivery of manufacturer sealed alcohol products,

cocktails and wine by the glass, and growlers for curbside takeout or delivery. We plan to hold a “listen and learn” session on the conceptual draft rules for these endorsements on August 5 from 1 to 4 pm. GovDelivery messaging on how to join the virtual “listen and learn” forum is scheduled to go out later this week. The internal rule drafting workgroup is still working on developing rules for outdoor alcohol service areas and food service requirements. Our target is to complete those in August and we’ll hold a second “listen and learn” session once those draft conceptual rules are complete. I anticipate preparing a CR 102 package for the Board to consider in late September.

Next for the rule project to create summary suspension and state provisions to enforce Governor's Proclamations, the emergency rules related to this rule project expired as scheduled last Thursday, July 15. I've scheduled internal meetings with staff and Board members this week to discuss options for next steps with the permanent rulemaking project, including whether to withdraw or revise that CR 101. If the decision is to withdraw or revise, I could prepare that for presentation to the Board at the next meeting on August 4.

I also have an update today on a rule project that has been delayed for some time related to alternating proprietorships for distilleries and craft distilleries. For background, this project was initiated by filing a CR 101 in November of 2019 but has been delayed since October of 2020 to allow time to complete the other distillery related rulemaking projects with potential overlap. That was in the project to implement Engrossed Second Substitute Senate Bill 5549 from the 2020 session, as well as the distillery reporting and payment or blue spirits rule projects. So now that those other projects are complete, we're revisiting this alternating proprietorships project. And, I've scheduled internal meetings this week to discuss options for next steps.

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

Chair Postman: I have one for you. The last item, can you give me the brief description of alternating proprietorships? Is that what you said?

Ms. Vasek: Correct, alternating proprietorships. So in this case, it's for distilleries want to use the same manufacturing space but share equipment and use it at different times.

Chair Postman: I see. Okay, got it. Thank you. Appreciate that. I don't see any other questions for you, Ms. Vasek. Thank you.

Ms. Vasek: Thank you very much.

Chair Postman: And we will move to the cannabis side of the house and Kathy Hoffman, the Policy and Rules Manager and Jeff Kildahl, the Policy and Rules Coordinator will take this part.

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

Presenter – Kathy Hoffman, Policy and Rules Manager

Presenter – Jeff Kildahl, Policy and Rules Coordinator

Ms. Hoffman: Good morning and good morning to Board members Garrett and Hauge. I'll provide a brief update on our evaluation of THC compounds rule project and Jeff will pick up the rest.

We had our second “deliberative dialogue” session on cannabis plant chemistry yesterday. And at peak we hosted 132 participants. The session was designed to help us drill down further on understanding cannabinoids based on scientific fact and empirical evidence. It also helped with our understanding of the differences between botanic, synthetic, and artificial cannabinoids and how we might articulate those differences in regulation. I would again like to publicly thank our panelists who give of their time to this effort. That includes Dr. Nephi Stella from UW, Dr. David Gang from WSU, Dr. Brad Douglass from the workshop, and Jessica Tonani of Verde Bio, and that's an agricultural biosciences company.

So, based on the richness of the panel dialogues and the information we've called from them, we are anticipating having a set of draft conceptual rules ready for release towards the end of August, if not sooner. This aligns us for a “listen and learn” session early September and keeps us on a revised timeline, the CR 102 presentation in late September and a hearing in November.

That's the extent of my portion for rule updates today. Any questions that I can answer?

Chair Postman: Seeing none, we will move to Jeff Kildahl then. Thank you.

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

Starting with the cannabis quality control rules and consistent with our last update, we now have completed four internal rule drafting sessions. And we have one more session scheduled this week to continue work on the cannabis quality control rule redesign. We received only one bid concerning our requests for an economist to help with drafting and updated small business economic impact statement. And we met with ORIA (Office for Regulatory Innovation and Assistance) on July 8 to review the bid. We have finalized details of the contract with the vendor and we received the final bid yesterday and we'll review this bid this week.

With respect to criminal history background check redesign, we received a small amount of feedback on the draft conceptual rules shared but no comments have been received to date on the CR 102 we brought to you for approval on July 7. As a reminder, the public hearing on the proposed rules is scheduled for August 18.

And with respect to the permanent rules referencing the State Board of Health, or SBOH, vitamin E acetate prohibition, I will present the CR 103 rule package to you during the next agenda item.

This concludes my update for today. May I answer any questions?

Chair Postman: I don't see any, so why don't we move to the next item, the adoption of the 103?

## **ACTION ITEM (A)**

### **ACTION ITEM 4A - Board Adoption of CR 103 for 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, Chair Postman. This morning I would like to present to you for your approval the CR 103 to adopt the permanent rules that include permanent cross references 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 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 adopted today, the LCB prohibition can be rescinded and the emergency rules currently in effect will be allowed to expire.

For a brief procedural history of this particular rulemaking, we filed a CR 101 for this project on March 31, 2021. The CR 102 was approved and filed on May 26, 2021. And the public hearing on these rules was held on July 7, 2021. No comments have been received on these rules. And the rules before you today for approval have not changed since the original proposal. If approved today for filing, the rules would become effective 31 days from today, on August 21, 2021.

I would ask for your approval to file this CR 103 today. Thank you and may I answer any questions?

Chair Postman: Great. Any questions and if not, is there a motion for approval for Board adoption of the CR 103 for enforcement of the State Board of Health prohibition on vitamin E acetate?

MOTION: Member Hauge moved to adopt the CR 103 for Enforcement of State Board of Health Prohibition of Vitamin E Acetate in WAC 314-55-077 & 079

SECOND: Member Garrett seconded.

ACTION: Chair Postman approved the motion.

Mr. Kildahl: Thank you, Chair.

Chair Postman: Good to see that one across the line. Appreciate that. We now move to general public comment.

## **5. GENERAL PUBLIC COMMENT**

Chair Postman: A couple of reminders. One, this meeting is recorded. It'll be available sometime this afternoon probably on our website. After I call your name, please state your name and affiliation and be mindful of your time. You have four minutes. When you have 30 seconds left, Dustin will politely interrupt and remind you that you have 30 seconds. And it will take us one second to enable your audio and video,

so thanks for your patience on that. We have two people signed up at this point. The first is Micah Sherman.

Micah Sherman – Raven Grass

This is Micah Sherman. I'm one of the owners of Raven. We're a Tier II producer processor here in the Olympia area. I'm happy to be here. And thanks for giving me an opportunity to address you.

Firstly, I just wanted to start out and say that I got a chance to attend the "deliberative dialogue" yesterday that Kathy coordinated and I just wanted to thank her and the agency for putting that on. I thought that was a very informative event and really clarified the situation on all of the matters related to that. So I really appreciated that happening and look forward to seeing I'm sure continued great work from Kathy and her team on that rule project.

The other reason I wanted to talk today is, in my role as one of the Board members of the Washington Sun Growers Industry Association, in the process of becoming the Washington Sun Craft Growers Association, I just wanted to remind the Board and the public that the cannabis industry is still in need of quite a bit of updates and rule and law to make sure that we're all operating in an environment that is going to be able to produce equitable results for everybody in the cannabis supply chain. And just to remind you that 2021 has been a very difficult year for a lot of farmers and continues to be a very difficult year for a lot of farmers. We really do need to start adding some forward thinking conversations about how do we solve that dynamic, and how do we bring relief to farmers throughout the state.

In the past, we've discussed trying to coordinate with the Board to allow some farmers markets in cooperation with existing retail stores and other creative solutions to get different paths to market for small farmers. And I want to continue to ask that that sort of work get talked about and continue to be discussed and find avenues for us to solve the issue of what's going on for farmers because we're losing a lot more people. A lot of people can't afford to plant their fields. A lot of people are struggling to get by. And a big reason that's happening is because we've got some structural issues that are built into the marketplace and they're not going to go away unless we address them.

So, by continuing to have things move forward in the same structure that they are, we're selecting outcomes for the industry that I don't think was the intention of the original initiative. And I don't think it's been the intention of laws that have been passed by the legislature since then that have really tried to focus on equity and inclusion. And, I don't think that we're taking active steps to move in that direction. I'd really like to encourage us all to think about how do we embrace the spirit of those bills that were passed for equity in the cannabis industry --

Mr. Dickson: Micah, you have 30 seconds.

Mr. Sherman: -- while the work of the social equity -- thanks -- while the work of the social equity taskforce continues. What can we do in the interim to make sure that when that work is complete, we have an industry that can support successful farmers. Because we're going to be needed for all of that to be successful. Thank you.

Chair Postman: Great, thank you. Next on the list is Jim MacRae.

Jim MacRae – Straightline Analytics

Good morning. Okay, thank you, I wanted to quickly -- a couple of things. Just a recognition of one of the larger successes of the agency over the past seven years and that really is driving a new source of revenue for the state, incrementing the overall revenue generated by the agency and contributing to the operations of our governance. So thank you for that.

I think that has been done certainly above the expectations of the EFRC and other bodies. Frankly, it falls well below the expectations that I set for the market and my expectations of what the potential of this market is, if indeed, the regulated portion of the cannabis market in this state is able to capture the majority, if not the vast majority of consumers, which I don't think has been the case, when you waited for consumption on a consumer basis. So that has been well done by internal standards. I think it could be improved dramatically.

The two areas where I do believe that could be improved most readily and most rapidly, and in a manner that is most effective for the positive good of the state and the realization of the mission and goals of the agency is to do a better job of ensuring that the products that are moving in the regulated market, consumers can have a reasonable expectation of safety in doing them. Right now, that is simply not the case for a number of reasons. I'm not going to repeat myself on that. I think you're aware of that. Some of them are emerging now, which are really confusing. And I commend you for your efforts to try to deal with those emerging potential threats.

The second one is the medical aspect of cannabis. We had a very functioning green cross system. It was well functioning for the people who actually used it for medicine. It was clearly abused by many. The move to regulation has effectively killed the service that that entity once supplied to the state. We had a great model we had something that served people's needs. It had providers out there. We have the genetic diversity. We had a lot of craft producers, small mom and pop shops, all of them virtually were illegal at the time. Some were accepted by the state but illegal. That's largely gone. It's underground, it's still servicing the needs of many people but those people are all still criminals. I think that's just a shame here seven plus years into legalization or post prohibition, as I prefer to call it.

My focus going forward, it's been on the commercial side of this business, but it really is going to be about consumer protection and trying to revive some functioning medical attributes in the state under the regulated system. You have so much work to go there.

A couple of things along those lines. One is when corruption is actually pointed out in the agency and when it has an evidentiary base, I really do hope that you will act not only on things that you may have heard to date but on the things that will be revealed in the not too distant future.

Secondly, the notion of equitable treatment is not just a race based thing. This agency, just as an editorial observation, has basically acted in a negative discriminatory fashion towards cannabis, relative to how it has regulated tobacco and alcohol for much of the last seven years. It's blatantly obvious in some cases. In others --

Mr. Dickson: Jim, you have 30 seconds.

Mr. MacRae: Thank you, Dustin. -- recognize that it's simply the constraints on the agency. But it is a theme that runs through so much of what you've done and so many of the very poor decisions that have been made and had been perseverated upon.

So to that and one last thing, when you go into attorney/client privilege situations, please remember one thing. I do recognize the reality of your agency. The Attorney General is the attorney of the people of the state of Washington. And the notion of attorney/client privilege in your operations --

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

Mr. MacRae: -- is somewhat offensive to me. Thank you very much. I appreciate all that you do. Best of luck going forward.

Chair Postman: Great, thank you. Appreciate that. Dustin, let me just double check. Did you get any late signups for general public comment?

MR. Dickson: No, Chair. We've got everybody covered.

Chair Postman: Okay, great. Then that brings us to adjournment unless member Hauge or Garrett have anything to add before we adjourn? Seeing none, with that then we will adjourn the Wednesday, July 21, 2021, meeting and thank you all for participating today and we will see you the next time around.

## ADJOURN

Chair Postman adjourned the meeting at 10:24am.

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.

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