



Washington State Liquor and Cannabis Board Meeting

Wednesday, September 1, 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, September, 2021. Member Ollie Garrett and Member Russ Hauge were also present.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the August 18, 2021, Board meeting minutes.

SECOND: Member Garrett seconded.

ACTION: Chair Postman approved the motion.

Chair Postman: Great, thank you, those are approved. We're going to move the agenda around just a little bit here to accommodate some schedules, so the next item we will hear from Audrey Vasek, our Policy and Rules Coordinator for alcohol on alcohol related rulemaking timelines.

3. ALCOHOL RELATED RULEMAKING AND TIMELINES

Presenter – Audrey Vasek, Policy and Rules Coordinator

Ms. Vasek: Thank you. Good morning Chair Postman, Board members Garrett and Hauge. I have a couple of brief updates on our alcohol rulemaking timelines today.

So first for the rule project to implement 2021 legislation, House Bill 1480 related to the COVID-19 alcohol allowances. The internal rule drafting workgroup is nearing completion of its review of the feedback and comments we received at the first “listen and learn” session on August 5 on the alcohol to-go endorsement portion of the rules. We met yesterday to consider revisions to that portion of the rules and a new draft should be ready for review soon. A second “listen and learn” session on the portion of the rules related to outdoor alcohol service areas and food service menu requirements is scheduled for tomorrow, Thursday September 2. Information about the event and how to attend is available on the LCB rules webpage and was sent through GovDelivery subscribers on August 17, as well as a reminder email

earlier this morning. I encourage anyone who's interested in this subject to join the event. We've already received a couple comments related to the second "listen and learn" session through email. And after that session is done, I'll compile all the feedback we've received into a new comment table and the internal work group will meet again to review and consider revisions based on that feedback. Once the draft language is closer to real proposal form, we also plan to survey or interview licensees to gather information to help estimate potential compliance costs of the new rule requirements. This information will help us meet Regulatory Fairness Act requirements as we prepare the CR 102, which I anticipate bringing for the Board to consider in late September or early October.

On the horizon, as I've mentioned previously, I'm also beginning to plan for a new rulemaking project related to axe throwing at liquor license premises and a kickoff meeting with the internal LCB staff on the rule project team is scheduled for next week to begin determining scope of the project, potential timeline and next steps. I anticipate a CR 101 could be ready for the Board to consider in late September or early October.

That concludes my alcohol rulemaking updates for today and I'm happy to answer any questions.

Chair Postman: One quick one for me. On the 1480 rulemaking, did you say the CR 103 would be in October?

Ms. Vasek: The CR 102. We filed the CR 101 on May 12. So the next step would be to file the formal rule proposal.

Chair Postman: If we're on track then when would we be all done? When would we have final on a CR 103 for 1480 implementation?

Ms. Vasek: It could be as early as the end of the year. Our current target would be end of December. That timeline could change depending on if we need to file a supplemental CR 102, depending on the feedback we receive, which would extend the timeline out further.

Chair Postman: Okay. Alright. Any other questions for Ms. Vasek on alcohol rulemaking? Seeing none, thank you. Appreciate that. I think we will stick with the rulemaking timelines now and call on Jeff Kildahl, the Policy and Rules coordinator on the cannabis side. And then we also have one action item on his agenda today.

4. CANNABIS RELATED RULEMAKING AND TIMELINES

Presenter – Jeff Kildahl, Policy and Rules Coordinator

TIMELINES

Mr. Kildahl: Thank you. Good morning Chair Postman and Board members Garrett and Hauge. Here is a brief update on cannabis rules and progress today, September 1, 2021.

Starting with the cannabis quality control rules, we continue to work with the economist from Industrial Economics Inc. We have now completed two scheduled weekly meetings. As part of that work, we sent an invitation via GovDelivery this past Monday seeking interview participants to help us understand producer/processor perspectives beyond the "deliberative dialogues" we held earlier this year. We are seeking up to 25 licensed cannabis producers and processors across the state, representing all tiers and methods of production to participate in one hour interviews with the economists. So far we have received

approximately 30 responses. Additionally, we anticipate hosting a “listen and learn” session on or about October 15, putting our CR 102 proposal at approximately December 8, 2021.

With respect to the cannabis license applicant background check program, I will present the CR 103 rule package to you during the next agenda item.

And finally, with respect to the THC compound evaluation rule project, a “listen and learn” forum is scheduled for September 9, from 9 to 11am. Messaging went out last week via GovDelivery and to date, no preformed feedback has been provided on the conceptual draft rules that were offered with the messaging. We remain on track to bring a CR 102 package to you on September 29, and that will set a public hearing for November 10.

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

Chair Postman: None for me and I don't see any others. Okay. Thank you for that. And why don't we go ahead and move into the action item and then we'll move back to the other parts of the agenda. So, if you want to present that, Jeff, go ahead.

ACTION ITEM (A)

ACTION ITEM 5A - Board Adoption of CR 103 for WAC 314-55-040 – Criminal History Background Checks

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

Mr. Kildahl: Thank you. This morning, I would like to request your approval to file a CR 103 to adopt permanent rules that revise and more fully describe the background check review process for cannabis license applicants and renewing licensees. This rule moves toward creation of socially equitable conditions for individuals who have been disproportionately impacted by marijuana/cannabis criminalization by redesigning the existing point system and review process in an effort to reduce 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. 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. The CR 102 was approved and then filed on July 7, 2021 and the public hearing on these rules was held on October 18. 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 for filing today, the rules would become effective 31 days from today, on October 2, 2021. I would ask for your approval to file this CR 103 today. Thank you and may I answer any questions?

Chair Postman: Any questions or comments on this proposal before we call for a vote from the board?

Member Hauge: I have no questions. Thank you, Jeff. Very clear.

Chair Postman: Member Garrett?

Member Garrett: No questions.

Chair Postman: Thanks, Mr. Kildahl. I think you did exceptional work on this. Every time you report that we haven't gotten comments, it sort of perplexes me a little bit. But I think that's a sign of the thoroughness that your group does in reaching out to people in this process. It's really great. I think it's an important step forward.

You know, you said this, but just to stress, this is a step toward a more socially equitable system and it shows that we continue to evolve and adjust the 502 system to keep making it better. So I appreciate that work and I think we have a lot more to do in this area. But this is a step that we're able to take with our existing authority. And we did it so I think that's great. And with that, I'll ask for a motion to approve the final approval for the CR 103 regarding amendments to WAC 314-55-040 on criminal history.

MOTION: Member Hauge moved to adopt the CR 103 for WAC 314-55-040 – Criminal History Background Checks

SECOND: Member Garrett seconded.

ACTION: Chair Postman approved the motion.

Chair Postman: We will now move back up the agenda for public health and education update with Sara Cooley Broschart. I just want to say we invited her to talk to us today because, unfortunately, she'll be leaving the LCB after a little more than two years, and so this will be her final public health and prevention update for us. I just want to say, Sara, in your two years here, it's clear you've been a consistent and strong voice for public health and prevention. In my short time here, you've made a huge difference in my education and awareness of these issues as I tried to get up to speed and to live up to the commitment of my predecessor, Chair Jane Rushford, and her priority of public health. So, with that, I'll turn it over to you for a minute.

5. PUBLIC HEALTH AND EDUCATION UPDATE

Presenter – Sara Cooley Broschart, Public Health and Education Liaison

Ms. Cooley Broschart: Hi. Thanks so much and good morning Chair Postman, Board members, Hauge and Garrett. As Chair Postman said, it's with incredibly mixed emotions that I let everybody know, the public as well, that I have accepted a position as the director of a brand new CDC funded center to support states and communities in implementing population level prevention strategies that address alcohol use. So while there are four substances that we deal with at LCB, I'll be able to focus again on just one, which is a luxury that those of us at LCB haven't had. The center is yet to be named so I don't have an exact name for all of you. But I will let you guys know as soon as I have it. But basically, the idea is that we will be the bridge between all the data and research that comes out and is well known and documented and the communities and decision makers who are looking for support for policy change. As we all know, we at LCB have many times been in that position where we're saying, "where's the data? What does the research say?" And we either may not have it or don't have a great way of translating and representing it, so I'm really excited to kind of be filling that gap. It's a gap that not only us at LCB have been aware of but across the field of prevention, public health. So really exciting that the CDC is finally investing in that.

As you said, my last day at LCB will be this Friday, which is coming up really quickly. I just actually wanted to take the time today to formally thank you and the leadership and just all the folks that I've worked with at my time at LCB for great two and a half years. I've just loved working with all of you and thinking through such challenging work with such emerging issues. We're always learning a lot along the way. And coming from a public health and prevention background, especially in nonprofits and universities. It's just been so informative to see firsthand how regulators and the regulatory process works. I think, as we all know at LCB there are challenges, but it's really hard to understand when you're not in it. So I'm really thankful to have that experience and bring that knowledge with me and fully help along with my new role.

I also just want to say the LCB, I always say this, has done a commendable job integrating public health lines into decision making at the top levels and just kind of all the way down. As I always point out, Washington is one of five states in the nation that has a public health professional on staff and I know Rick and others are working to change that. Oregon just recently brought somebody on board. So hopefully the idea will continue to spread as the public health piece is really recognized.

And I just do want to be clear that I wasn't looking for a job. I've been super happy at LCB. They came to me. I was very wishy washy about it and it was a very tough decision. But in the end, I felt like the Sara in five years was going to be regretting that I didn't take the national position. So, I just again have loved this work, collaborating with the many agencies and LCB, but also the great collaborations and organizations and agencies. We have great relationships at LCB and thanks to my predecessors and you all for starting those.

One of the highlights that I have been able to work on the vapor associated lung injury response for LCB, which was just an amazing opportunity for leadership and to see how processes happen, even above LCB and state government decision making.

Thanks to the rules team and Kathy for collaborating with me to really bring public health folks into the process. And we still have some more work to do there. And I know you'll continue with it. But I think we've seen a lot of great gains in the engagement that we have with public health intervention folks.

So, I will be fully remote but I'm staying put in Washington. So I really look forward to continuing to work with all of you at LCB. In my new role, I'm happy to be a resource for all that public health, alcohol, research kind of stuff that you may need along the way. And I'll really be looking to you all too as a resource and to share the experience that you've had of putting public health in the spotlight as an agency. I really think that some of the decisions that you guys have made here and LCB are, as I said, commendable and really should be the benchmarks for states across the nation. So thank you very much.

I know, we have a lot of great candidates for my position. And we just had the first review, I think it's happening this week, but it's still open. So anybody tuning in, if you're interested, I could be happy to talk to you about the great experience that I've had at LCB. And also, I'm going to be helping bring this person up to speed and make sure that none of the great work and collaborations we've had along the past many years are left behind. So best of luck and definitely keep in touch and really just a really heartfelt and full thank you. It's really tough to be leaving this job when I've had so many connections with you at the board, at the agency, and across our collaborators and not have that face to face or personal touch. So thank you for allowing me to at least speak from my heart right now at the Board meeting. And thank you all very much.

Chair Postman: Absolutely. I'll see if either the other Board members have parting questions or comments for you.

Member Hauge: I'd just like to say that Sara, it's been a real pleasure working with you. And you leave a big hole that I hope we'll be able to at least partially fill. And really, good luck taking the step up to the next level. I think that's a good use of your talents. I appreciate all you've done here. Thank you.

Member Garrett: I'll say the same. Going to miss you and enjoyed working with you. And I wish you the best on your new adventure.

Chair Postman: Thanks, Ollie. They could name it the "Sara Cooley Broschart Center for Alcohol Abuse Research". You could make that part of your job negotiation. Thank you, as well, for the time you've done here, for what you've done throughout your career. And also, I know you'll be able to keep helping us in some ways as a member of that community. I appreciate the work also that you continue to do helping us to find a replacement. As member Hauge said, we don't think we'll replace you but we'll have somebody new in this spot and we will get up to speed. And just so everyone knows, there is no lagging of this agency to the area of public health and prevention. It's a mixed blessing always when we have people that are so great, other people want to come and cherry pick them. So, we get that, and that's okay. And it's a long standing commitment of the agency and it will continue to be so. So, thank you again and good luck with it. Alright. Have a good day. Alright and now we will move on to our agenda item.

6. GENERAL PUBLIC COMMENT

Chair Postman: And just as a reminder, one, everything's being recorded and it will be available on the website. We ask you to state your name and affiliation for the record. And then be mindful of the time. You have four minutes and at 30 seconds, Dustin will give you a heads up that you're just about out of time so please excuse the interruption, but we will then end after the four minutes. The first person I have on the list today is Scheril Murray Powell.

Scheril Murray Powell – Creative Solutions, Inc.

Hi there. Good morning, everyone. My name is Scheril Murray Powell, Esquire. I'm a cannabis agricultural and dietary supplement attorney. I've worked with legislators and municipalities, agencies across the country with regards to cannabis legalization. I was also the first general counsel for minorities for medical marijuana. And I am also the business development manager for Creative Services Inc., CSI. And we are a background screening company that's been in existence for 45 years.

I just want to join today and commend you on your changes to the rules to make your Washington State cannabis industry more inclusive and as stated before, more equitable. I think your amendments to the background check, the rules you have adopted today have accomplished the goal of being more clear.

Of course, at CSI we're always interested in working with cannabis commissions and cannabis boards with regards to how they execute seamlessly these types of changes. We are based in Massachusetts. We do have a contract with the Massachusetts Cannabis Control Commission. So we have a lot of experience working in this area and myself as a cannabis agriculture and dietary supplement attorney for a number of years, I also have experience.

So, I just want to say it's very clear where your hearts and minds were in this implementation. Thank you for representing the state of Washington so well and for keeping in mind that the best type of cannabis industry is an inclusive cannabis industry. Thank you so much.

Chair Postman: That's great. Thank you. Appreciate that. And then the next person we have lined up is Jim MacRae.

Jim MacRae – Straightline Analytics

Okay, two things I want to talk about briefly. The criminal history report stuff, I'm sorry that I was unable to give oral testimony on that a couple of weeks ago when I tried to. When I heard that there had been no public input, I opted at the end not to do the written stuff. I appreciated the opportunity to do it a little bit later, I just didn't capitalize on that.

What I was going to say was not going to materially impact the rules. But I wanted to caution the Board that if there's a desire, particularly in the next year or two, to delegate authority for administering that to staff, I would recommend that you not do that. Because if nothing else, one of the things those rules do in addition to supposedly removing some unnecessary barriers to people that have been differentially impacted in the past, it certainly can do that if it's administered well. It could also open the door and does open the door to basically forgiving people who were granted licenses that have criminal histories that should have denied them granting of licenses. And that is the case in at least one instance I believe with agency knowledge. So you might want to ask staff about that. But presumably now, those people will be able to use the decision that the courts did on that, that was used in the true party of interest rule change, to do it retroactively, to basically be forgiven for their prior sins. So they effectively get a get out of jail free card.

Now the irony for this is the process that's just been put in place, and it purportedly a social equity mitigation strategy from a policy perspective, is to put in more administrative layers. You can challenge these things, you can bring a lawyer in, you can pay that other 10 to 50 to \$100,000 to get a decision and to be administratively judged. And that is an expensive process. And it is one that is differentially not available to the very people that this rule is supposed to help. So please keep personal oversight over this for a while. At least make sure it's working right. It's a dangerous thing, I think.

The other thing I want to talk about is the CCRS (Central Cannabis Reporting System) thing. Please do not allow this to go forward without interactive public comment. They're not even required to do public comment when you develop a new system, supposedly, and put it out there, but there should be interactive ability here. I do not understand why you're not doing it other than you do not want it or that someone within the agency does not want it. You've had lots of meetings where there have been lots of people talk. You've been able to accommodate them. Sometimes even shut it down to three minutes instead of four minutes. And I appreciate those four minutes now. But that system, one thing that it will do is it will eliminate the ability of the agency -- if it's implemented with what little we've heard already, it will eliminate the ability of the agency to do industry wide normative scoring of things. You won't be able to identify outliers because you need all the data together to be able to identify outliers. It's just the way data work. I'm amazed that it's actually proposed to go down this path. If they're pulling the old contingency reporting system out of the closet to enable this, please understand that that never worked. That was hundreds of thousands of disorganized spreadsheets and PDF files and CSVs that I don't believe the agency was ever able to compile into an information source.

Dustin Dickson: Jim, you've got 30 seconds.

Mr. MacRae: Thank you. If you go down this path, you're effectively going to blind not only the agency to those data, but to external parties that I think have repeatedly shown to be positive for the public good public safety, consumer safety by having access to that data and being able to out things when they're bad. Thank you very much.

Chair Postman: Thank you. I thought there was some sort of committee on CCRS but we'll find out and we'll follow up on that.

This brings us to the end of our agenda. I'll just pause to see if Board members have anything to add. Seeing none there, I thank everybody for joining us and we will adjourn the September 1 meeting of the Washington State Liquor Cannabis Board meeting. We will talk to you next week.

ADJOURN

Chair Postman adjourned the meeting at 10:28am.

Minutes approved this 15th day of September, 2021.



David Postman
Board Chair



Ollie Garrett
Board Member

Not Present

Russ Hauge
Board Member

Minutes prepared by: Dustin Dickson, Executive Assistant to the Board

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