

BEFORE THE WASHINGTON STATE LIQUOR AND CANNABIS BOARD

IN THE MATTER OF:

PUGET SOUND GROUP LLC
d/b/a NORTHWEST PATIENT
RESOURCE CENTER

9456 35TH AVE SW
SEATTLE, WA 98126

APPLICANT

LICENSE NO. 413996
UBI: 603 104 127 001 0001

LCB NO. M-26,023
OAH NO. 07-2016-LCB-00082

FINAL ORDER OF THE BOARD

The above-captioned matter coming on regularly before the Board, and it appearing that:

1. The Licensing Division of the Liquor and Cannabis Board issued a Statement of Intent to Withdraw Marijuana Application dated April 14, 2016, asserting that it was found by Licensing staff that the Applicant, failed or refused to submit information or documentation requested by the Board during the evaluation process.
2. The Applicant submitted a timely request for a hearing.
3. On November 8, 2016, a hearing was held before Administrative Law Judge Lisa N. W. Dublin with the Office of Administrative Hearings.
4. At the hearing, the Applicant was represented by Attorney Merwin "Moe" Spencer. Senior Counsel with the Office of Attorney General Kim O'Neal represented the Licensing Division of the Board.
5. On January 9, 2017, Administrative Law Judge Lisa N. W. Dublin with the Office of Administrative Hearings issued an Initial Order which affirmed the withdrawal of the application.

6. On February 8, 2017, Good Cause Request for More Time for Filing Petition for Board Review of Initial Order was filed by the Applicant.

7. On February 14, 2017, the Board issued an Order Granting Applicant's Motion to Extend the Filing Time for Petition for Review.

8. On February 20, 2017, Applicant's Petition for Board Review of Initial Order was filed.

9. On March 2, 2017, Request for Two-Week Extension of Date to File Response to Petition for Board Review was filed by Licensing.

10. On March 7, 2017, the Board issued an Order Granting Licensing's Request for Two Week Extension to File Response to Petition for Review.

11. On March 15, 2017, Licensing Division's Response to Petition for Review was filed.

12. On March 20, 2017, Applicant's Reply to Licensing Division's Response to Petition for Review was filed.

13. The Board finds that it was proper for the ALJ to not make a ruling on whether the BOTEK Report, and the Board's reliance on it, justified setting the number of marijuana retail licensees for Seattle at the number that was set was appropriate. The ALJ properly applied the Board's rules in this case.

14. However, the Board finds that it was not appropriate to require this applicant to move to a location outside of Seattle because the number of available slots were filled, because the delay in processing the application was not due to the applicant's error. The applicant provided all required information promptly when requested, and contacted the Licensing Division at the number provided to him, but those contacts did not discern that BLS had provided the wrong email address to Licensing to use to contact the applicant. If the application had been processed in the order received, and the

proper email address used, or efforts made to contact the applicant by other means to determine why he did not respond to the emails, it is possible that his application would likely have been processed in time to be eligible for licensure in Seattle.

15. Once designated as a Priority 1 applicant, it appears that he was prepared to proceed with the application process. At the time the decision to notify the applicant that the number of available locations in Seattle appeared to be in process for licensure, and the intent to withdraw the application was provided, there appeared to be some issues with the proximity of the location to two parks. This question was not resolved due to Licensing's decision to withdraw the application.

16. Applicant's request that the Board grant him a license in this Final Order is premature. Grant of a license is based not only on the priority determination, but personal and criminal history of the applicant, as well as managers and investors, as well as the particular location and other details about the premises. From the materials in the hearing file, it appears that at least some of these matters had not been fully investigated at the time that Licensing withdrew the application.

17. Applicant's insistence on conducting discovery on the issue of whether the cap on the number of licenses was appropriate, the BOTEC report, about other licenses granted in the City of Seattle, as well as Licensing's processes and procedures for handling applications appears to have delayed the hearing in this case. Applicant sent three sets of Interrogatories and Requests for Production of Documents, many requesting information not relevant to the decision in this case, including requests to identify persons who participated in developing regulations, emergency rules, and similar information.

18. The entire record in this proceeding was presented to the Board for final decision, and the Board having fully considered said record and being fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Administrative Law Judge's Findings of Fact, Conclusions of Law are AFFIRMED and adopted as the Findings of Fact, Conclusions of Law and Final Order of the Board, with the following modifications and additions:

Finding of Fact 4.5 is modified to read as follows:

On October 21, 2015, the Licensing Division received Mr. Davis' application information from BLS. However, the email address for Mr. Davis that BLS gave to Licensing was not the correct email address on Puget Sound Group's license applications. On October 26, 2016, Puget Sound Group's applications were assigned to Kyle Smith for investigation. When others received their priority designations and Mr. Davis had not, he called the Licensing Division application line on several occasions to find out the status of his applications. The Customer Service representatives who responded to Mr. Davis' calls informed him that his applications were in the system, and that he should wait to be contacted.

Finding of Fact 4.13 is modified to read:

On March 21, 2016, the Licensing Director approved the withdrawal of Mr. Davis' application. See Ex. 6. The basis for these withdrawals was as follows: "Applicant was sent 30 day letter to find a new location as Seattle filled up. No location information was returned." *Id.*

Conclusion of Law 5.7 is added:

5.7. Due to the delay in assigning a priority to this application, the Board exercises its discretion to reverse the withdrawal of the application because the applicant refused to provide a new location outside of Seattle. Licensing Division should re-open this application for processing, and the applicant be given an opportunity to be licensed for a location within Seattle, despite the number of locations allocated to Seattle having been exceeded.

IT IS FURTHER ORDERED that the Order portion of the Initial Order is reversed. Licensing shall re-open Mr. Davis' application, determine whether a license would have been granted in Seattle but for the number of licenses exceeding the cap imposed by the Board, and grant the license if all other criteria for licensure are met within 180 days after the date of this order.

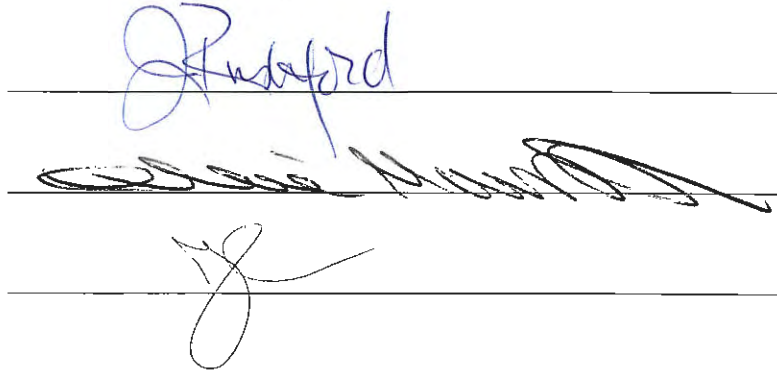
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IT IS HEREBY FURTHER ORDERED that Marijuana Retailer license application number 413996 for Puget Sound Group LLC d/b/a Northwest Patient Resource Center is REINSTATED.

DATED at Olympia, Washington this 25th day of April, 2017.

WASHINGTON STATE LIQUOR AND CANNABIS BOARD



Reconsideration. Pursuant to RCW 34.05.470, you have ten (10) days from the mailing of this Order to file a petition for reconsideration stating the specific grounds on which relief is requested. A petition for reconsideration, together with any argument in support thereof, should be filed by mailing or delivering it directly to the Washington State Liquor and Cannabis Board, Attn: Kevin McCarroll, 3000 Pacific Avenue Southeast, PO Box 43076, Olympia, WA 98504-3076, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Board's office. RCW 34.05.010(6). A copy shall also be sent to Mary M. Tennyson, Senior Assistant Attorney General, 1125 Washington St. SE, P.O. Box 40110, Olympia, WA 98504-0110. Within seven (7) days after service of the petition for reconsideration, any of the other parties may file a response to that petition, or request an extension, with the Liquor and Cannabis Board. Copies of the response must be mailed to all other parties and their representatives at the time the response is filed.

A timely petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a

written notice specifying the date by which it will act on the petition. An order denying reconsideration is not subject to judicial review. RCW 34.05.470(5). The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review.

Stay of Effectiveness. The filing of a petition for reconsideration does not stay the effectiveness of this Order. The Board has determined not to consider a petition to stay the effectiveness of this Order. Any such request should be made in connection with a petition for judicial review under chapter 34.05 RCW and RCW 34.05.550.

Judicial Review. Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542, or order on petition for reconsideration, as provided in RCW 34.05.470. If the Appellant withdraws its request for an administrative hearing, then the matter is not subject to judicial review.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).



Washington State
Liquor and Cannabis Board

April 25, 2017

Merwin Moe Spencer
Spencer Palace Law Office PLLC
3631 Colby Ave
Everett, WA 98201-4713

John Davis
Puget Sound Group LLC
319 101st Ave SE #312
Bellevue, WA 98004-6157

Kim O'Neal, Sr. Counsel
GCE Division, Office of Attorney General
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100

RE: FINAL ORDER OF THE BOARD
Applicant: Puget Sound Group LLC
Trade Name: Northwest Patient Resource Center
License Application No. 413996
LCB Hearing No. M-26,023
OAH NO. 07-2016-LCB-00082
UBI: 603 104 127 001 0001

Dear Parties:

Please find the enclosed Final Order of the Board and Declaration of Service by Mail in the above-referenced matter.

If you have any questions, please contact me at (360) 664-1602.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin McCarroll".

Kevin McCarroll
Adjudicative Proceedings Coordinator

Enclosures (2)

cc: Becky Smith, Licensing Director, WSLCB
Frank O'Dell, Licensing Supervisor, WLSCB
Linda Thompson, Licensing Adjudications Coordinator, WSLCB

WASHINGTON STATE LIQUOR AND CANNABIS BOARD

IN THE MATTER OF:

PUGET SOUND GROUP LLC
d/b/a NORTHWEST PATIENT
RESOURCE CENTER

9456 35TH AVE SW
SEATTLE, WA 98126-3825

APPLICANT

APPLICATION NO. 413996
UBI 603 104 127 001 0001

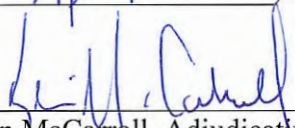
LCB NO. M-26,023
OAH NO. 07-2016-LCB-00082

DECLARATION OF SERVICE BY
MAIL

I certify that I caused a copy of the FINAL ORDER OF THE BOARD in the above-referenced matter to be served on all parties or their counsel of record by US Mail Postage Prepaid via Consolidated Mail Service for applicants and licensees, by electronic mail for WSLCB offices, and Campus Mail via Consolidated Mail Services for state offices on the date below to:

MERWIN MOE SPENCER SPENCER PALACE LAW OFFICE PLLC 3631 COLBY AVE EVERETT, WA 98201-4713	OFFICE OF THE ATTORNEY GENERAL MAIL STOP 40100, GCE DIVISION KIM O'NEAL, SENIOR COUNSEL
JOHN DAVIS PUGET SOUND GROUP LLC 319 101ST AVE SE #312 BELLEVUE, WA 98004-6157	

DATED this 25th day of April, 2017, at Olympia, Washington.


Kevin McCarroll, Adjudicative Proceedings Coordinator

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In The Matter Of:

PUGET SOUND GROUP, LLC DBA PUGET
SOUND GROUP,

APPELLANT.

Docket No. 07-2016-LCB-00081 &
07-2016-LCB-00082

INITIAL ORDER

Agency: Liquor and Cannabis Board
Program: Marijuana Licensing
Agency No. M-26,022 & M-26,023

1. ISSUES

- 1.1. Whether Puget Sound Group LLC dba Puget Sound Group failed or refused to submit information or documents properly requested by the Board, warranting withdrawal of its marijuana license applications under WAC 314-55-050(2)?

2. ORDER SUMMARY

- 2.1. Yes. Puget Sound Group LLC dba Puget Sound Group failed to submit information properly requested by the Board, warranting withdrawal of its marijuana license applications under WAC 314-55-050(2).

3. HEARING

- 3.1. Hearing Date: November 8, 2016
- 3.2. Administrative Law Judge: Lisa N. W. Dublin
- 3.3. Appellant: Puget Sound Group LLC dba Puget Sound Group ("Puget Sound Group")
 - 3.3.1. Representative: Merwin "Moe" Spencer
 - 3.3.2. Witness:
 - 3.3.2.1. John Davis
- 3.4. Agency: Washington State Liquor and Cannabis Board ("Board")
 - 3.4.1. Representative: Kim O'Neal

3.4.2. Witnesses:

3.4.2.1. Marcy Wilsie

3.4.2.2. Nicola Reed

3.5. Exhibits: Exhibits A-G, I-K, and 1-8 were admitted.

4. FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

Jurisdiction

- 4.1. On or around April 14, 2016, the Board issued Statements of Intent to Withdraw Marijuana Application Nos. 413996 and 413998 ("applications"). Exs. 1 & 2.
- 4.2. On or around May 31, 2016, the Board received Puget Sound Group's requests for hearing. Exs. 3 & 4.

Puget Sound Group's Marijuana License Applications

- 4.3. Puget Sound Group is a company owned by John Davis for purposes including operating marijuana retail establishments in Seattle, Washington. Mr. Davis, a resident of West Seattle, has been active in the cannabis industry for several years, including with policy and legislative development in Washington. Mr. Davis has also served on the board of the Cannabis Alliance.
- 4.4. On October 12, 2015, Mr. Davis was one of the first in line outside the Department of Revenue's Business Licensing Service ("BLS") in Tumwater, Washington to personally submit two marijuana license applications for Puget Sound Group for retail locations in Seattle. On these applications, Mr. Davis included his current email address to receive communications from the Board. Mr. Davis then awaited his priority designations.
- 4.5. On October 21, 2015, the Board received Mr. Davis' application information from BLS. However, the email address for Mr. Davis that BLS gave the Board was not the correct email address on Puget Sound Group's license applications. On October 26, 2016, the Board assigned Puget Sound Group's applications to investigator Kyle Smith. When others received their priority designations and Mr. Davis had not, he called the Board on several occasions to find out the status of his applications. The Board responded that everything was okay, that he was in the system, and to just wait.

- 4.6. On November 30, 2015, when Mr. Davis still had not heard from the Board regarding his priority status, he contacted Rick Garza with whom he was on friendly terms. Mr. Garza responded, stating there was no rush and that he would look into it.
- 4.7. The following day, December 1, 2015, Mr. Garza and supervisor Nicola Reid contacted Mr. Davis and reported that the Board had been emailing Mr. Davis. At that time, Mr. Davis learned that the Board had been emailing the wrong address, and provided the correct email address. Later that day, Mr. Davis received an email from the Board asking him to submit additional information through Docusign.
- 4.8. After submitting additional information through Docusign, on December 9, 2015, Mr. Davis received email confirmations from the Board that Puget Sound Group's license applications were complete. Ex. J. Within the next two days, Puget Sound Group's applications received Priority 1 designations.
- 4.9. The Board subsequently shifted the applications to another investigator on December 17, 2016, and then to Licensing Specialist Senior Marcy Wilsie on December 30, 2015. Ms. Wilsie then sent Mr. Davis a request for location confirmation. Regarding Application No. 413996, Ms. Wilsie interviewed Mr. Davis on January 11, 2016. See Ex. 6. Ms. Wilsie then sent out a request for additional documentation, and received documents back from Mr. Davis. Regarding Application No. 413998, Ms. Wilsie and Mr. Davis communicated regarding legal issues that might impact his site location.
- 4.10. Before Ms. Wilsie was able to move further on the applications, she learned that the Board could be running out of marijuana retailer licenses in Seattle. Ms. Wilsie communicated this to Mr. Davis, as well as his options to continue to proceed with licensing in Seattle despite the risk that licenses may run out, or to pursue a license at a location other than Seattle. Mr. Davis reiterated that he wanted to continue with consideration for a license in Seattle.
- 4.11. On February 9, 2016, after learning there were no more available licenses for Seattle, Ms. Wilsie sent Mr. Davis correspondence informing him of this. In this correspondence, Ms. Wilsie also stated, "We would like to give you an opportunity to find another location to proceed with the licensing process. This letter is to notify you that we will be giving you 30 days to provide a new location address." Exs. 7 & 8.
- 4.12. Mr. Davis admittedly did not supply the Board with alternate locations outside of Seattle. He was in the process of taking legal action, and his Seattle locations

were not subject to relocation; he had invested all his resources into them, his employees, and his customers.

- 4.13. On March 21, 2016, the Board approved withdrawal notices for the applications. See Exs. 5 & 6. The basis for these withdrawals was as follows: "Applicant was sent 30 day letter to find a new location as Seattle filled up. No location confirmation was returned." *Id.*

5. CONCLUSIONS OF LAW

Based upon the facts above, I make the following conclusions:

Jurisdiction

- 5.1. The Office of Administrative Hearings has jurisdiction over the persons and subject matter of this case under RCW 69.50.331(2)(c), WAC 314-55-070, Chapter 34.05 RCW, and Chapter 34.12 RCW.

Laws and Regulations Regarding Marijuana License Applications

- 5.2. For the purpose of considering any application for a license to sell marijuana, or for the renewal of a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, the state liquor and cannabis board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received. RCW 60.50.331(1).
- 5.3. Regarding marijuana license applications, in order to carry out its regulatory duties, the Board "may inquire and request documents regarding all matters in connection with the marijuana license application." WAC 314-55-020.
- 5.4. WAC 314-55-020(12) provides the Board with specific authority to administratively close or seek denial of an application upon the applicant's failure to respond to the Board's requests for information within the timeline provided.
- 5.5. Per RCW 69.50.331, the Board has broad discretionary authority to approve or deny a marijuana license application for failing or refusing to submit information or documentation requested by the Board during the evaluation process. WAC 314-55-050(2).

Puget Sound Group Failed to Provide Requested Information.

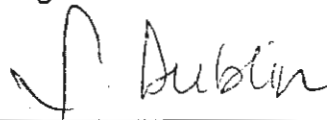
5.6. Puget Sound Group had the burden of producing all required information to the Board for consideration in issuing Puget Sound Group marijuana licenses. This information included alternate location information under the circumstances. It is unfortunate that the Board did not initially communicate with Mr. Davis at the email address he properly placed on his license applications, resulting in a processing delay. It is also unfortunate that a cap on Seattle licenses along with the processing delay may have resulted in Puget Sound Group losing out on its Seattle marijuana licenses. However, Mr. Davis chose not to provide the Board with alternative location information as requested. Mr. Davis may have felt justified in this choice. The ramification of this choice, however, was the Board's proper withdrawal of Puget Sound Group's license applications under RCW 69.50.331 and WAC 314-55-050(2).

6. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

6.1. Puget Sound Group failed to produce requested information to the Board regarding alternative locations, warranting withdrawal of its marijuana license applications under WAC 314-55-050.

Issued from Tacoma, Washington, on the date of mailing.



Lisa N. W. Dublin
Administrative Law Judge
Office of Administrative Hearings

PETITION FOR REVIEW

Petition for Review of Initial Order: Either the licensee or permit holder or the assistant attorney general may file a petition for review of the initial order with the liquor and cannabis board within twenty (20) days of the date of service of the initial order. RCW 34.05.464, WAC 10-08-211 and WAC 314-42-095.

The petition for review must:

- (i) Specify the portions of the initial order to which exception is taken;
 - (ii) Refer to the evidence of record which is relied upon to support the petition;
- and

- (iii) Be filed with the liquor and cannabis board within twenty (20) days of the date of service of the initial order.

A copy of the petition for review must be mailed to all of the other parties and their representatives at the time the petition is filed. Within (10) ten days after service of the petition for review, any of the other parties may file a response to that petition with the liquor and cannabis board. WAC 314-42-095(2) (a) and (b). Copies of the response must be mailed to all other parties and their representatives at the time the response is filed.

Address for filing a petition for review with the board: Washington State Liquor and Cannabis Board, Attention: Kevin McCarroll, 3000 Pacific Avenue SE, PO Box 43076, Olympia, Washington 98504-3076

Final Order and Additional Appeal Rights:

The administrative record, the initial order, any petitions for review, and any replies filed by the parties will be circulated to the board members for review. WAC 314-42-095(3).

Following this review, the board will enter a final order. WAC 314-42-095(4). Within ten days of the service of a final order, any party may file a petition for reconsideration with the board, stating the specific grounds upon which relief is requested. RCW 34.05.470 and WAC 10-08-215.

The final decision of the board is appealable to the Superior Court under the provisions of RCW 34.05.510 through 34.05.598 (Washington Administrative Procedure Act).

CERTIFICATE OF MAILING IS ATTACHED

**CERTIFICATE OF SERVICE FOR DOCKET NO.
07-2016-LCB-00081 & 07-2016-LCB-00082**

I certify that true copies of this document were served from Tacoma, Washington via Consolidated Mail Services upon the following as indicated:

<p>John Davis Puget Sound Group LLC 9456 - 35th Ave SW Seattle, WA 98126-3825 <i>Appellant</i></p>	<p><input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Merwin Spencer 3409 McDougall Ave, Suite 204 Everett, WA 98201 <i>Appellant Representative</i></p>	<p><input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Kim O'Neal Office of the Attorney General PO Box 40100 MS: 40100 Olympia, WA 98504-0100 <i>Assistant Attorney General</i></p>	<p><input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Kevin McCarroll- WSLCB Adjudicative Proceedings Coordinator PO Box 43076 MS:43076 Olympia, WA 98504-3076 <i>Agency Contact</i></p>	<p><input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Rebecca Smith – WSLCB Licensing & Regulation Director PO Box 43098 MS:43098 Olympia, WA 98504 <i>Agency Contact</i></p>	<p><input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>

Date: Monday, January 09, 2017

OFFICE OF ADMINISTRATIVE HEARINGS



Melanie Barnhill
Legal Assistant



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BEFORE THE WASHINGTON STATE LIQUOR AND CANNABIS BOARD

IN THE Matter of:
Puget Sound Group LLC
9458 - 35th Ave SW
Seattle, WA 98126-3825

OAH NO. 07-2016-LCB-00081 & 82

LCB No. M-26, 022 &
M-26, 023

&

**APPLICANT'S REPLY TO
LICENSING DIVISION'S RESPONSE
TO PETITION FOR REVIEW**

Puget Sound Group LLC
9451 - 35th Ave SW Suites 1 & 4
Seattle, WA 98126-3825

Applicant,

License No. 413996 & 413998

Applicant's petition for review is largely based upon the objection that; during his administrative appeal, Applicant was denied the opportunity to address and have the ALJ consider, the causes of delay with his application. Applicant reiterates that denying review of the circumstances

1 surrounding the delay of the application for marijuana retail licenses is a denial of due process
2 and must be overturned.

3
4 Further, the Board is well-situated to examine the materials available to licensing staff, find that
5 the Applicant timely submitted the requisite materials to establish first priority, and issue an order
6 instructing the Licensing division to process Mr. Davis' applications for marijuana retail licenses.

7
8 Licensing's response relies heavily on the question of whether the Applicant had submitted
9 alternative license locations (which he never should have been placed in the situation where he
10 was instructed to do so) but they also open the door and address issues related to the delay in
11 license processing. In their response to the petition for review, Licensing has the audacity to
12 argue that because Applicant supplied the requisite materials at the time of application, staff
13 could not ascertain the correct applicant.

14
15 Reticent to ever admit *any* error, Licensing is willing to lay blame with the Applicant for being
16 first in line on the first day of the application period; complying with each and every portion of
17 WSLCB eligibility criteria for a marijuana retail license. Put another way, Licensing is telling
18 the Board to uphold the decision of the ALJ because the Applicant provided Licensing the very
19 materials that they needed to establish priority and proceed with processing.

20
21 This matter could have been easily resolved in the Fall of 2015 when staff errors were first
22 noticed. It was not. The matter could have been resolved when the Applicant first petitioned for
23

1 administrative appeal and Licensing's counsel were made aware of the facts. It was not. Now,
2 the Board, in its adjudicative capacity must correct the wrongs made to the Applicant. Though
3 time cannot be rewound to truly make the Applicant whole, the Board is urged to use its
4 authority and grant the Applicant licenses in the jurisdiction in which he originally applied, just
5 as he would have been if staff errors had never been made.

6
7
8 RESPECTFULLY SUBMITTED this 20TH day of March, 2017.

9
10
11 SIGNED: By: s/ Ryan R. Agnew
Ryan R. Agnew, WSBA #43668

12 For Moe "Merwin" Spencer
13 WSBA #40963

CERTIFICATE OF SERVICE

I certify that on this date, I sent for delivery a true and correct copy of the document to which is affixed by the method indicated below and addressed to the following:

Kim O'Neal - Senior Attorney Office of the Attorney General, WA Olympia, WA	<input type="checkbox"/>	U.S. MAIL
	<input type="checkbox"/>	PROCESS LEGAL SERVER
	<input checked="" type="checkbox"/>	EMAIL
	<input type="checkbox"/>	HAND DELIVERED
	<input type="checkbox"/>	EXPRESS DELIVERY
	<input checked="" type="checkbox"/>	FACSIMILE
Kevin McCarroll 3000 Pacific Ave S.E. PO Box 43076 Olympia, WA 98504-3076	<input checked="" type="checkbox"/>	U.S. MAIL
	<input type="checkbox"/>	PROCESS LEGAL SERVER
	<input checked="" type="checkbox"/>	EMAIL
	<input type="checkbox"/>	HAND DELIVERED
	<input type="checkbox"/>	EXPRESS DELIVERY
	<input type="checkbox"/>	FACSIMILE

DATED: March 20th 2017

SIGNED: By: s/ Ryan R. Agnew
Ryan R. Agnew, WSBA #43668

For Moe "Merwin" Spencer
WSBA#40963

McCarroll, Kevin P (LCB)

From: Ryan Agnew <agnew.rr@gmail.com>
Sent: Monday, March 20, 2017 2:08 PM
To: McCarroll, Kevin P (LCB)
Cc: O'Neal, Kim (ATG); Roth, Jeanne (ATG); merwin moe Spencer
Subject: Re: Puget Sound Group; M-26,022 & M-26,023 Applicant reply to Response for Petition for Review
Attachments: PSG Reply to LDs Response to Petition for Review 413996_413998.pdf

Dear Mr. McCarroll,

Please find a copy of the applicant's reply to licensing division's response to the petition for board review. A physical copy is in the mail.

-Ryan Agnew, Esq.

206.372.0588

RECEIVED

MAR 15 2017

Liquor and Cannabis Board
Board Administration

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BEFORE THE WASHINGTON LIQUOR AND CANNABIS BOARD

In the Matter of the Marijuana License
Application of:

OAH No. 07-2016-LCB-00081
07-2016-LCB-00082

PUGET SOUND GROUP, LLC
d/b/a Puget Sound Group
9456 35th Ave SW
Seattle, WA 98126,

Agency No. M-26,022 & M-26,023

LICENSING DIVISION'S RESPONSE
TO PETITION FOR REVIEW

Applicant.

Application No. 413996, 413998

I. INTRODUCTION

Administrative Law Judge Dublin correctly affirmed the Licensing Division's decision to deny the two license applications of Puget Sound Group and Mr. John Davis because it failed or refused to submit information properly requested under WAC 314-55-050(2).

II. STATEMENT OF FACTS

The Petitioner/Applicant Puget Sound Group has not assigned error to any of the findings or conclusions in Judge Dublin's Initial Order; and, therefore, her factual findings must be accepted as verities on review. This statement of facts is based upon Judge Dublin's findings and also upon testimony provided at the administrative hearing.

On October 12, 2015, Mr. Davis filed two marijuana retail license applications with Business License Services ("BLS") as required. Finding 4.4. It was established at the hearing that the Liquor Board is required by law to accept license applications only through Business License Services, that it has no authority or control over that entity, and that it has no option

1 but to have all license applications go through BLS. Nicola Reid testimony at 2:22:00.
2 Mr. Davis filed not only the required license application form, but also a packet of
3 documentation he believed would be necessary to establish priority under Board statutes and
4 regulations. Davis testimony at 1:47:00 et seq. He had not been requested to file that
5 documentation at the time of application nor had he been directed by anyone to file that
6 documentation with BLS. Davis testimony at 2:02:19. Mr. Davis provided his correct email
7 address on the license application he filed, and there was a different email address for a person
8 named Daniela which was on a 2014 license application that he filed as part of the priority
9 documents he believed the Board staff would need at some point to determine the priority of
10 his 2015 application under RCW 69.50.331 as amended by SSB 5052. Davis testimony at
11 1:56:00. Mr. Davis had BLS staff print out a copy of the previous 2014 license application
12 that listed Daniela as a partner and listed her email address as the contact, and he filed that
13 with his new license application at BLS. Davis testimony at 1:58:00 et seq. Mr. Davis
14 testified that the priority documents he filed with BLS were never used by the Board staff, and
15 that he had to resubmit his priority documentation through DocuSign when his application
16 was processed by Kyle Smith. Davis testimony at 2:02:19 et seq.

17 When BLS forwarded the Puget Sound Group application information to the Board's
18 Licensing Division, it listed the Daniela email address as the contact for Mr. Davis's
19 applications. Nicola Reid testimony at 2:17:00 and 2:22:29 and Judge Dublin's finding 4.5.
20 BLS did not provide LCB staff with Mr. Davis's email address that he had put on his current
21 license application. On October 26, 2016, the Davis applications were assigned to Licensing
22 Supervisor Kyle Smith for the priority determination process. She sent priority request
23 DocuSign emails requesting documentation to establish priority to the Daniela email address,
24 which was the only one she received from BLS. Nicola Reid testimony at 2:15:00, at 2:21:20
25 et seq. and at 2:22:29.

1 When Mr. Davis did not receive communications from Licensing staff regarding his
2 applications, and he learned other applicants were receiving priority determinations, he
3 telephoned the Customer Service line at the Liquor Board to make inquiry. Finding 4.5.
4 Because the Customer Service line representatives did not know that the email address to
5 which Ms. Smith was sending requests for documentation for the priority determination
6 process was incorrect, they mistakenly assured Mr. Davis that he would be hearing from
7 Licensing staff when the applications were assigned to a staff member for the priority process.

8 After a month and a half had gone by and Mr. Davis had still not heard from Licensing
9 staff or any representative of the Board, he telephoned Rick Garza, the Board's Director on
10 November 30, 2015. Finding 4.6. Mr. Garza agreed to look into the matter. *Id.* The
11 following day, December 1, 2015, Mr. Garza and Licensing Supervisor Nicola Reid contacted
12 Mr. Davis and reported that Licensing staff had been emailing him. Finding 4.7. Mr. Davis
13 learned that the staff was using an incorrect email address, and he provided his correct email
14 address. Finding 4.7. Later that day, Mr. Davis received an email from Licensing staff asking
15 him to submit additional documentation. Finding 4.7.

16 After submitting the requested documentation, on December 9, 2015, Mr. Davis
17 received confirmation that the Puget Sound Group applications were complete. Two days
18 later, Licensing staff informed Mr. Davis that both applications were designated Priority 1.
19 Finding 4.8. After the priority designation, the next step is to assign license applications to a
20 Licensing Specialist, and the Puget Sound Group applications were assigned to one Licensing
21 Specialist on December 17, 2015, and then to Marcie Wilsie on December 30, 2015. Finding
22 4.9. Ms. Wilsie requested location information from Mr. Davis. Finding 4.9. The Initial
23 Interview for Application 413996 was on January 11, 2016. Finding 4.9. On application
24 413998, Ms. Wilsie and Mr. Davis communicated about location issues. Finding 4.9.

25 Ms. Wilsie received notification that Licensing was close to issuing all the available
26 licenses in the Seattle jurisdiction. Finding 4.10. She notified Mr. Davis of this, as well as of

1 his option either to continue with processing in Seattle risking not receiving a license there, or
2 to move to a different jurisdiction which still had available licenses to be granted. Finding
3 4.10. Mr. Davis chose to keep both of the Puget Sound Group applications in the Seattle
4 jurisdiction. Finding 4.10.

5 On February 9, 2016, Ms. Wilsie was notified that all available Seattle licenses had
6 been issued. Finding 4.11. She communicated this to Mr. Davis. Finding 4.11. She gave
7 Mr. Davis the notification that he had 30 days to provide new location addresses for his
8 applications. Finding 4.11. Mr. Davis admittedly did not supply Ms. Wilsie or anyone at
9 Licensing with alternative locations for either of these applications. Finding 4.12.

10 On March 21, 2016, Licensing issued Notices of Withdrawal for both applications.
11 The basis for withdrawal was that the applicant had not supplied an alternative location after
12 receiving the 30-day notification letter that there were no available licenses to grant in Seattle.
13 Finding 4.13.

14 III. ARGUMENT

15 Judge Dublin correctly concluded that the denial of these two Puget Sound Group
16 license applications was justified because of the failure to supply alternative location
17 information within the 30-day period designated. WAC 314-55-020(12). Mr. Davis, on
18 behalf of the two Puget Sound Group applications, was notified that each applicant was being
19 given 30 days to designate a location in a jurisdiction outside Seattle that had available
20 licenses to grant. He did not provide an alternative location for either application, choosing to
21 pursue his hopes for Seattle licenses. Neither Mr. Davis nor Puget Sound Group was legally
22 entitled to a license in any specific jurisdiction, and his wish that these licenses be granted in
23 Seattle does not constitute a legal right to be licensed in that jurisdiction. Similarly,
24 Mr. Davis's argument that since he had previously operated marijuana businesses in Seattle,
25 he was entitled to Board licenses there is not supported by anything in RCW 69.50.331 or any
26 other applicable statute. The priority process the Legislature specified simply gave applicants

1 the opportunity to demonstrate relevant experience and receive priority for license processing.
2 It did not provide any priority or mandate that applicants who previously operated in a
3 jurisdiction were preferred over other applicants who had not. Licensing properly denied
4 these applications under RCW 69.50.331, WAC 314-55-050 and WAC 314-55-050(2).

5 Mr. Davis argues that it was the Licensing staff's "fault" that they used an incorrect
6 email address to communicate with him at first, causing nearly a month and a half delay in
7 prioritizing these two applications. Without any supporting evidence in the record, he
8 suggests that if not for this delay his applications would have been granted in the Seattle
9 jurisdiction. Neither Licensing nor the Board has an option regarding receiving license
10 applications through BLS. Using BLS as the place where license applications are initially
11 filed and where the application fee is paid is mandatory for state agencies, including the
12 Board. The testimony at hearing confirmed that it was Mr. Davis himself who supplied the
13 documents he filed with his two applications at BLS. No one requested that he include with
14 his initial application forms the additional documentation related to priority. In fact, he
15 conceded in his testimony that he was required to resubmit the priority documents at the point
16 his applications had been assigned to Kyle Smith to make the priority determination, so his
17 filing of the priority documents with BLS was unsolicited and served no useful purpose. If
18 Mr. Davis had simply filed the application form requested, he would not have included the
19 prior 2014 application form which listed Daniela as a party and showed her email address as
20 the contact address. It was that prior application listing Daniela's email address that caused
21 BLS to forward Daniela's email address to Licensing as the email address for the applicant.
22 Mr. Davis's action of including additional, unnecessary information with his application
23 provided the email address that caused the error. If he had not included the additional
24 documentation regarding priority, which BLS had no need of, the erroneous email address
25 would not have been available, and the error would not have occurred.

26

1 In addition, once Licensing staff received the erroneous email address from BLS and
2 sent their request for priority information out, they had no way to know of the error. All they
3 could know was that the license applicant had not responded. Mr. Davis was in a much better
4 position to know something was wrong, as he knew he had not received any acknowledgment
5 of his application from Licensing. He testified that he heard from other applicants that they
6 were being contacted and that other applications were being processed. Davis testimony at
7 approximately 1:22:00. He let nearly a month and a half go by, knowing that he had not heard
8 anything from Licensing staff. Once he made the telephone call to Mr. Garza, which he could
9 have made at any time during the month and a half of delay, Licensing staff corrected the
10 situation within a day, and the priority designation was done within a day of receiving the
11 requested documentation from Mr. Davis.

12 Mr. Davis's submission of the unneeded and unrequested priority documents to BLS,
13 including a copy of his 2014 marijuana license application, caused the error which resulted in
14 Licensing staff receiving from BLS the Daniela email address they used as the contact point
15 for Mr. Davis's applications. Because that information came to them directly from BLS, and
16 they did not receive the paper documents showing the different applications for 2014 and
17 2015, Licensing staff had no way to know there was any other email address other than the
18 one BLS supplied them.

19 Once Kyle Smith had sent out the request for priority documents timely and received
20 no response from the applicant, she had no way to know it was because of an error with the
21 email address. Mr. Davis was the only one in a position to know something was wrong during
22 the critical month and a half delay, because he knew other applicants who applied after him
23 were being contacted and he was not. He testified that he knew Mr. Garza, and that he
24 contacted him when he did not receive any contact from Licensing staff. There was no reason
25 he had to wait a month and a half to make that contact. Immediately upon contacting
26 Mr. Garza, Mr. Davis's applications were processed, and the priority one designations were

1 granted within a week of that contact. Even that one-week delay was because it took that long
2 for Mr. Davis to resubmit the priority documents staff requested.

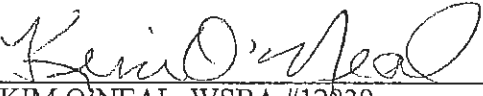
3 The delay was regrettable, but it cannot be attributed to Licensing staff or to the Board.
4 Mr. Davis caused the error by submitting the unnecessary document with Daniela's email
5 address on it. Furthermore, he was the only one in a position to know something was wrong
6 during the month and a half delay because he knew he was not being contacted when other
7 applicants were contacted. All Licensing staff knew was that they had requested documents
8 from Mr. Davis at the email address that came with his application, and that he was not
9 responding.

10 IV. CONCLUSION

11 Because Mr. Davis did not provide the alternate location for his two applications in
12 jurisdictions with licenses available to grant, Licensing staff properly withdrew the two
13 license applications at issue in this case. Even if Mr. Davis's complaint about delay is
14 considered, the error is attributable to action he took by filing the unnecessary additional
15 document, and to delay he caused by waiting a month and a half to contact Mr. Garza. Judge
16 Dublin correctly affirmed the withdrawal of these license applications, and her decision
17 should be affirmed.

18 DATED this 15th day of March, 2017.

19 ROBERT W. FERGUSON
20 Attorney General

21 
22 _____
23 KIM O'NEAL, WSBA #12939
24 Senior Counsel
25 Attorneys for Washington State Liquor and
26 Cannabis Board Licensing & Regulation Division

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PROOF OF SERVICE

I certify that I served a copy of the following documents on all parties or their counsel of record on the date below as follows:

MERWIN MOE SPENCER
SPENCER PALACE LAW
3409 MCDUGALL AVE STE 204
EVERETT WA 98201

U.S. mail via state Consolidated Mail Service (with proper postage affixed)

courtesy copy via facsimile:

courtesy copy via electronic mail:
moe.spencer101@gmail.com

ABC/Legal Messenger

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 15th day of March, 2017.

Jeanne Roth
JEANNE ROTH, Legal Assistant

BEFORE THE WASHINGTON STATE LIQUOR AND CANNABIS BOARD

IN THE MATTER OF:

PUGET SOUND GROUP LLC d/b/a
PUGET SOUND GROUP
9451 35TH AVE SE STE 1 & 4
SEATTLE, WA 98126-3871

APPLICANT

APPLICATION NO. 413998
UBI 603 104 127 001 0003

PUGET SOUND GROUP LLC d/b/a
NORTHWEST PATIENT RESOURCE
CENTER
9456 35TH AVE SW
SEATTLE, WA 98126-3825

APPLICANT

APPLICATION NO. 413996
UBI 603 104 127 001 0001

LCB NO. M-26,022

OAH NO. 07-2016-LCB-00081

LCB NO. M-26,023

OAH NO. 07-2016-LCB-00082

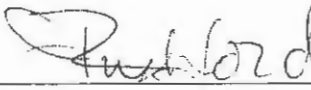
ORDER GRANTING
LICENSING'S REQUEST FOR
TWO WEEK EXTENSION TO
FILE RESPONSE TO PETITION
FOR REVIEW

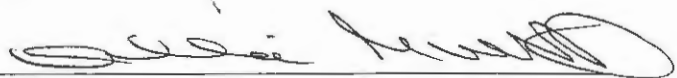
The above-captioned matter coming on regularly before the Board, and it appearing that:

1. An Initial Order in this matter was issued by Administrative Law Judge Lisa N. W. Dublin on January 9, 2017. The Board received a copy of the Initial Order on January 10, 2017.
2. On February 8, 2017, the Applicant's Good Cause Request for More Time for Filing Petition for Board Review of Initial Order was received.
3. On February 14, 2017, the Board issued an Order Granting Applicant's Motion to Extend the Filing Time for Petition for Review.
4. On February 20, 2017, Applicant's Petition for Board Review of Initial Order was received.

5. On March 2, 2017, Licensing filed a Request for Two-Week Extension of Date to File Response to Petition for Board Review.
6. On March 2, 2017, Board staff provided the requested audio records to the Licensing Division.
- The Board hereby ORDERS that Licensing's Request for Two-Week Extension of Date to File Response to Petition for Board Review is granted. The Response to Petition for Board Review may be filed by March 16, 2017.

DATED at Olympia, Washington this 7th day of March, 2017





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Liquor and Cannabis Board
Board Administration

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BEFORE THE WASHINGTON LIQUOR AND CANNABIS BOARD

In the Matter of:

PUGET SOUND GROUP, LLC
d/b/a Puget Sound Group,
9451 35th Ave SE
Seattle WA 98126

Applicant.

Application 413996 & 98

OAH No. 07-2016-LCB-00081
07-2016-LCB-00082

REQUEST FOR TWO-WEEK
EXTENSION OF DATE TO FILE
RESPONSE TO PETITION FOR
BOARD REVIEW

The Licensing Division, by and through its undersigned attorneys, requests an additional two weeks to file its response to the Petition for Board Review in this matter. As stated in the attached Declaration of Counsel, the Petition for Review was transmitted by email, but not followed by regular mail. Under Board regulations, email service is not permitted, and fax service is only permitted if followed by regular mail service of a hard copy. WAC 10-08-110(2).

In addition, Licensing counsel needs the recording of the hearing to complete the response to the Petition for Review, and the two weeks are necessary to receive and review that recording.

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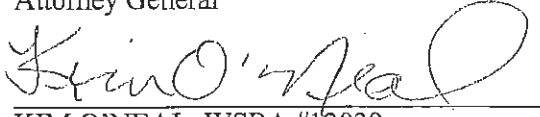
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Good cause has been shown for a short, two-week extension of the time to file the response to the Petition for Board Review in this case.

DATED this 1st day of March, 2017.

ROBERT W. FERGUSON
Attorney General



KIM O'NEAL, WSBA #12939
Senior Counsel
Attorneys for Washington State Liquor and
Cannabis Board Enforcement Division

1 **PROOF OF SERVICE**

2 I certify that I served a copy of the following documents on all parties or their counsel
3 of record on the date below as follows:

4 MERWIN MOE SPENCER
5 SPENCER PALACE LAW
6 3409 MCDOUGALL AVE STE 204
7 EVERETT WA 98201

U.S. mail via state Consolidated Mail
Service (with proper postage affixed)

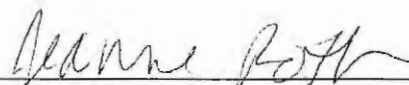
courtesy copy via facsimile:

courtesy copy via electronic mail:
moe.spencer101@gmail.com

ABC/Legal Messenger

8
9
10 I certify under penalty of perjury under the laws of the state of Washington that the
11 foregoing is true and correct.

12 DATED this 1st day of March, 2017.

13
14 
15 _____
16 JEANNE ROTH, Legal Assistant

McCarroll, Kevin P (LCB)

From: Roth, Jeanne (ATG)
Sent: Thursday, March 02, 2017 1:19 PM
To: McCarroll, Kevin P (LCB)
Cc: Hunter, Lukas S (LCB); O'Neal, Kim (ATG)
Subject: **Attorney Client Privilege, GR-31.1**
Attachments:

Hi Kevin:

Attorney Client Privilege, GR-31.1

Thank you.

Jeanne Roth
Legal Assistant
Office of the Attorney General
Government Compliance & Enforcement Division
PO Box 40100
Olympia, WA 98504-0100
(360) 386-4074

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Liquor and Cannabis Board
Board Administration

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BEFORE THE WASHINGTON STATE LIQUOR AND CANNABIS BOARD

IN THE Matter of:
Puget Sound Group LLC,
dba Puget Sound Group
9456 – 35th Ave SW
Seattle WA 98126-3825

OAH NO. 07-2016-LCB-00081 & 82

LCB No. M-26,022 &
M-26,023

**APPLICANT PETITION
FOR BOARD REVIEW OF
INITIAL ORDER**

&

Puget Sound Group LLC,
dba Puget Sound Group
9451 – 35th Ave SW Suites 1 & 4
Seattle WA 98126-3825

Applicant,

License No. 413996 & 413998
UBI Nos. 603 104 127 001 0001 &
603 104 127
001 0003

COMES NOW Applicant John Davis as owner of Puget Sound Group LLC, dba Puget Sound Group (hereafter JDavis of PSG), operated a collective cannabis garden¹ in Seattle, WA in good legal standing with all state regulatory agencies, appearing by and through his attorney of record, Merwin Moe Spencer of Spencer Palace Law, does now provide the following exceptions to the Initial Order issued in the above-named case by Administrative Law Judge

¹ See RCW 69.51A.085.

1 Lisa N. W. Dublin on January 10, 2017 and do ask that you reverse her Initial Order. At the end
2 of this Petition, I will also ask this Board to grant JDavis of PSG a recreational retail license.

3 INTRODUCTION

4
5 This case before Judge Dublin had many issues and many problems that occurred on the
6 Liquor & Cannabis Board's Licensing Division (hereafter LD) side. However, the LD forced
7 that the only issue Judge Dublin was permitted to decide was a narrow consideration of whether
8 the Applicant JDavis of PSG had submitted a new location for a marijuana retail license.
9 Everyone knew from the outset that he didn't submit a new location but the story isn't open and
10 shut w/just him not choosing a new location as the LD would have you believe. It's the reason
11 why – when was given 30 days to choose a new location, akin to placing your hand over a hot
12 stove – he declined that offer.

13 Simply put, JDavis was forced into a position to identify a backup location on account of
14 Board error, not applicant error, yet ALJ Dublin could not consider the nature of the LD's errors
15 because LD had tailored the issue to only be about whether the applicant did or did not provide
16 a new location. Because LD gets to dictate what the issue is about, they can, do – and did here
17 – get to narrowly tailor it to their benefit, thus leaving out all of the juicy bits which highlight
18 their errors, which there were many. It's as if they sat down prior to the pre-hearing conference
19 (when the issue is set, which they get carte blanche to do), looked at the case entirely, saw
20 where they erred, then narrowly tailored the issue. If every defendant had that much power and
21 control over the system that governs them, of course they would always win. Judge Dublin's
22 hands were tied.

1 The narrow scope of review infringed upon the JDavis' right to a fair and impartial
2 hearing and denied him the opportunity to redress LD's amalgamation of errors. Being barred
3 the right to appeal the many underlying causes that led to license denial is the same thing as
4 being denied the right to appeal altogether, and thus, denied due process for JDavis of PSG.

5 Judge Dublin, however, did admit into the record our exhibits, A-G & I-K including:

- 6 1. BOTECH Final Report (Exhibit A in this brief)
- 7 2. Bob Schroeter email on BOTECH Draft Report (Exhibit B in this brief)
- 8 3. Mayor Ed Murray Disapproval Letter to LCB's Karen McCall (Exhibit C in this brief)
- 9 4. Emails btwn J.Davis, Marcy Wilsie & Kaitlin Leeberg discussing Mr. Davis's plea
(Exhibit D in this brief)
5. Emails btwn Nicola Reid & Mitzi Vaughn, JDavis former attorney (Exhibit E in this
brief)

10 Thus, I get to discuss them herein to you the Board, and if not successful here, to Superior Court
11 later.

12 STATEMENT OF FACTS

13 On October 12, 2015, JDavis of PSG, was one of 7 individuals physically in line at the
14 Business Licensing Service (BLS) office in Tumwater when the doors opened at 8:00am. Mr.
15 Davis submitted 2 of PSGs applications to BLS at that time, No. 413996 & No. 413998. He
16 also submitted his documents demonstrating his Priority 1 status and also his physical address
17 and his email address. Due to internal errors at LD, the processing of PSG applications was
18 delayed. That internal error was that the LD began communicating with JDavis based off of the
19 wrong email address that was not the email address that JDavis handed in to BLS on Oct 12th.
20 Somehow, between BLS & LD, they supplanted JDavis of PSG's email and contact address
21 with another person, a Daniela Bernhard, who was a former associate of Mr. Davis. This was
22 done through no fault of Mr. Davis. Ms. Bernhard began receiving DocuSign notifications from
23
24

1 LD with sensitive personal business information meant for JDavis only. Ms. Bernhard became
2 apprised of that information and JDavis and his attorney at the time, Mitzi Vaughn, believed
3 Ms. Bernhard began using that information for her own personal use. Exhibit E.

4 From Oct 12 – Dec 11, 2015 when JDavis received his priority 1 designation, 2 months
5 had passed. This resulted in JDavis' applications being ranked much lower than other
6 applicants who had applied after JDavis on October 12, 2015. The timeline were as follows:

- 7 • October 12- JDavis of PSG applied for licenses for his stores and turned in my priority
8 Submission at BLS in Tumwater at 8am.
- 9 • November 2- JDavis became aware of others getting "Priority Submissions" from
10 DocuSign and began to calling the LCB Licensing Division as to the status of his application.
- 11 • November 3- WSLCB starts holding rule-making hearings.
 - 12 1 . November 3- Spokane
 - 13 2 . November 4- Ellensburg
 - 14 3 . November 9- Vancouver
 - 15 4 . November 12- Tacoma
 - 16 5 . November 16- Seattle
- 17 • November 11- JDavis of PSG received a public disclosure request reply from the LCB.
- 18 • November 12- Bob Schroeter email on BOTEC Draft Report (Exhibit B in this brief)
- 19 • November 19- JDavis of PSG turn in his rule-making testimony as CEO of Puget Sound
20 Group.
- 21 • November 30- JDavis received a public disclosure request reply from the LCB and
22 Puget Sound Group is not on it. There are only 21 priority 1s at the time.
- 23 • November 30- JDavis gave up on calling the LCB application line and call Rick Garza.
24 Garza had Nicola Reed in his office and Ms Reid informed JDavis in the presence of Garza that
she had been sending the documents to the wrong email address. Ms. Reid said at that moment
to JDavis that she would rectify the problem.
- December 1- JDavis received his Priority DocuSign.
- December 9- JDavis submitted his priority documents, again.
- December 10- JDavis received his Priority 1 on 413998.

- 1 • December 11- JDavis received his Priority 1 on 413996.
- 2 • December 12- JDavis received his address confirmation from DocuSign.
- 3 • December 15- BOTEK Study Final Report comes out (Exhibit A in this brief)
- 4 • December 16- Cap is enacted creating between 14 and 21 new licenses for the City of Seattle.
- 5 • December 18-21- Emails btwn Nicola Reid & Mitzi Vaugh, JDavis former attorney (Exhibit E
6 in this brief)
- 7 • December 20- JDavis received his second submission request from DocuSign.
- 8 • December 31- JDavis completed his submission.
- 9 • January 4- JDavis enter his 3rd priority submission.
- 10 • January 5- Seattle Mayor Ed Murray Disapproval Letter to LCB's Karen McCall (Exhibit C in
11 this brief)
- 12 • January 6 - JDavis received his posting.
- 13 • January 11- Initial phone interview.
- 14 • January 12- Received his fingerprinting notice.
- 15 • January 14- Received notice that Seattle was crowded.
- 16 • January 20- Received notice that all parties had completed licensing forms.
- 17 • February 10 - Emails btwn J.Davis, Marcy Wilsie & Kaitlin Leeberg discussing Mr. Davis's
18 plea (Exhibit D in this brief)
- 19 • March 31 - Licensing window closes

20 From November 2nd, when JDavis first began calling LD to get a status on his
21 application (and he called often) to when he finally spoke to Garza and Nicola Reid on
22 November 30th, he was told everything was fine and there was nothing to worry about as there
23 was no-rush to apply (the cap hadn't been enacted yet, which when it was enacted became dire
24 for those who were behind the curve), when in actuality, the whole time his email
correspondence from LD was going to Ms. Bernhard.

DISCUSSION & ARGUMENT

Wrong Contact & Email Fiasco

At the hearing before ALJ Dublin, the wrong address fiasco by LD was testified to by both Ms. Nicola Reid and JDavis. JDavis testified that he gave up on calling the LCB application line and call Rick Garza, then Agency Director. Garza and JDavis knew each other

1 from the past. Garza had Nicola Reed in his office and Ms. Reid informed JDavis – in the
2 presence of Garza – that she had been sending the documents to the wrong email address. Ms.
3 Reid said at that moment to JDavis that she would rectify the problem. Ms Reid confirmed this
4 in her testimony to Judge Dublin.

5 By the time LD fixed this problem it was December. JDavis received a Priority 1
6 determination on December 11th, but now his applications were ranked much lower than other
7 applicants who had applied after JDavis on October 12, 2015 and who eventually **leaped-frog**
8 over JDavis and took up those now coveted, limited number of licenses left in Seattle. This
9 showing of utter disorganization by the LD in JDavis' application process not only cost delay,
10 but also thousands of dollars to JDavis in closing down building cost after July 1, 2016, and
11 attorney's fees. JDavis of PSG suffered immediate, irreparable, and ongoing harm.

12 *LD did not ranked JDavis' applications by date of submission.*

13 The LCB's emergency rules are clear that applications will be processed in the order of
14 submission within priority categories:

15
16 Within priority categories, **applications will not be ranked and will be processed in**
17 **order of submission.** WAC 314-55-020(3) (emphasis added).

18 However, in contravention of this rule, LD processed JDavis' applications not by the BLS
19 submission date as defined by the WAC, but by the date the agency got around to assigning
20 priority to his applications. This, as stated earlier, caused JDavis' ranked within the LCB's
21 Priority 1 tier of apps to drop well-behind others who had applied weeks after him. LD openly
22 admits they didn't process the applications according to the order of submission date as stated in
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1 the WAC. They are on record saying, “some applicants were more ready than others so we
2 proceeded ahead with the ready ones irrespective of submission date”.

3 Assignment of priority was also influenced by which investigator was assigned the
4 application. In JDavis’ case, he didn’t get an investigator until after Dec 18, 2015, 2 days after
5 the Cap was determined on Dec 16, 2015. Exhibit E on investigators. The LCB’s LD failure to
6 adhere to its own regulation governing the submission/ranking of applications – specifically
7 JDavis of PSG’s application – caused immediate, irreparable and ongoing harm to JDavis with
8 each additional license issued thanks, in part, to the Caps (low cap #) the LCB placed on the
9 number of retail stores that was permitted. Exhibit E & A.

10 The LCB arbitrarily capped the number of permitted retail cannabis outlets based on a report it
11 knew to be flawed.

12 The Cannabis Patient Protection Act, Second Substitute Senate Bill 5052, (hereinafter,
13 the “Act”) orders the LCB to increase the number of retail cannabis outlets permitted using data
14 from the Office of Financial Management (“OFM”) regarding “(a) Population distribution; (b)
15 Security and safety issues; (c) The provision of adequate access to licensed sources of marijuana
16 ... to discourage purchases from the illegal market ... ; and (d) the number of retail outlets ...
17 necessary to accommodate the medical needs of qualifying patients....” SB 5052-2S, Sec.
18 8(2)(d).

19 1. The BOTECH Study

20 To this end, the LCB enlisted the services of a third party group (BOTECH) to assess the
21 size of the medical and recreational cannabis markets for purposes of increasing the retail store
22 cap. The results of the study contain – by the LCB’s own admission – a great deal of
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1 uncertainty. In an email from LCB's Bob Schroeter dated November 25, 2015, the LCB poses a
2 number of questions to BOTEC concerning its draft report (the "Draft Report"). Exhibit B.
3 The email includes a litany of concerns, specifically discussing that the BOTEC numbers do not
4 reflect the true size of the market and underestimate the number of stores necessary to meet
5 medical needs. In a word, the LCB was "concerned" that BOTEC's numbers were arbitrary:

6 The LCB is concerned that **the number of dispensaries BOTEC has estimated is very**
7 **much lower than all other estimates we have seen without an adequate reason as to**
8 **why**. Equally concerning, the estimate of product leaving dispensaries also appears low
9 and **lacking supporting information** (and an adequate consideration of other Medical
10 Dispensary transfer modes in the past – i.e. reduced rate sales).

11
12 The LCB is concerned that **without seeing estimates of the number of patients or the**
13 **amount of cannabis that went "out the door" for dispensaries, we cannot use this**
14 **report to estimate the need for additional stores.** ... The LCB needs to know both a
15 supportable estimate of the number of patients served and how much cannabis was
16 provided.

17 Exhibit B, emphasis added, LCB's Bob Schroeter email to BOTEC Chief Mark Kleiman.

18 Note that Schroeter was questioning the BOTEC report's analysis and methodology six
19 full weeks *after* the LCB opened the application period. The final report was issued on
20 December 15, 2015 (the "Final Report", Exhibit A) with the LCB's blessing despite the critical
21 fact that the Final Report still did not reflect "the number of patients or the amount of cannabis
22 that went 'out the door.'" The LCB stated explicitly in that without this information, it "cannot
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1 use this report to estimate the need for additional stores.” **And yet it did.**

2 So how did BOTEC arrive at the numbers upon which the LCB relies for its retail store
3 allocation? Sifting through the Final Report, a reader will note that BOTEC estimated the
4 medical market for cannabis in part by building “a regression model that could estimate a
5 store’s revenues based on that store’s hours, storefront width, and county,” using that
6 information to extrapolate numbers based on a small self-selecting group of medical dispensary
7 owners willing to cooperate with BOTEC. Exhibit A, BOTEC Final Report, p. 15 (hereinafter
8 “Exhibit A”). By BOTEC’s admission, “the outlets providing those data were not a truly
9 representative sample ...” Exhibit A, p. 13.

10 All told, the Final Report reflects that BOTEC arrived at its medical cannabis market
11 estimated by using (1) data gathered from a non-representative sample of dispensaries, (2)
12 Google Earth images to measure what appear to be medical dispensary store fronts, and (3) the
13 internet to query Google’s posted dispensary hours of operation. Exhibit A, pp. 13, 16. The
14 *number of patients* or *volume of cannabis* sold never factored into the equation.

15 Despite this boondoggle of a report, on December 16, 2015 the LCB announced that,
16 based on the BOTEC Final Report, 222 additional stores were necessary to meet the needs of
17 the medical market. The announcement stated that the methodology for arriving at the
18 increased number would be explained in the emergency rules to be issued on January 6, 2016.
19 The email announcement did state that “[t]he number of retail locations will be determined
20 using a method that distributes the number of locations *proportionate to the most populous*
21 *cities* within each county and to accommodate the medical needs of qualifying patients and
22 designated providers.” However, when the new set of emergency rules were issued on January
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1 6, 2016, they did not include an explanation of methodology. *See* LCB Emergency Rules,
2 January 6, 2016. There is no indication that the LCB, as required by the Act, consulted with the
3 OFM and no indication as to if or when the methodology will be released.

4 *Mayor Ed Murray Protest Letter – City of Seattle*

5 Following the license cap announcement, the LCB promptly contradicted its own one
6 sentence methodology in allocating retail licenses, particularly to the City of Seattle. Although
7 Seattle had its allotment of retail licenses doubled, it was not consulted on the increase nor does
8 it calculate that the increase is proportionate or sufficient “to accommodate the medical needs of
9 qualifying patients and designated providers.” (*See* Exhibit C, Mayor Ed Murray Disapproval
10 Letter to LCB’s Karen McCall on Store Caps (hereinafter Exhibit C”). In fact, a letter sent from
11 Seattle Mayor Ed Murray to the WSLCB uses the WSLCB’s own “proportionate” methodology
12 to drive home the message that the WSLCB is acting arbitrarily:
13

14 With a proposed maximum of 42 stores for our 668,000 residents, Seattle will have
15 approximately one store per 15,900 residents. Whereas Tacoma (population 205,000)
16 will be allotted 1 store per 12,800 residents and Everett will have 1 store per 10,700
17 residents. **Without any explanation from the LCB for this varying standard**, the
18 current proposal will allow Everett to have almost 50 percent more stores on a per capita
19 basis than Seattle ... **If the LCB were to allocate stores at the same per capita rate as**
20 **Everett’s it would equate to 62.4 stores in Seattle.**

21 Exhibit C, emphasis added.
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1 The letter from Mayor Murray also highlights other arbitrary LCB actions in connection
2 with this application process:

3 Since October, my staff have asked the LCB to hold off on the processing of Seattle
4 licenses while my proposed bill to amend siting regulations and land use rules was
5 moving through the City's legislative process. During this time, **my staff was**
6 **repeatedly assured by LCB staff that only a handful of locations would be close to**
7 **being licensed in January when our ordinance is expected to pass**, thus they claimed
8 there would be no need to slow down their process. However, with the City Council
9 expected to vote on the ordinance on January 11, **it seems that not only have all the**
10 **slots for retail stores been spoken for, but the LCB has already exceeded your own**
11 **proposed limit of 42 retail stores.**

12 ...

13 [The implementation of caps and rapid licensing process] **unfairly disadvantages long-**
14 **time good actors who have abided by state and local regulations and who, on advice**
15 **from LCB staff that they would not be harmed since there was not going to be a**
16 **cap, delayed their applications awaiting the passage of City legislation.**

17 Exhibit C, emphasis added.

18 3. The Arbitrary and Capricious Cap

19 The license cap is the result of an arbitrary and capricious decision-making process
20 within the LCB. Under RCW 34.05.570(4)(c)(iii), aggrieved persons may seek relief from
21 agency action that is arbitrary or capricious. Despite the clearly erroneous outcomes of LCB
22

1 decisions, Applicant JDavis of PSG herein challenge the agency's decision-making process that
2 led to these outcomes.

3 In *Rios v. Dep't of Labor & Indus.*, 145 Wash.2d 483, 501, 39 P.3d 961 (2002), the
4 Court noted that,

5 [t]he court must scrutinize the record to determine if the result was reached
6 through a process of reason, not whether the result was itself reasonable in the
7 judgment of the court.
8

9 Opening the retail license application phase to all comers, before the announcement of a
10 cap based on dubious methodology, and long before the results of the shoddy study were
11 released, resulted in injury to JDavis of PSG. By LCB's own admission, the process used to
12 estimate the existing medical cannabis market was flawed and of no use in determining the
13 number of new retail cannabis outlets required. Exhibit B.

14 LCB reliance upon a study that they knew was systemically flawed represents a
15 substantial departure from the "process of reason" described in *Rios* and the legislative findings
16 contained in the Regulatory Reform Act of 1995.²

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18
19
20 ² **Findings-Short Title-Intent-1995 c 403:** "(2)...it is the intent of the Legislature [that]: (e) Members of the
21 public have adequate opportunity to challenge administrative rules with which they have legitimate concerns
22 through meaningful review of the rule by the executive, the legislature, and the judiciary. While it is the intent of
23 the legislature that upon judicial review of a rule, a court should not substitute its judgment for that of an
24 administrative agency, **the court should determine whether the agency decision making was rigorous and
deliberative; whether the agency reached its result through a process of reason; and whether the agency
took a hard look at the rule before its adoption;** (emphasis added)

1 CONCLUSION

2 In processing Mr. Davis's application for a marijuana retail license, the Licensing
3 Division made a host of mistakes, many of which they admitted to. Mr. Davis owned and
4 operated (not merely purchasing the rights to, as others had done) a medical cannabis collective
5 garden. He filed applications on the first day of the licensing process and met all of the LCB's
6 license-eligibility requirements. By virtue of the multitude of errors³ committed by the LCB,
7 JDavis was improperly denied a license and was forced to close his business for lack of a
8 license on July 1, 2016. JDavis appealed and sought redress for the mistakes that led to his
9 receipt of Priority 1 status months after others. LCB errors not only barred JDavis from
10 receiving a license in the area where he had been serving medical marijuana patients, but their
11 errors allowed others with objectively less merit, applying well after him, to become licensed in
12 Seattle.

13 The administrative appeal should have provided the appropriate forum by which JDavis
14 could have his grievances addressed, but the scope of the appeal was unlawfully narrowed to
15 consider only whether JDavis had provided a new address to the LCB for consideration, now
16 that his home jurisdiction had filled with entities that applied well after he did. Barred from
17 having his appeal address the defacto cause for his license application withdrawal, his due
18 process rights have been violated.

19
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21 ³ **Findings-Short Title-Intent-1995 c 403:** "(2)...it is the intent of the Legislature [that]:

22 (b) When an agency is authorized to adopt rules imposing obligations on the public, that it do so
23 responsibly: The rules it adopts should be justified and reasonable, with the agency having determined, based on
24 common sense criteria established by the legislature, that the obligations imposed are truly in the public interest;

(c) Governments at all levels better coordinate their regulatory efforts to avoid confusing and frustrating
the public with overlapping or contradictory requirements;

1 Justice requires that Mr. Davis be made whole. For these reasons and the reasons stated
2 above, the Appellant respectfully prays this Board grants relief and asks that you grant JDavis
3 of PSG a marijuana retail license in Seattle. (Exhibits A-E sent as separate attachments).

4
5 RESPECTFULLY SUBMITTED this 19TH day of FEB, 2017

6 SIGNED: By: s/ Merwin Moe Spencer
7 Merwin Moe Spencer, WSBA #40963
8 SPENCER PALACE LAW - Applicant Attorney
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CERTIFICATE OF SERVICE

I certify that on this date, I sent for delivery a true and correct copy of the document to which is affixed by the method indicated below and addressed to the following:

Kim O'Neal - Attorney Office of the Attorney General, WA Olympia, WA	<input type="checkbox"/>	U.S. MAIL
	<input type="checkbox"/>	PROCESS LEGAL SERVER
	<input checked="" type="checkbox"/>	EMAIL - <i>Courtesy Copy</i>
	<input type="checkbox"/>	HAND DELIVERED
	<input type="checkbox"/>	EXPRESS DELIVERY
	<input checked="" type="checkbox"/>	FACSIMILE
	<input type="checkbox"/>	U.S. MAIL
	<input type="checkbox"/>	PROCESS LEGAL SERVER
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	<input type="checkbox"/>	EXPRESS DELIVERY
	<input type="checkbox"/>	FACSIMILE

SPENCER PALACE LAW

DATED: Feb. 19, 2017

SIGNED: By: s/ Merwin Moe Spencer
Merwin Moe Spencer

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EXHIBIT A
(see attached email)

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EXHIBIT B



Fwd: WSLCB PRR 15-12-110

1 message

[REDACTED] <[REDACTED]>
To: [REDACTED]

----- Forwarded message -----

From: **McDermott, Kelly E (LCB)** <kelly.mcdermott@lcb.wa.gov>
Date: Tue, Jan 5, 2016 at 5:50 PM
Subject: WSLCB PRR 15-12-110

----- Forwarded message -----

From: "Schroeter, Bob L (LCB)" <bob.schroeter@lcb.wa.gov>
To: "Mark A.R. Kleiman" <markarkleiman@gmail.com>, "Brad Rowe" <brad.rowe@botecanalysis.com>
Cc: "Garza, Rick J (LCB)" <rick.garza@lcb.wa.gov>, "Antolin, Peter P (LCB)" <peter.antolin@lcb.wa.gov>, "Smith, Rebecca (LCB)" <rebecca.smith@lcb.wa.gov>, "McShane, Jeanne (LCB)" <jeanne.mcshane@lcb.wa.gov>, "Sandy, Leanna (LCB)" <leanna.sandy@lcb.wa.gov>
Date: **Wed, 25 Nov 2015 22:00:46 +0000**
Subject: BOTEC Draft Report discussion and Follow Up Steps

Mark and Brad,

Thank you both for meeting telephonically with Leanna Sandy and I today as a follow-up to the draft report teleconference that we had on Monday. Today's discussion gave us further opportunities to address some of the questions and comments shared by LCB management on Monday, and to raise additional clarifying questions about the draft report.

We are including today's orally communicated questions/comments below so that they may be reviewed by you and your team:

- On page 6 of the Draft Report it refers to "tier 3," the phrase should be corrected to be "priority 3."
- How was the \$1.4 billion annual value determined? Did BOTEC use the same price for medical and retail and if not, how is this consistent? Most importantly - What does this tell us about market needs?
- How was the price for marijuana in medical and retail determined on page 13 of the Draft Report?
- The LCB is concerned that the number of dispensaries BOTEC has estimated is very much lower than all other estimates we have seen without an adequate reason as to why. Equally concerning, the estimate of product leaving dispensaries also appears low and lacking supporting information (and an adequate consideration of other Medical Dispensary transfer modes in the past - i.e. reduced rate sales).
- The LCB is concerned that without seeing estimates of the number of patients or the amount of cannabis that went "out the door" for dispensaries, we cannot use this report to estimate the need for additional stores. As we have discussed, many dispensaries provide cannabis to low income or veteran patients for free or reduced rates and the dollar value that is reported in the Draft Report does not reflect any of this. The LCB needs to know both a supportable estimate of the number of patients served and how much cannabis was provided.
- How did BOTEC estimate \$400 billion in sales if we don't know what is on the black market? What research did you use to estimate the 18% of illicit production?
- How did BOTEC identify the 41 dispensaries used in your estimate? Why were there only 2 in the 25 group E counties? The LCB is concerned that 2 outlets for 25 counties appears to be an under representation.

- Per our discussion of this data/outlier issue: Cesar's Salad reported being open 161 hours a week, which converts to 23 hours a day. BOTEC discounted that as a reality, but from our understanding of that industry it is possible that they did operate those hours. If using the mean and not the average, what were the lowest numbers of sales that were not used to estimate the market? If that was the only outlet that was not used, does this represent a bias towards lower sales?
- The LCB wants further clarification on page 13 about the prices on page 13. If the dispensaries charge half as much and made half as much revenue as the retail stores, doesn't this mean that there is the same market in medical as there is in retail?
- Please explain more clearly in the report the Monte Carlo Simulation and how the process drives BOTEC's results in the Draft Report (page 9).

You had asked during our call if we might share the application figures with you for the window since 10/1/2015, and we are pleased to do so for the present purpose. One of Becky Smith's dedicated team members keeps a rolling count by week which is indicated below, the most recent of which is one the top:

Estimated Numbers as of 11-16-2015:

Applications received to date from BLS for new retailers: 1002.

Total Medical Endorsements issued to retailers: 137

Plant Canopy: Total is 142 plant canopy expansions completed.

Total Processor applications received: 55

Estimated Numbers as of 11-10-2015:

Applications received to date from BLS for new retailers: 962.

Total Medical Endorsements issued to retailers: 131

Plant Canopy: Total is 175 plant canopy expansions completed.

Total Processor applications received: 55

Estimated Numbers as of 11-02-2015:

Applications received to date from BLS for new retailers: 801.

Total Medical Endorsements issued to retailers: 118

Plant Canopy: Total is 168 plant canopy expansions completed.

Total Processor applications received: 54

Estimated Numbers as of 10-27-2015:

Applications received to date from BLS for new retailers: 680.

Total Medical Endorsements issued to retailers: 118

Plant Canopy: Total is 168 plant canopy expansions completed.

Total Processor applications received: 54

Estimated Numbers as of 10-20-2015:

Applications received to date from BLS for new retailers: 482.

Total Medical Endorsement issued to currently licensed retailers: 116

Plant Canopy: Total plant canopy is still 163 plant canopy expansions completed.

Estimated Numbers as of 10-16-2015:

Applications received today from BLS for new retailers: 120, which makes a running total 389 from BLS.

Total Medical Endorsement issued to currently licensed retailers: 116 (4 completed today)

Plant Canopy: Total is still 152 plant canopy expansions completed.

We have received 4 more requests to add a processor to currently licensed producers, totaling 52.

Estimated Numbers as of 10-15-2015:

Applications received today from BLS for new retailers: 50, which makes a running total 269 from BLS.

Total Medical Endorsement issued to currently licensed retailers: 111

Plant Canopy: Total is still 152 plant canopy expansions.

Estimated producers who applied to add a processor 48.

Estimated Numbers as of 10-14-2015:

Applications received today from BLS for new retailers: 118, which makes a running total 219 from BLS.

Total Medical Endorsement issued to currently licensed retailers: 110

Plant Canopy: Another 24 plant canopy requests have been processed today, making the total 152 plant canopy expansions.

Estimated numbers as of 10-13-2015:

Total applications received from BLS for new retailers: 97 applications.

Medical endorsements added for current retail licensees: Total 116 requests received.

Plant Canopy: Total 178 requests received.

As discussed, what we would suggest to address these issues under K430-4 is the following:

1. That we meet telephonically on Monday, 11/30/15, for 15-30 minutes at your convenience between 10 and Noon to discuss any need to adjust K430-4 as to time frames to facilitate addressing the above issues and performing any further survey work.
2. As time is, and has been, of the essence in this agreement we would like to target 12/11/2015 as a possible due date for a newly revised draft addressing the above issues and 12/15/2015 as a final report completion date. On Monday's call, we can discuss whether those dates will be adequate for BOTECH to complete the work to address the above questions and comments.
3. Please share with me by return email the best time for you both, and I will initiate the conference call at the time indicated.

Thank you again for the time and your engagement, as well as that of the other participants, in our effort to ensure that the study and the report thoroughly address the issues in K430-4 as deliverables in conjunction with the issues highlighted above.

A wonderful Thanksgiving to you both, to your team and to your families, and we look forward to our talk on Monday.

Bob Schroeter

Director of Public Records & Support Services

Washington State Liquor & Cannabis Board

360-664-1677

Bob.schroeter@lcb.wa.gov



**Washington State
Liquor and Cannabis Board**

3000 Pacific Ave SE Olympia, Washington 98504

----- Forwarded message -----

From:

To:

Cc:

Date:


Subject:

QUFVcU42UHU3TnZ1UXhYYnhkUkdZZzAwMDI=

3 attachments

 **BOTEC-MMJ-Report.pdf**
518K

 **Priority I,II,III for new retail apps 2015.xlsx**
42K

 **noname.eml**
63K

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EXHIBIT C



January 5, 2016

Karen McCall
Rules Coordinator
Washington State
Liquor & Cannabis Board
P.O. Box 43080
Olympia, WA 98504-3080

Dear Ms. McCall:

The City of Seattle has consistently been engaged with Liquor and Cannabis Board (LCB) staff and has shared our insights and concerns as LCB has undertaken the difficult task of merging recreational and medical marijuana in Washington State. I have been appreciative of the time LCB staff has provided to City staff and look forward to continuing this collaborative relationship in the months and years ahead.

Recently, the LCB announced their intention to increase the number of marijuana retail stores in Washington. While the City applauds the LCB's decision to increase the number of stores overall, we are still particularly concerned about the proposed number of stores for Seattle and how that proposal compares to the number of retail stores being considered for other cities in Washington.

Specifically, it seems that the LCB's current proposal does not evenly distribute stores on a per capita basis throughout the state. With a proposed maximum of 42 stores for our 668,000 residents, Seattle will have approximately one store per 15,900 residents. Whereas Tacoma (population 205,000) will be allotted 1 store per 12,800 residents and Everett will have 1 store per 10,700 residents. Without any explanation from the LCB for this varying standard, the current proposal will allow Everett to have almost 50 percent more stores on a per capita basis than Seattle while Tacoma will have stores at an almost 25 percent greater rate. If the LCB were to allocate stores at the same per capita rate as Everett's, it would equate to 62.4 stores in Seattle. Currently, there are 22 licensed stores already in Seattle (19 open) and we have received notices for 21 more stores; for a total of 43 potential marijuana retail locations.

Since October, my staff have asked the LCB to hold off on the processing of Seattle licenses while my proposed bill to amend siting regulations and land use rules was moving through the City's legislative process. During this time, my staff was repeatedly assured by LCB staff that only a handful of locations would be close to being licensed in January when our ordinance is expected to pass, thus they claimed there would be no need to slow down their process. However, with the City Council expected vote on the ordinance on January 11, it seems that not only have all the slots for retail stores been spoken for, but the LCB has already exceeded your own proposed limit of 42 retail stores.

Office of the Mayor
Seattle City Hall, 7th Floor
600 Fourth Avenue
PO Box 94749
Seattle, Washington 98124-4749

Tel (206) 684-4000
Fax: (206) 684-5360
Hearing Impaired use the Washington Relay Service (7-1-1)
www.seattle.gov/mayor

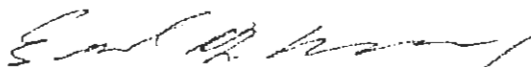
This is problematic for Seattle since the LCB will be forcing 43 stores into the limited suitable real estate available under the 1000 foot buffer. The current buffer zones prevent a more equitable dispersion of stores throughout the city and will result in some medical marijuana patients having to travel across town to acquire their medicine. This also puts the burden of having popular retail stores in just a few neighborhoods in Seattle, with the potential of turning some neighborhoods into "green light districts" when these stores should be equitably sited throughout the city. It also detracts from the ability of the legal market to erode the dominance of the illicit market as the public will continue to turn to illegal delivery services for the convenience those services offer if they have to travel a relatively far distance to acquire marijuana products.

In addition, this proposal unfairly disadvantages long-time good actors who have abided by state and local regulations and who, on advice from LCB staff that they would not be harmed since there was not going to be a cap, delayed their applications awaiting the passage of City legislation. I have heard anecdotally of one case involving the owner of a medical marijuana collective that has been serving patients since 2011. The owner is one of the few women or people of color who operates a collective garden and has waited on submitting her application – on the advice of the LCB – for a downtown Seattle location as it would not be compliant until the passage of my proposed legislation. Now, with all available slots apparently taken, she will likely not be able to obtain a license for that location.

This is a disservice both because a store in downtown would help erode the illicit market for marijuana downtown and it is a lost opportunity for a small business owner who has attempted in good faith to follow all the appropriate rules and regulations.

For these reasons, I urge the LCB to delay implementation of a marijuana retail store cap and reconsider the total number of stores allocated to the City of Seattle. If you have any questions or concerns about this letter and our concerns, please feel free to contact David Mendoza at 206-386-1256.

Sincerely,



Edward B. Murray
Mayor, City of Seattle

Cc:

Jane Rushford, Commissioner, WA State Liquor and Cannabis Board
Ruthann Kurose, Commissioner, WA State Liquor and Cannabis Board
Russ Hauge, Commissioner, WA State Liquor and Cannabis Board
Rick Garza, Director, WA State Liquor and Cannabis Board
Becky Smith, Director of Licensing, WA State Liquor and Cannabis Board

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EXHIBIT D

Fwd: Seattle Letter

1 message

john.b.davis@comcast.net <john.b.davis@comcast.net>

Wed, Feb 10, 2016 at 4:06 PM

To: merwin moe Spencer <moe.spencer101@gmail.com>, Mitzi Vaughn <mitzi.vaughn@greenbridgelaw.com>, Ryan Agnew <ryan@dtmodal.com>

From: "Kaitlin Leeberg (LCB)" <kaitlin.leeberg@lcb.wa.gov>

To: "john b davis" <john.b.davis@comcast.net>

Cc: "Marcy J Wilsie (LCB)" <marcy.wilsie@lcb.wa.gov>

Sent: Wednesday, February 10, 2016 3:56:37 PM

Subject: FW: Seattle Letter

Hi Mr. Davis,

I received your email from Marcy and am responding on her behalf. You should have received your letter allowing 30 days to relocate to another jurisdiction. We are no longer processing applications for the city of Seattle, the allotted slots have all been processed to final inspection, fee collection or have been issued. It has been determined that once the allotted amount of applications are at the final stages, meaning final inspection, fee collection and issued, we would no longer process applications in those jurisdictions. All applications are processed on a first come first serve basis.

If you would like a list of all licensed retailers in Seattle, please contact Public Records or there is a list on our website under public records, frequently requested lists.

Thank you,

Kaitlin

From: john.b.davis@comcast.net [mailto:john.b.davis@comcast.net]

Sent: Friday, February 05, 2016 12:08 PM

To: Wilsie, Marcy J (LCB)

Subject: Seattle Letter

Marcy,

This is to follow up on my voicemails. You told me on Thursday January 28 that the City of Seattle had been closed and that I would not be getting a marijuana retail license in the City of Seattle. You informed me that I would be getting a letter that says this on Monday (February 1). As you know, I did not. I called you on early in the week and told you that I had not received one. You informed me that there had been a meeting and the letters would be forthcoming on Thursday. I called yesterday and left a message inquiring where the letter was. Is there a reason that I have not received this? The status of my existing business is on the line.

I hear that other people are still receiving licenses in the city but can get no clear direction from the LCB. Your list of licenses issued on the website still lists only 31 issued. I understand from talking to the City of Seattle that there will be 48 instead of 41 issued. I understand that was updated on February 2 (after I was told that Seattle was closed) but I am looking for some direction. If there are 48 issued can you tell me who they are? What criteria are you using to determine if the City is closed. Is there any way to find out which applicants were chosen?

Can I please have some direction? I know that I have taken some steps to ensure that my business will not close but I need to be involved in ensuring the success of my business. If there are licenses available I would like to become licensed. If there are not I would at least like some information. Is there anything that is outstanding regarding my application?

Thanks,

John Davis
Puget Sound Group
dba Northwest Patient Resource Center
License Numbers 413996 and 413998

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EXHIBIT E

Fwd: Correspondence re License Applications 413996 and 413998

3 messages

john.b.davis@comcast.net <john.b.davis@comcast.net>

Sat, Nov 5, 2016 at 2:44 PM

To: moe.spencer101 <moe.spencer101@gmail.com>

From: "Nicola M Reid (LCB)" <nicola.reid@lcb.wa.gov>
To: "Mitzi Vaughn" <mitzi.vaughn@greenbridgelaw.com>
Cc: "Rebecca Smith (LCB)" <rebecca.smith@lcb.wa.gov>, "Khurshid Khoja" <khurshid@greenbridgelaw.com>, "John Davis" <john.b.davis@comcast.net>
Sent: Monday, December 21, 2015 3:10:31 PM
Subject: RE: Correspondence re License Applications 413996 and 413998

Hello,

You would need to put in for a public records request so our Public Records Department can handle the request accordingly. I have included their information for you:

	Public Records Office
	Washington State Liquor and Cannabis Board
Mail	P.O. Box 43078
	Olympia, WA 98504-3078
Fax	<u>(360) 664-9689</u>
Email	<u>publicrecords@lcb.wa.gov</u>

Thank you,

Nicola M. Reid

Marijuana Supervisor

3000 Pacific Ave | PO Box 43098 | Olympia, Washington 98504

phone: [\(360\) 725-0111](tel:(360)725-0111) | e-mail: nicola.reid@lcb.wa.gov | lcb.wa.gov

From: Mitzi Vaughn [<mailto:mitzi.vaughn@greenbridgelaw.com>]
Sent: Monday, December 21, 2015 3:01 PM
To: Reid, Nicola M (LCB)
Cc: Smith, Rebecca (LCB); Khurshid Khoja; John Davis
Subject: Re: Correspondence re License Applications 413996 and 413998

Nicola -

As always, thank you for your prompt response Nicola.

We are glad to hear that Ms. Bernhard has been removed from our two applications and understand that these applications are currently being processed.

However, our second concern was that Ms. Bernhard had used proprietary and confidential documents in connection with her inclusion as a true party of interest on Non-PSG License Applications. We believe these license application numbers are 421141, 421142, and 421415.

As discussed in greater detail in our correspondence transmitted below, we request that any

and all PSG proprietary and confidential documents associated with

Ms. Bernhard's applications be returned to PSG as soon as possible as their use was not authorized by the company. The company did not consent to making these documents public record, and must do all it can to prevent their further unauthorized disclosure.

We appreciate your cooperation in this matter as we attempt to remedy Ms. Bernhard's apparent breach of her fiduciary duties to PSG.

Best,

Mitzi

Mitzi Vaughn

Managing Attorney

mobile +1 425 894 6997

mitzi.vaughn@greenbridgelaw.com

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On Fri, Dec 18, 2015 at 5:03 PM, Reid, Nicola M (LCB) <nicola.reid@lcb.wa.gov> wrote:

Hello,

I looked into both of these applications and the DocuSign's that were originally sent to Daniela had been voided out so she was unable to submit any documentation back to us. It appears that John has two locations assigned as a priority 1 that are currently being processed. Does this sound accurate?

Thank you,

Nicola M. Reid

Marijuana Supervisor

3000 Pacific Ave | PO Box 43098 | Olympia, Washington 98504

phone: [\(360\) 725-0111](tel:3607250111) | e-mail: nicola.reid@lcb.wa.gov | lcb.wa.gov

From: Mitzi Vaughn [<mailto:mitzi.vaughn@greenbridgelaw.com>]
Sent: Thursday, December 17, 2015 12:17 PM
To: Smith, Rebecca (LCB); Reid, Nicola M (LCB)
Cc: Khurshid Khoja; John Davis
Subject: Correspondence re License Applications 413996 and 413998

Dear Becky and Nicola -

Please find attached for your attention correspondence regarding Puget Sound Group LLC's retail cannabis license applications.

We have been unable to ascertain whether an investigator has been assigned to these applications, but regardless the circumstances described herein would have required escalation to your attention.

We very much appreciate your assistance in this matter,

Mitzi

Mitzi Vaughn

Managing Attorney

mobile +1 425 894 6997

mitzi.vaughn@greenbridgelaw.com

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john.b.davis@comcast.net <john.b.davis@comcast.net>
To: moe.spencer101@gmail.com

Sat, Nov 5, 2016 at 2:44 PM

From: "Mitzi Vaughn" <mitzi.vaughn@greenbridgelaw.com>
To: "Nicola M Reid (LCB)" <nicola.reid@lcb.wa.gov>
Cc: "Rebecca Smith (LCB)" <rebecca.smith@lcb.wa.gov>, "Khurshid Khoja" <khurshid@greenbridgelaw.com>, "John Davis" <john.b.davis@comcast.net>
Sent: Monday, December 21, 2015 3:32:36 PM

Subject: Re: Correspondence re License Applications 413996 and 413998

Nicola -

I understand that is always the LCB's position that documents must be obtained by a public records request, but in this case, such a request is not appropriate. The fact that these documents are subject to release via a public records request is the entire problem underlying our request.

The documents to which we refer are PSG property improperly in the possession of the LCB, and removing them from LCB custody is imperative to mitigate current and future damages. Further, if proprietary and confidential documents were submitted to the LCB without PSG authorization, they were not authorized to become public record and should not be subject to a public records request.

As you know public records requests take 30 days or more to process. Meanwhile, while we wait, (1) the release of these documents in response to other public records requests can and will inflict irreparable harm to PSG, and (2) Ms. Bernhard's license applications are being processed, and licenses awarded, possibly using documents that were not authorized for use.

What, if anything, can you suggest we do to ensure that the LCB isn't disseminating our confidential and proprietary information in response to public records requests?

Thank you for your assistance,
Mitzi

Mitzi Vaughn

Managing Attorney

mobile +1 425 894 6997

mitzi.vaughn@greenbridgelaw.com

Please consider the environment before printing the contents of this email.

This E-mail, along with any attachments, is considered confidential and may well be legally privileged. If you have received it in error, you are on notice of its status. Please notify us immediately by reply e-mail and then delete this message from your system. Please do not copy it or use it for any purposes, or disclose its contents to any other person. Thank you for your cooperation.

[Quoted text hidden]

john.b.davis@comcast.net <john.b.davis@comcast.net>

Sat, Nov 5, 2016 at 2:45 PM

Estimating the Size of the Medical Cannabis Market in Washington State

Mark A.R. Kleiman, Steven Davenport, Brad Rowe, Jeremy Ziskind,
Nate Mladenovic, Clarissa Manning, Tyler Jones

December 15, 2015

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Executive Summary

There are three legal channels to obtain cannabis in Washington: the commercial outlets created by Washington Initiative 502 sell cannabis without requiring a medical recommendation; transactional medical cannabis outlets (called variously “dispensaries” or “collective gardens”) supply cannabis to those who have medical recommendations; and those with recommendations are allowed to home-grow. There is also a fourth, entirely illegal system. The overall size of the cannabis market and the shares accounted for by each channel change over time.

Under new legislation, the Washington State Liquor and Cannabis Board is responsible for incorporating medical cannabis into the I-502 system. In support of that decision-making effort, this report estimates the size (in dollars) of the transactional medical cannabis sector and its share of the overall market, along with the dollar volume of medical cannabis purchased by residents of each county.

There is considerable uncertainty in these estimates, for two reasons. First, the medical cannabis market is a moving target; there is substantial turnover in medical cannabis outlets, and in recent months the trend appears to be primarily downward as many outlets close in response to the changing regulatory climate. Second, even after reviewing the existing relevant literature and collecting original data, there remains a scarcity of data on Washington’s cannabis markets. This study has relied on sampling and modeling methodologies designed to reveal and measure feasible ranges of error and uncertainty.

Annual Market Values and Shares of Washington’s Markets (in \$M)

	Total	Medical	I-502	Illicit
Low	\$1,070	\$290	\$460	\$60
Best Estimate	\$1,330	\$480	\$460	\$390
High	\$1,610	\$690	\$460	\$740
Market Shares				
Low	100%	21%	28%	5%
Best Estimate	100%	37%	35%	28%
High	100%	55%	43%	48%

The transactional portion of the medical market is estimated to account for approximately \$290 - \$690 million per year (best estimate: \$480M), for between 21 and 55% (best estimate: 37%) of the \$1.33 billion total market revenues. That does not include any medical cannabis that is produced at home for own-consumption or non-commercial sharing. The current commercial market is estimated at \$460 million (35% of the total) with the remaining \$60-\$740 million (best estimate: \$390M) supplied by some combination of medical home growing and by illicit production. We have not estimated the extent of illicit diversion, e.g., resale of material purchased under medical recommendation.

Introduction

In 2013, shortly after I-502 was enacted, the RAND Drug Policy Research Center estimated the size of Washington's cannabis market at roughly 175 metric tons (MT) of cannabis (Kilmer et al., 2013). RAND did not estimate the market in dollar terms.

After implementation of I-502, the WSLCB has meticulously tracked cannabis moving through the licensed commercial supply chain, from farm to sale, monitored licensed business openings and closures, and made a "Weekly Cannabis Report" available to the public. The board has issued 214 retail cannabis licenses; 191 of those license-holders have reported sales. In October 2015, those retailers generated \$38 million in pre-tax sales.

The medical cannabis sector, however, has not been tracked. Medical cannabis retailers, ("collective gardens" or "dispensaries,"¹) have not been required to obtain special licenses to operate or to register with any central record keeper, although medical cannabis retailers that make commercial sales are required to report their revenues to tax authorities, like any other business. During Fiscal Year 2014-2015, medical cannabis retailers reported nearly \$100 million in sales, but this is not a reliable number. For a variety of reasons, not all medical cannabis outlets report earnings to the Department of Revenue. Further, it is impossible to discern the number of dispensaries that fail to report revenues at all, or misreport the true value of their sales in tax filings. The number of medical consumers is also unknown because they are not required to register.

This report estimates (1) the portion of the overall statewide cannabis market served by transactional medical cannabis outlets, and the dollar value of those sales, and (2) the revenues of generated by medical cannabis sales to residents of each county.

A first draft of this report was submitted to WSLCB in mid-November and received substantial comments from the staff. Among the concerns expressed were the completeness of our census of outlets and the volume of cannabis that might be given away rather than sold. Some methodological adjustments were suggested, e.g., sampling more stores from County Group E. The staff also requested more detail on methods and models. This second draft of the report is intended to address those desires.

¹ These words are not truly synonymous: those words have specific legal meanings and context, and thus are not entirely interchangeable.

Work Plan

Producing the figures requires a series of steps:

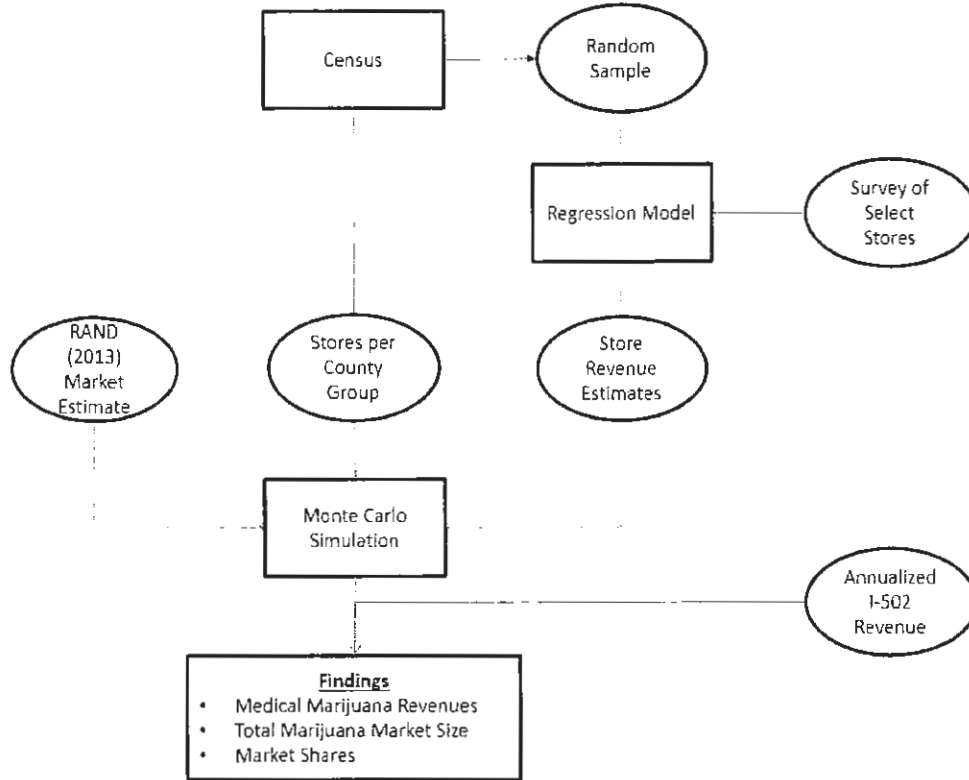
1. A comprehensive “census” of all active medical cannabis stores in Washington State.
2. A detailed survey about store characteristics and revenue, which was distributed to a select group of medical cannabis dispensaries.
3. A regression model that predicts revenues for any given medical cannabis store, based on a) the county in which that store resides, b) the length of the store’s storefront, and c) the number of hours that store is open weekly;

Given the uncertainties involved in any estimation process, especially one involving partly surreptitious activity, we used Monte Carlo simulation to estimate “confidence intervals” (error bands) around some of the estimates presented. That is, we used random variations in some of our assumptions to generate 10,000 possible outcomes, then used the average of those runs as our central estimates and the distribution of those outcomes to estimate the range of uncertainty around each estimate.

This approach allowed us to “scale up” the store-level revenue estimates produced by the regression model to county and statewide levels:

1. Update the 2013 RAND estimate for Washington’s cannabis consumption, to current-day size and convert it from metric tons (MT) to a dollar amount.
2. Estimate the current price-per-gram of usable cannabis sold in I-502 stores.

Figure 1. BOTEC Research Workflow



Report Outline

The body of this report describes that methodology in greater detail. **Section 1** (“Estimate Cannabis Revenues from Medical Cannabis Dispensaries”) describes how we calculated the estimate for revenues for the medical cannabis market. That section includes the census of medical dispensaries, the survey distributed to a select sample of dispensaries, the regression model built from that data which estimates cannabis revenue for any given medical cannabis dispensary, and the Monte Carlo simulation that scales up store-level estimates to arrive at an estimate for the medical cannabis market, both for Washington State as a whole and for each of the state’s 39 counties.

Section 2 (“Validate the Model and Ensuring Robustness of Results”) identifies possible threats to the validity of the regression model and the Monte Carlo simulation that were used to estimate the revenues of the medical cannabis sector. Much of this section consists of work that was conducted in December, including a “ground-truthing” effort that sought to further calibrate the regression model and a consideration of the prevalence of free or steeply-discounted medical cannabis.

Section 3 (“Estimate the Market Value of All Cannabis Consumed in Washington”) begins with the 2013 RAND estimate, which was expressed in metric tons (MT). This report sought an estimate for the current market size in dollar value. Section 3 describes how our team used Monte Carlo simulation to make those adjustments to the 2013 estimate.

In summary, Section 1 provides an estimate for the revenues of medical cannabis stores in Washington State. Section 3 estimates the market value of all cannabis consumed by Washington State residents. Dividing the first number by the second expresses the market share occupied by medical cannabis stores (see Figure 2).

Figure 2. Medical cannabis market share calculation

$$\text{Medical cannabis market share} = \frac{\text{Medical cannabis revenues}}{\text{Value of all cannabis in Washington}}$$

Section 4 (“Estimate Market Shares and Sizes for Various Cannabis Markets”) discusses that process. With the results of the previous steps in hand, this requires no more than division and subtraction.

Section 5 (“Findings”) summarizes the results of the studies described above. Estimates are presented for the various sizes and shares of the medical cannabis markets, and demand for medical cannabis is disaggregated to the county level.

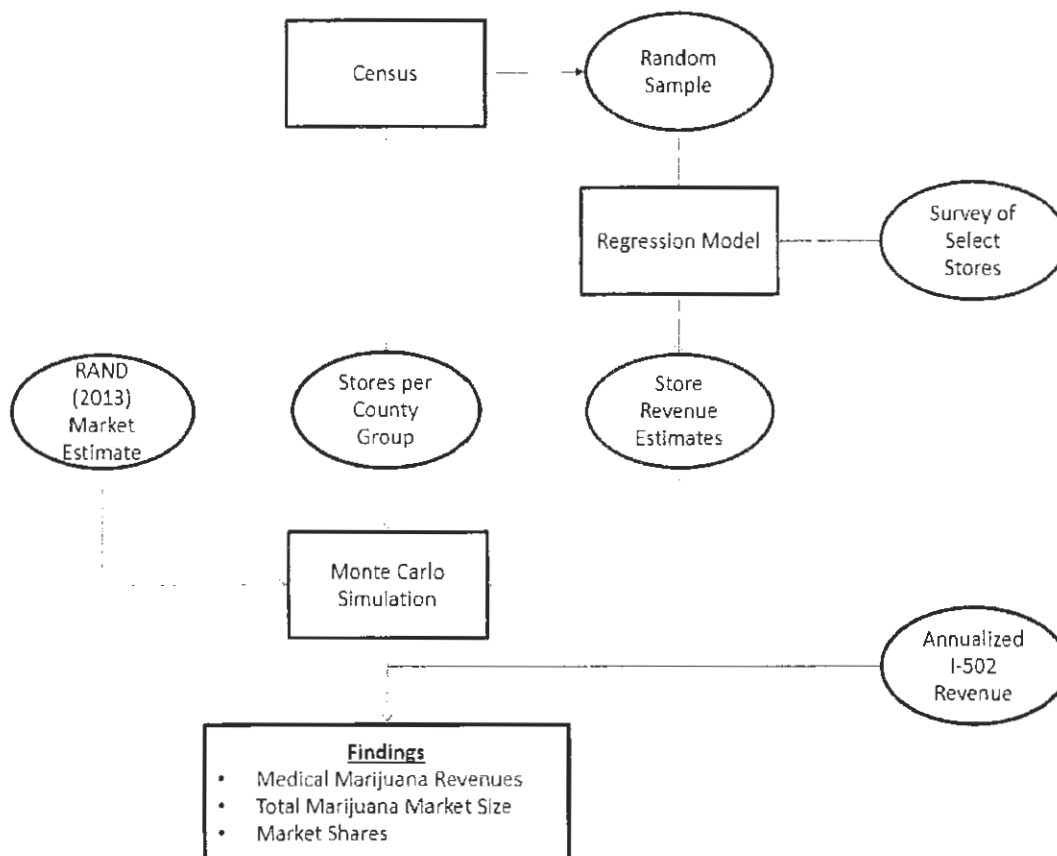
Section 6 (“Conclusion”) discusses the implications of our findings.

Step 1. Estimate Cannabis Revenues of Medical Cannabis Stores

The first step was to estimate medical cannabis revenues in Washington State. That required that we:

1. Build a “Census” of Active MMJ Dispensaries
2. Survey Selected Dispensaries to Build a Regression Model Predicting Store-level Revenue
3. Make Predictions for Revenue for Stores Randomly Selected from the Census
4. Make Predictions for MMJ Revenue on the County and State Level using a Monte Carlo Simulation

Figure 3. Research Workflow - Section 1



Build a Census of Active MMJ Stores

In order to reason accurately from results on a sample of stores to the size of the overall market, we needed to know how many medical outlets there were statewide. Since these outlets have not been licensed or registered, this involved more than counting from official lists.²

Over the past few years, the staff of the Washington State Department of Revenue have made a concerted effort to identify medical cannabis sellers among tax-reporting businesses.³ That list includes 474 identified medical cannabis sellers who

² BOTE staff have heard rumors of reports that counted as many as 800 medical cannabis stores statewide, but they have yet to be confirmed. <http://www.bloomberg.com/news/articles/2015-01-07/price-of-legal-pot-plunges-40-in-washington-as-shortages-ease>.

³ Businesses who report revenues to the DOR self-identify with an NAICS code. There is no NAICS code specific to medical cannabis sellers. The vast majority of stores on the DOR-kept list (403) filed under NAICS code 446191 (Food [Health] Supplement Stores); the remaining stores were split between other codes such as NAICS 325411 (Medicinal and Botanical Manufacturing), codes 54, 56, and 62 (various service industries), NAICS 111 (Crop Growing), and NAICS 4245 (Farm Product Merchant Wholesalers). In 2014, DOR staff began assigning new NAICS codes to known medical

reported taxable retail sales at some point over the past two years (during Fiscal Year 2014 and Fiscal Year 2015). As recently as September 2015, the Washington State Institute for Public Policy identified 419 medical cannabis businesses (from the DOR list) that could be geographically located with certainty.⁴ However, these lists are likely to omit some retail outlets (ones that do not report revenue to DOR) while including others no longer in business.

In some municipalities, medical cannabis businesses are required to register with the city. These municipalities keep lists of registered medical cannabis businesses, but because these policies are not instituted statewide, they cannot be aggregated to yield a statewide estimate. It is also possible that some stores operate without filing the required registration documents.

We attempted to create a census of medical cannabis businesses in the face of the challenges posed by rapid turnover in the industry (especially among outlets that applied for license but were assigned “Priority 3” status) and the distrust of some participants for officially sanctioned data-collection efforts.

In an effort to identify as many potentially active stores as possible, BOTEC researchers used a “big tent” approach, consulting a variety of different data sources. Stores that were identified as potentially operating were then subjected to validation methods to ensure that they were still operating. Additional efforts were made in response LCB staff comments on an earlier draft.

The “Round 1” Census

Many cannabis businesses use online advertising to attract customers. There are two leading “Yelp”-style websites that list cannabis businesses (medical or otherwise) in Washington State: Leafly.com and WeedMaps.com. Both websites solicit operators of medical cannabis businesses to self-submit their stores for display on their website. Both Leafly.com and WeedMaps.com allow store listings free of charge; however, Leafly.com also has a tiered subscription system for access to premium services such as posting a menu online.

BOTEC researchers built a computer program that “scraped” both of these websites to identify the name, location, and contact information of all listed medical cannabis stores. Researchers also gathered existing lists of medical cannabis dispensaries. Three lists were found, two from publically available blogs (Stuffstonerslike.com and theweedblog.com) and one private list created and maintained by an industry insider.

cannabis businesses: 446191 for retailers, 111419 for growers, 325411 for manufacturers, and 424590 for wholesalers.

⁴ http://www.wsipp.wa.gov/ReportFile/1616/Wsipp_I-502-Evaluation-Plan-and-Preliminary-Report-on-Implementation_Report.pdf

After identifying all potential stores, each listing was validated to ensure that it was actively operating and actually located in Washington State. In order to qualify as “actively operating,” stores had to show some sign of activity (e.g., a social media post or website update) in the past 12-month period and have no evidence of recent closure. Sources used to ensure stores were “actively operating” were, in order of preference, the official store website, store social media accounts, store page on commercial websites (e.g., Leafly or Weedmaps), and directly contacting stores.

Stores that met the actively operating criteria were classified as “verified.” Stores that met all “actively operating” criteria except for activity in the past 12-month were classified as “unverified.” Neither category can conclusively declare a store as open or closed; there is some inherent uncertainty. Some verified stores may nonetheless have closed at some point in the past 12 months; similarly, some unverified stores may remain operating but with little advertising or online presence.

The first round of the BOTEC census identified 333 operating medical cannabis stores in Washington State, significantly fewer stores than were identified by WSIPP or the DOR (419 and 474, respectively).⁵ The first round of the BOTEC census was completed in mid-November.

The “Round 2” Census

As part of an effort to ensure the reliability and comprehensiveness of the census, in early December BOTEC researchers began a second round of work. The “Round 2” census made an expanded effort to locate previously undiscovered medical cannabis businesses, and also to subject the “Round 1” census to an enhanced level of scrutiny. To do so, the BOTEC team undertook several new methods.

A total of seven additional sources were identified for the Round 2 methodology:

1. Rejected I-502 retail applicants
2. Applicants for retail cannabis licenses granted Priority 1 or 2
3. Municipal registries of medical cannabis stores
4. Additional web searches (e.g., Google Maps, Yelp)
5. An additional proprietary list of stores (Headshopfinder.com)
6. Member lists of industry organizations (e.g., CCSE, NCIA)
7. Direct requests from contracted workers within an industry group.

Only three sources revealed new information: the list of applicants for medical cannabis retail licenses who were granted Priority I or III; Headshopfinder.com; and the registries of medical dispensaries from municipal governments. City government registries were the most productive new resource. We received lists from Olympia (11 shops), Bellingham (11 shops), Spokane (6 shops), Port Angeles

⁵ 474 businesses were identified in round 1, but only 333 (74%) were validated as still open.

(5 shops), Tacoma (65 shops), and Seattle (105 shops) for a grand total of 203 shops. Out of these 203 shops, there were 51 new locations, the majority of which (28) were from Tacoma.

Headshopfinder.com, a website that charges users for access to its proprietary database of cannabis and cannabis paraphernalia stores around U.S., contained records for 487 medical cannabis stores in Washington. However, after removing misclassified shops (e.g., I-502 shops and doctors who prescribed medical cannabis) only 22 shops not captured in the first census were found.

Finally, BOTEK researchers were granted access to the list of applicants for retail licenses. A review of that list identified four stores that showed some indications of operating; three were verified, and one was added to the census as an unverified store.

A summary of the new data sources consulted and results are provided below.

Figure 4. Summary of Round Two Census-Building Efforts

Data Source	Collection Methodology	# Businesses Examined	# new stores (verified)	# new stores (unverified)
Rejected I-502 Applicants (LCB): random sample of 100 stores	Randomly selected 100 businesses	100 ⁶	0	0
Municipal registries (Seattle, Tacoma, Bellingham, Olympia, Spokane, and Port Angeles)	Checked all listings in all cities with known registries	203	25	26
Headshopfinder.com	Checked all listings on the proprietary list	487	7	15
Google Maps	searched for "cannabis stores" and "medical cannabis"	100 (approx.)	0	0
Yelp	searched for "cannabis stores" and "medical cannabis"	100 (approx.)	0	0
Member lists of industry organizations (CCSE, NCIA)	checked publicly-displayed members	15 (approx.)	0	0
Retail Priority I and II applicants (LCB)	checked all applicants	58	3	1

⁶ Due to our limited timeframe, checking all 1909 applicants was not feasible.

Coalition for Cannabis Standards and Ethics (CCSE)	Staff were invited to add any missing stores	Entire BOTEK list	0	0
All		1063	35	42

Extra validation methods were also added to the Round 2 methodology. The draft “round 2” census was shown to staff from the Coalition for Cannabis Standards and Ethics (CCSE) for an opportunity for them to add any missed stores or identify any stores that had since closed. CCSE staff did not have any stores to add, but they identified 15 stores on the draft census that had closed operations within the past year.

Some businesses initially thought to be medical cannabis stores were later identified as “farmer’s markets.” Because farmer’s markets house multiple sellers, it might be expected that they would have substantially larger revenues than estimated from the regression model, which was fit only to traditional dispensaries. A statewide search for farmers markets revealed at least six thought to be in operation, each with between seven and 31 vendors.⁷ Although it seems likely that the regression model is under-estimating revenues for these farmer’s markets, they appear to be relatively limited in number and so the net effect on the market size estimate would be modest.

Overall, BOTEK analyzed nearly 1400 unique name-address combinations. Of these, many were duplicates, closed, or misclassified (i.e., recreational, medical referral services, or “headshops”). As a result of the “Round Two” efforts, the BOTEK list of verified shops decreased slightly from 333 to 331. The number of unverified (“maybe”) shops declined from 116 to 72 due to a combination of more thorough verification process and an increased number of stores with definitive evidence of closure.

Figure 5. Number of stores by county group

County group ⁸	BOTEK Census (Round 1)	BOTEK Census (Round 2): Verified Only	BOTEK Census (Round 2): Verified + Unverified	Department of Revenue Registry
A (King)	120	101	129	169
B	95	106	135	108
C	70	75	83	116
D	29	28	34	45
E (Least dense)	19	21	22	36
Overall	333	331	403	474

⁷ Some of these vendors only sell glass and other accessories.

⁸ See Figure 7 for a list of counties in each group.

Even after Round 2, the BOTEC census remains substantially smaller than the list of tax-paying medical cannabis dispensaries from the DOR. There are some reasons to trust that the BOTEC census is a more accurate count of currently operating medical cannabis stores.

The BOTEC estimate specifically excluded stores that were known to have shuttered their doors. In contrast, the list of businesses maintained by the Department of Revenue includes all businesses that paid taxes within a 2-year window, beginning in mid-2013. It seems possible that many businesses that filed taxes within that period have since closed. After the passage of Initiative 502, there was a surge in openings of medical cannabis outlets; former WSLCB Deputy Director Randy Simmons speculated that many new entrants opened medical cannabis stores mainly in hopes of increasing their chance of obtaining a retail license for the I-502 market.⁹ It may be that those business operators, many of whom were denied retail licenses, shut their businesses in the years after. BOTEC's social media verification revealed many stores that were closed or in the process of closing that still had active business licenses.

The wide range of methodologies used by the BOTEC census, particularly in Round 2, builds further trust in that results. It is difficult to imagine that many stores operate in Washington State without an online presence on the two major dispensary-locator websites (or an online presence altogether), and one would suspect that any stores without such presence would have relatively smaller revenues.

Comparing the geographic distribution of medical cannabis businesses across the Department of Revenue Registry and the BOTEC census reveal similarities. The proportion of stores in each of the five county groups compared to the total number of stores in the state was similar across both (BOTEC and DOR) lists. The one exception to this is Group B, which has a higher than expected proportion of shops. This is due partly to the extensiveness of the list maintained by Tacoma's government, as their city list provided over half of the additional "Round 2" stores in our sample, and many of these stores were listed by the city as "Priority 3 or Closed."

⁹ Former WSLCB Deputy Director Randy Simmons conjectured that many stores opened after the passage of I-502 in hopes that it would help them earn I-502 retail licenses (Young, 2015).

Figure 6. Stores in county groups as a percentage of total

County Group ¹⁰	DOR Percentages	BOTEC Census (Verified + Unverified)	BOTEC Census Verified Only
A (King)	36%	32%	31%
B	23%	34%	32%
C	24%	21%	23%
D	9%	8%	8%
E (least dense)	8%	5%	6%

Survey Selected Stores to Build a Regression Model that Predicts Store Revenue

A core component of the methodology to estimate medical cannabis revenues is to construct a regression model that, given certain characteristics of a store, could estimate that store's sales revenue. To build such a model, BOTEC researchers needed a small group of medical cannabis store owners who were willing to provide 1) sensitive information about their store's revenues and 2) certain objective measurements for their store. Once collected, that data would serve as the basis for a regression model that would then predict revenues for other stores outside of this survey.

BOTEC researchers identified a group of 42 medical cannabis dispensaries that agreed to disclose their revenues on a confidential basis. We also collected observable characteristics, such as their operating hours and the linear footage of the front side of the building ("storefront width"), for each outlet. Although the outlets providing those data were not a truly representative sample, they were diverse in size and geography.

In order to protect their anonymity while collecting information on these dispensary locations, BOTEC first sorted Washington's 39 counties into groups by population and then asked respondents to identify the county group in which their store was located. Some smaller counties are home to only one or two dispensaries so asking for the actual county could compromise anonymity and create a disincentive for the dispensaries to respond truthfully. Counties were sorted by population density and arranged into five groups defined by the counties' population densities in relation to that of King County, which is Washington's most populous county.

¹⁰ See Figure 7 for a list of counties in each group.

Figure 7. County Groups

County Category	Criteria	Counties	# Stores Surveyed
Group A	At least 75% of King County's population density ¹¹	King	12 ¹²
Group B	Less than 75%...	Clark, Kitsap, Pierce	7
Group C	Less than 50%...	Island, Snohomish, Spokane, Thurston	14
Group D	Less than 20%...	Benton, Cowlitz, Franklin, Mason, San Juan, Skagit, Whatcom, Yakima	6
Group E	Less than 5%...	Adams, Asotin, Chelan, Clallam, Columbia, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Okanogan, Pacific, Pend Oreille, Skamania, Stevens, Wahkiakum, Walla Walla, Whitman	3

The survey recipients were asked a wide range of questions regarding revenue or observable characteristics that might plausibly relate to revenue. Revenue questions included annual sales revenue in 2014; sales revenue in the most recent month on record, both in dollars and also relative to the same month in 2014; the change in annual revenue from 2014 to 2015; and what portion of revenue accrued from the sale of non-cannabis purchases. Questions related to observable characteristics included weekly operating hours, the property's square footage, and the property's linear footage ("storefront width").

Next, that data was used to fit a regression-based model that would predict store revenues based on characteristics of that store that could be externally observed. This would allow BOTEC researchers to estimate the revenue for stores without relying on the honesty or cooperation of that store's owners.

Before fitting the model to the data, BOTEC researchers analyzed the data for signs of inconsistency or dishonesty. The results were reassuring. As would have been expected from honest answers, sales revenue in the most recent month showed

¹¹ American Community Survey: 2011-2013.

¹² One of the stores surveyed in County Group A was discarded on account of showing unusually and uniquely low revenue figures for the hours open and revenue.

strong correlations with annual sales revenue in 2014 (correlation = 0.93) and estimated number of transactions per day (0.87).

Predicting sales revenue based on externally observable features of a store requires there to be a strong statistical relationship between the dependent variable (revenue) and any given independent variable. BOTEC researchers found strong relationships between revenue and a store's number of weekly operating hours (correlation = 0.47) and the width of its storefront (0.44).

Based on the strength of those patterns, BOTEC researchers fit a regression model to that data. The model was fitted using GLM (generalized linear model) that included county category-fixed effects, storefront width, hours of operation, and interactions of these terms. That data suggested a model using the following functional form:

$$\text{Revenue}_i = b_0 + \alpha(\text{county category}_i) + b_2(\text{storefront width}_i) + b_3(\text{hours of operation}_i) + \varphi(\text{county category}_i \times \text{hours of operation}_i)$$

While this regression model was capable of predicting revenue for any single store, the questions asked by the Liquor and Cannabis Board required BOTEC to estimate the revenues of the entire medical cannabis market, consisting of several hundred of these stores. Rather than taking measurements and making predictions for every single one of those stores, BOTEC researchers instead predicted the revenues for a smaller random sample of stores, as described below.

Estimate Revenue for a Sample of Stores Selected Randomly from the Census

The above sections detail how BOTEC constructed a census of all medical cannabis stores and built a regression model that could estimate a store's revenues based on that store's hours, storefront width, and county. The next steps are to 1) take a random sample of stores from the census, 2) measure those stores for hours and storefront width; and 3) apply the regression model to estimate the total revenues for the group of stores in the random sample.

Stores were sampled from the census according to a stratified random sampling model by county group (i.e., County Groups A-E). In each county group, approximately one-third of all stores were sampled.¹³

¹³ The first round of sampling was done as to reflect exactly 1/3 of stores in each county group. However, several stores were removed or added to the BOTEC census after before the second round of analysis, and so the proportions no longer equal exactly 1/3 of each county group.

Figure 8. Dispensary sampling – stratified random sample (SRS)

County group	Number of Outlets found in BOTEC census	Number of Validated Outlets in Random Sample	Number of Validated Outlets from Survey	Validated Dispensaries in Random Sample + Dispensaries from Survey
A	101	35	12	47
B	106	28	7	35
C	75	22	14	36
D	28	8	6	14
E	21	10	3	13
Overall	331	103	42	145

Stores that happened to be randomly selected were then measured for storefront width (using Google Earth) and weekly hours of operation. Each store had its storefront width measured using Google Earth. The store’s operating hours were determined by the following actions (in order of preference): reading directly from the store’s website, recording reported hours from a cannabis outlet aggregator (e.g., Weedmaps.com), or from a retail outlet aggregator (e.g., Yelp.com), or by calling the store directly.

Some dispensaries selected for the sample could not be adequately measured or were later deemed ineligible due to outdated images, depictions that were too far away from the storefront to confirm the existence of the shop, or shops existing within larger buildings where their storefront could not be measured. Ultimately, 153 stores were selected into the stratified random sample (SRS) of which 103 were deemed eligible. For each discarded store, another store was sampled randomly from the same county group, in keeping with the objective of sampling 1/3 of stores in each county group.

After sampling was completed, BOTEC researchers applied the regression model to estimate the average monthly revenues of the stores sampled from each county group. Because the model cannot be expected to estimate every store perfectly, lower and upper bounds were also calculated, based on a 95% confidence interval. (These estimates were later subjected to “ground-truthing”; see section two.) Estimates for the average monthly revenue per store are shown below:

Figure 9. Estimates for Average Monthly Revenue of Stores in the Random Sample

		Low	Medium	High
Estimated Average Monthly Revenue per Store (\$000)	County Group A	55	95	135
	County Group B	9	103	219
	County Group C	39	82	127
	County Group D	52	65	79
	County Group E	16	19	21

Estimate County-level MMJ Revenue Using a Monte Carlo Simulation

Above, BOTECH researchers used a regression model to estimate revenues for a representative sample of medical cannabis dispensaries belonging to five different groups of counties in Washington State. BOTECH researchers also estimated the total number of active, operating medical cannabis stores in Washington State, which can be broken down to the county group-level.

Next, in order to arrive at an estimate for total medical cannabis revenues in Washington State, BOTECH researchers would input these as parameters (along with some assumptions, backed by existing research where possible) into a Monte Carlo simulation.

A Monte Carlo simulation is a type of model that allows for random variation in its input parameters. Each parameter is described as a certain type of random variable, characterized by an expected value and often an upper or lower bound. Because of that randomness, each time a Monte Carlo simulation is run, it will come up with a different answer. To make a reliable estimate, we run our Monte Carlo simulation 10,000 times, producing a distribution of possible outcomes. We can then make a “best estimate” by looking at the median or average trial, and can establish uncertainty bounds by looking at more extreme trials (often the lowest and highest 5%). This method has been used successfully to compute cannabis market sizes in Washington State (Caulkins et al., 2015 and Kilmer et al., 2013).

The simulation was prepared by selecting ranges of uncertainty in key variables, using parameters indicating the low, medium, and high estimates. Note that even the number of stores in each county was considered an uncertain quantity, given the lack of a single authoritative data source on the existence of medical cannabis dispensaries. Some of the uncertain parameters are shown below.

Figure 10. Assumed Distribution of Uncertain Parameters for Monte Carlo Simulation

Quantity	Low	Mid	High	Distributional assumption
Stores in County Group A	91	101	129	Triangle ¹⁴
Stores in County Group B	95	106	108	
Stores in County Group C	68	75	83	
Stores in County Group D	25	28	34	
Stores in County Group E	19	21	22	
Monthly variability in reported revenue	0.75	1	1.2	Triangle ¹⁵
Cannabis product share of total revenue	0.7	0.98	1	Triangle ¹⁶
Impact of delivery services	1	-	1.25	Uniform

Choose Parameters for the Monte Carlo Simulation

The input parameters to the Monte Carlo simulation were informed by existing research or original data collection performed by BOTEC. In some cases, parameters were directly informed by that research; in other cases, the connection is indirect, as BOTEC researchers made assumptions appeared most reasonable given what is known about cannabis markets in Washington State.

Some of the data sources referenced include BOTEC’s initial survey of medical cannabis dispensaries; BOTEC’s census of medical cannabis stores; the Cannabis Consumption Survey, initially conducted by RAND for the WSLCB (Kilmer et al., 2013); RAND’s “What America’s Users Spend on Illicit Drugs” (WAUSID) report; and data retrieved from the Liquor and Cannabis Board’s “Weekly Marijuana Dashboard”.

Number of medical cannabis stores per county group

BOTEC’s census of medical cannabis stores is used as a primary source of inputs into the Monte Carlo simulation regarding the number of stores per county group. The “Round 2” census included both a section of “verified” stores that showed definite signs of operation within the past 12 months, and “unverified” stores that were known to operate at some time but could not be conclusively demonstrated to have operated within that time period. Still, even verified stores might have closed in recent months, and the observations made by BOTEC researchers while compiling

¹⁴ High estimates combine the BOTEC verified and unverified census. Middle estimates are the count from the BOTEC verified census. Low estimates are 90% of the middle estimates.

¹⁵ Low and high are plugs based on convenience sample responses.

¹⁶ Low and high are plugs based on convenience sample responses.

the census indicate that many medical cannabis stores have closed within the past few months, with some closing even between the first and second rounds of the census.

The random variable governing the number of stores in each county group is modeled as a triangular random variable, with upper and lower bounds and a middle “best estimate”. The upper bound is equal to the number of stores identified in the combined BOTEC census, including both verified and unverified stores. The middle bound estimate is set to the count of verified stores in the BOTEC census. The lower bound is set to 90% of the count of verified stores, and is intended to represent the scenario that many of the stores detected in the verified census have since ended operations.

Average Monthly Revenues per Medical Cannabis Store

Estimates for the monthly revenue per each store are informed by the regression model’s estimates for the stores that were selected into the stratified random sample. An estimate is made for each of the five county groups. Because the errors from a regression model are generally modeled under a normal (“mound-shaped”) distribution, the estimated revenues for stores are distributed in that same fashion. (Note: the accuracy of these estimates are reviewed as part of the ground-truthing exercise described in section 2, and in response an adjustment factor is introduced.)

Price-per-gram for Cannabis in Washington State

There has not been any recent research that estimated the average price of cannabis specific to Washington State; however, estimates are available for the average price on the national level. According to a RAND report titled “What America’s Users Spend on Illegal Drugs 2000-2010” [WAUSID] (Kilmer et al., 2014), the national average price-per-gram of cannabis was \$7.11. That may be taken to be a reasonable estimate for the price of cannabis in Washington’s illicit market and medical market.¹⁷¹⁸

But cannabis sold in Washington’s I-502 system is more expensive, even pre-tax. In October 2015, I-502 stores reported \$38 million in sales revenues¹⁹ and 3.6 MT of usable cannabis sold. From these figures alone, one cannot calculate the average price-per-gram for I-502, because I-502 stores derive a significant amount of

¹⁷ On one hand, one might expect Washington’s black market cannabis to be cheaper than the national average, due to an abundance of producers and retailers operating at economies of scale; on the other hand, one might expect it to be more expensive, since Washington has more potent cannabis than average. These two considerations work in opposite directions, and so the net effect is assumed to be neutral.

¹⁸ In the first draft of the BOTEC report, this figure was taken to represent *all* cannabis sold in Washington; the new methodology represents an added layer of complexity.

¹⁹ The LCB reports that in October 2015, I-502 stores sold \$38 million in marijuana.

revenue from the sale of other (non-usable) forms of cannabis; namely, cannabis-infused products and concentrates. BOTEC's non-representative survey of medical cannabis dispensaries (discussed in Step 1) asked stores what percentage of their revenues were derived from usable forms of cannabis; the average response was 60%. Assuming that the revenue share of useable versus non-useable cannabis is somewhat similar across medical cannabis stores and I-502 stores, then a reasonable range for the portion of revenues that I-502 stores derive from usable cannabis is 50% to 70%. Taking the lower bound (50%) would imply that I-502 stores derive \$19M in revenue from October sales of useable cannabis, and therefore a price-per-gram of useable cannabis of \$5.26 (pre-tax);²⁰ the upper bound suggests \$26.6M in useable cannabis revenues, for \$7.36 per gram. This yields a reasonable range of \$5.26 to \$7.36 for the price-per-gram (pre-tax) of cannabis on the I-502 market.

Combining these two estimates for the average prices (for Washington's illicit and medical markets on one hand and Washington's I-502 market on the other hand) can be done by way of a weighted average. Specifically, the average can be weighted according to the market share (in metric tons) of Washington's I-502 market versus its other markets. This in turn requires having an estimate for the total amount of cannabis consumed in Washington State. A 2013 RAND study offered a best estimate of 175 metric tons; to update this for 2015, it is assumed that cannabis consumption increased by 10%, yielding a new estimate of 192.5MT. (Note: that methodology is covered in more detail in Section 3.)

Under one scenario, if the I-502 stores sold cannabis at an average of \$7.36 per gram pre-tax (or \$7.36M per metric ton), then I-502 sales would amount to 62 MT of cannabis, and the remaining 130.5 MT would accrue to the black and medical cannabis markets; the weighted average price-per-gram for the cannabis in all markets would equal \$7.19.²¹ Alternatively, if I-502 stores sold at \$5.26 per gram (pre-tax), then I-502 sales would amount to 87 MT, and the weighted average price for all of Washington State would equal \$6.28.

Accordingly, for input into the Monte Carlo simulation, BOTEC researchers assigned Washington's average price-per-gram a lower bound of \$6.28, an upper bound of \$7.19; the random variable was drawn assuming a uniform distribution. As a validity check, using data from PriceOfWeed.com, the weighted average of reports in Washington was \$7.34 per gram.²²

²⁰ I-502 retailers showed \$38M in pre-tax sales in October. $\$38M \times 50\% = \$19M$. $\$19M / 3.6$ million grams = \$5.26 per gram.

²¹ $[(\$7.36 \times 62 \text{ MT}) + (\$7.11 \times 130.5 \text{ MT})] / 192.5 \text{ MT} = \7.19

²² Priceofweed.com reports this price per ounce, as does WAUSID, but we scale this to the gram level for the sake of clarity. Note that the ounce-to-gram conversion is done without accounting for possible volume discounts due to lack of necessary data for such a calculation.

[As an adjustment to the Round 1 figure, which assumed \$7.11 for the entire market, in Round 2 we have allowed for two separate prices: one for the I-502 market (derived from the LCB data) and another for the black/medical markets].

Figure 11. Calculating weighted average price per gram in WA

	Value	Low Est.	High Est.
Estimated amount of WA Cannabis consumed monthly (RAND estimate (175 MT/yr) + 10% growth * 1/12)	16 MT	-	-
Pre-tax revenue of I-502 Stores (Oct. 2015)	\$38M	-	-
Assumed portion of I-502 revenues consisting of useable cannabis ²³	-	50%	70%
Implied I-502 revenues from useable cannabis (Oct. 2015)	-	\$19M	\$26.6M
Useable Cannabis sold by I-502 stores (Oct 2015)	3.6 MT	-	-
Price per gram I-502 (LCB) (\$M / MT)	-	\$5.26	\$7.36
Implied MT from I-502 (Oct. 2015) (revenues / price-per-gram)	-	7.25 MT	5.2 MT
Price per gram in medical and illicit market (WAUSID, 2010)	\$7.11	-	-
Implied MT from medical/illicit markets (Oct 2015)	-	8.8 MT	10.9 MT
Weighted average price per gram in WA	-	\$6.28	\$7.19

Miscellaneous Parameters

Revenue from delivery services and other unreported medical sources were estimated to account for - at most - 25% of other medical cannabis sales.²⁴

Because the model used county groups, not individual counties, as units of analysis, its output could only predict county-group-level revenues. Breaking down that data into individual counties required additional steps. Due to the small number of stores in some counties and difficulties inherent in collecting data from those stores, it would be difficult make an econometrical model. Instead, BOTEC researchers allocated country group revenues according to each constituent county's population-weighted share of past-month (PM) cannabis users, as had been identified by RAND's 2013 research.

²³ BOTEC's survey of medical cannabis outlets showed an average portion of revenues for non-usable cannabis of 57%, roughly the middle of the range here.

²⁴ This estimate has not been empirically verified; it was provided by industry insiders we conferred with. A more accurate understanding of this portion of the market would require further study.

The simulation also considers the portion of revenues from medical cannabis stores that consist of sales of cannabis rather than paraphernalia, based on responses from the survey of select dispensaries. Because the vast majority of stores reported negligible portions of revenues from paraphernalia and other non-cannabis products, this is modeled as a triangular random variable with a lower bound of 70%, and best estimate of 98%, and an upper bound of 100%.

Monthly variation in revenues is also considered. Again, sourcing from responses to the survey of select stores, monthly variation is modeled as a triangular random variable with a lower bound of 0.75, a best estimate of 1, and an upper bound of 1.2.

Step 2. Validate the Model and Ensure Robustness of Results

The methodology described in this report is relatively complex. Due to the scarcity of objective and comprehensive data on Washington's medical cannabis market, BOTEC researchers designed a combination of various estimation and modeling techniques, each with their own sets of assumptions and sensitivities. To ensure that BOTEC's results would be robust to miscellaneous aspects of that market, BOTEC conducted a series of validation techniques that it applied to the model and its results.

Ground-Truth and Adjust the Regression Model's Revenue Estimates

BOTEC's estimate for the annual cannabis revenues of Washington's medical cannabis sector rely heavily on the regression model that was built to predict store revenues, based only on that store's storefront width, operating hours, and location.

If that regression model were systematically under- or over-estimating store revenues, then BOTEC's estimate for the size of the medical cannabis market would similarly err in that direction.

In order to protect against that possibility, BOTEC researchers conducted a "ground-truthing" exercise. The exercise allowed BOTEC researchers to verify the estimates made by the regression model. For each of the over 100 stores that were selected into the stratified random sample, and whose revenues were estimated by the regression model, BOTEC researchers directly contacted the owners of those stores to request their actual revenues for the month of October. Comparing store's actual revenue figures to what was predicted would then give an indication as to whether the regression model had any directional bias and the limits of its precision.

The results of the ground-truthing exercise were mixed. Overall, the past-month revenues reported by stores tended to be higher than the revenues estimated by the regression model. The data was analyzed as to record the average predicted and reported revenue for stores who responded, grouped by county group. When these

results were weighted according to the number of verified stores in each county group, the regression model predicted on average only 64% of reported revenues.

Figure 12. Results of the Ground-Truthing Exercise

County Group	Reported	Estimated	"Capture" Rate	Inflator
A	\$17,335,703	\$9,121,563	53%	1.9
B	\$15,113,833	\$12,366,667	82%	1.2
C	\$9,805,398	\$7,602,273	78%	1.3
D	\$4,340,000	\$1,400,000	32%	3.1
E	\$1,680,000	\$420,000	25%	4.0

But the ground-truthing results should also be interpreted with some caution. There is some imprecision at hand. To protect the anonymity of store operators, revenue reports were solicited in ranges, and revenue estimates were averaged across groups. Calculating the average reported revenue then required taking the midpoint of those ranges.

Further, sample size was small. Of the 87 open stores that were solicited, 47 responded (54%). Nor could these stores be trusted to be random. If the stores who decided to respond to the ground-truthing survey were similar in some systematic fashion, then there is a possibility that the regression model performed better (or showed opposite bias) in stores that did not respond.

To correct for this apparent underestimation, BOTECH researchers sought to adjust the Monte Carlo simulation to compensate. Because both the ground-truthing exercise and the original regression model represent valuable data points, BOTECH researchers elected to include both in the Monte Carlo simulation. In order to weight each equally, a random variable for the inflator is modeled as a uniform distribution; the lower bound gives full weight to the regression estimate, while the upper bound gives full weight to the reported revenue discovered from the ground-truthing exercise.

Figure 13. Adjusting the Monte Carlo Simulation for Ground-Truthing Results

	Quantity	Low	Medium	High	Random Value	Description of RV
Estimated Average Monthly Revenue per Store (\$000) (from regression model)	County Group A	55	95	135	63	Normal; low & high are 2.5% and 97.5% percentiles
	County Group B	9	103	219	145	
	County Group C	39	82	127	67	
	County Group D	52	65	79	63	
	County Group E	16	19	21	20	
Inflator from Ground Truthing	County Group A	1		1.9	1.47	Uniform
	County Group B	1		1.2	1.15	
	County Group C	1		1.3	1.24	
	County Group D	1		3.1	2.55	
	County Group E	1		4.0	1.21	
Estimated Average Monthly Revenue per Store (after adjusting for Ground Truthing)	County Group A	81	140	199	220	Normal; Parameters from Regression Estimate x inflator
	County Group B	10	119	252	15	
	County Group C	48	102	158	86	
	County Group D	132	166	201	174	
	County Group E	20	23	26	24	

Measure the Prevalence of Free or Steeply Discounted Cannabis

Many medical cannabis dispensaries are reported to give away cannabis or to sell it at deep discounts, either as a philanthropic program or as a way to attract new customers. If this practice were rampant, then measuring the size of the medical cannabis sector in dollar revenues might be misleading: the free product would go un-counted, and discounted product under-counted.

To test the prevalence of this practice among medical cannabis stores, BOTEC researchers contacted (for the second time) stores that had cooperated in responding to the first survey. Stores were asked what was the retail value of all cannabis that was given away for free or sold at a more-than-half discount, as a percent of the store's revenues. The median value was between 4 and 5%; the average value was 5%.

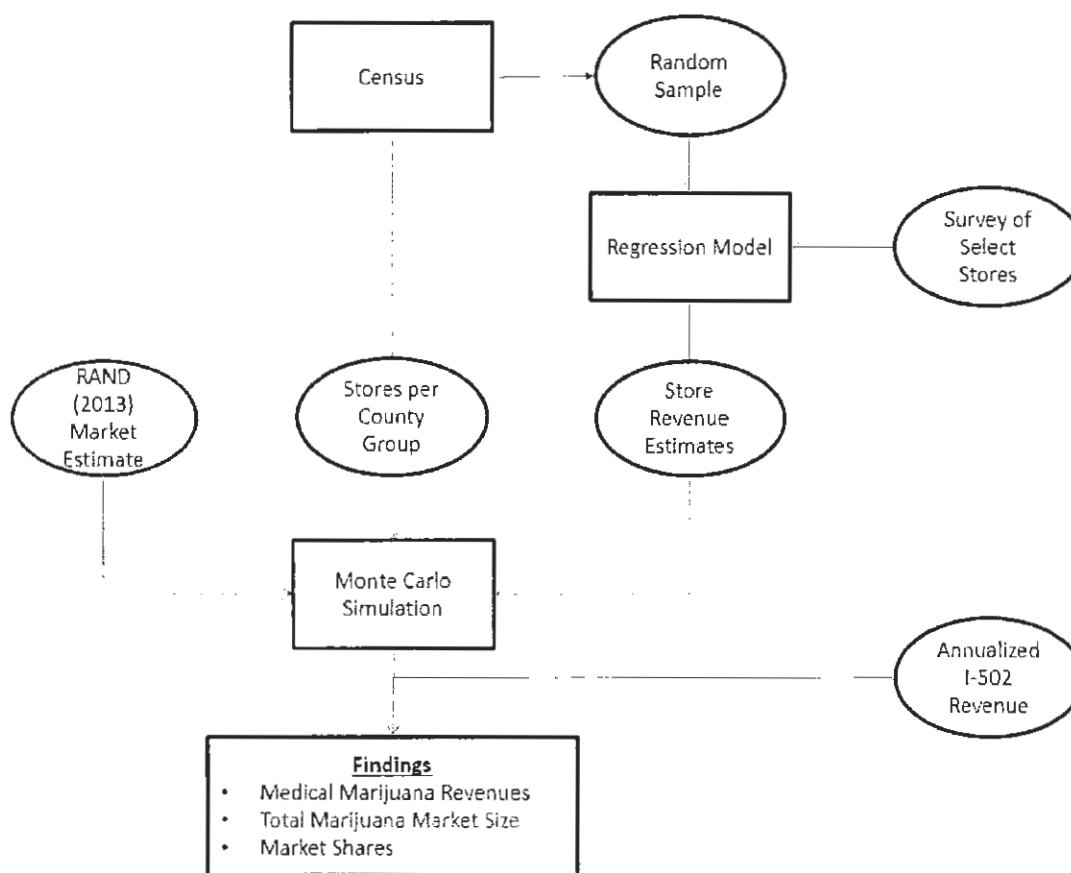
If taken at face value, that would suggest that the estimate for store revenues underestimates actual cannabis dispensed by as much as 5%. However there are reasons not to do so. First, it's not clear that people who receive cannabis for free from medical stores will then, if that store closes and only I-502 stores (hypothetically) remain, go to an I-502 store and purchase cannabis. Second, the average price for cannabis on the illicit and medical markets that is input into the

Monte Carlo simulation could be interpreted as already taking free and discounted cannabis into account.

Step 3. Estimate Market Value of All Cannabis Consumed in Washington

In the second leg of the BOTEC methodology, an estimate is made for the total market value of all cannabis consumed in Washington State (annually). Because RAND estimated the amount (in weight) of cannabis consumed in Washington State as recently as 2013, this work mainly involves updating and converting that estimate.

Figure 14. Research Workflow – Section 3



In 2013, RAND estimated the total volume of cannabis consumed in Washington State as 175 metric tons (MT) of cannabis, with a feasible range between 135 and 225 MT. For our purposes, the 2013 RAND estimate needs to be adjusted in two ways:

1. To adjust for growth in cannabis consumption from 2013 to 2015

2. To convert from weight (MT) to market value (\$)

To update and convert the 2013 RAND estimate, the BOTEC researchers use another Monte Carlo simulation to make a “best estimate” along with ranges of uncertainty that reflect uncertainty about the parameters. For each parameter, BOTEC researchers constructed “best estimate” and a range of plausible values. For instance, the amount of cannabis consumption in Washington State (in metric tons) is modeled as a random variable governed by a triangular distribution, with low, medium, and high estimates suggested by the 2013 RAND report (see below).

Figure 15. Parameters to Model Total Size of the 2015 Cannabis Market in Washington

Quantity	Low	Medium	High	Random Value	Description of RV
2013 WA Consumption in MT	135	175	225	169.98	Triangle; Kilmer et al. (2013)
Growth in WA Consumption 2013-2015	0.97	1.1	1.25	1.19	Triangle; Plugs
Average price per MT (\$ in millions)	\$ 6.28	-	\$7.19	6.83	Uniform; based on weighted average of I-502 and non-I-502 price estimates (depending on portion of I-502 revenues that are useable cannabis)

Adjust for Growth in Cannabis Consumption in Washington Since 2013

The total amount of cannabis consumed in Washington State in 2015 is somewhat larger than that consumed in 2013, likely due to a combination of population growth and rising prevalence of past-month use.

The growth of Washington’s cannabis consumption was assumed to have a low estimate of -3% (a decline), a middle estimate of 10%, and a high-end estimate of 25%, with a probability distribution governed by a triangular random variable. Those rates of growth seem plausible, given that according to NSDUH, reported past-month users in Washington grew by 27% from 2010-11 and 2012-2013. By way of demonstration, applying the best- estimate growth factor (10%) to the 175MT estimate yields an estimate for 2015 cannabis consumption of 192.5 million metric tons (175 x 1.1 = 192.5).

Convert from Weight (MT) to Market Value (\$)

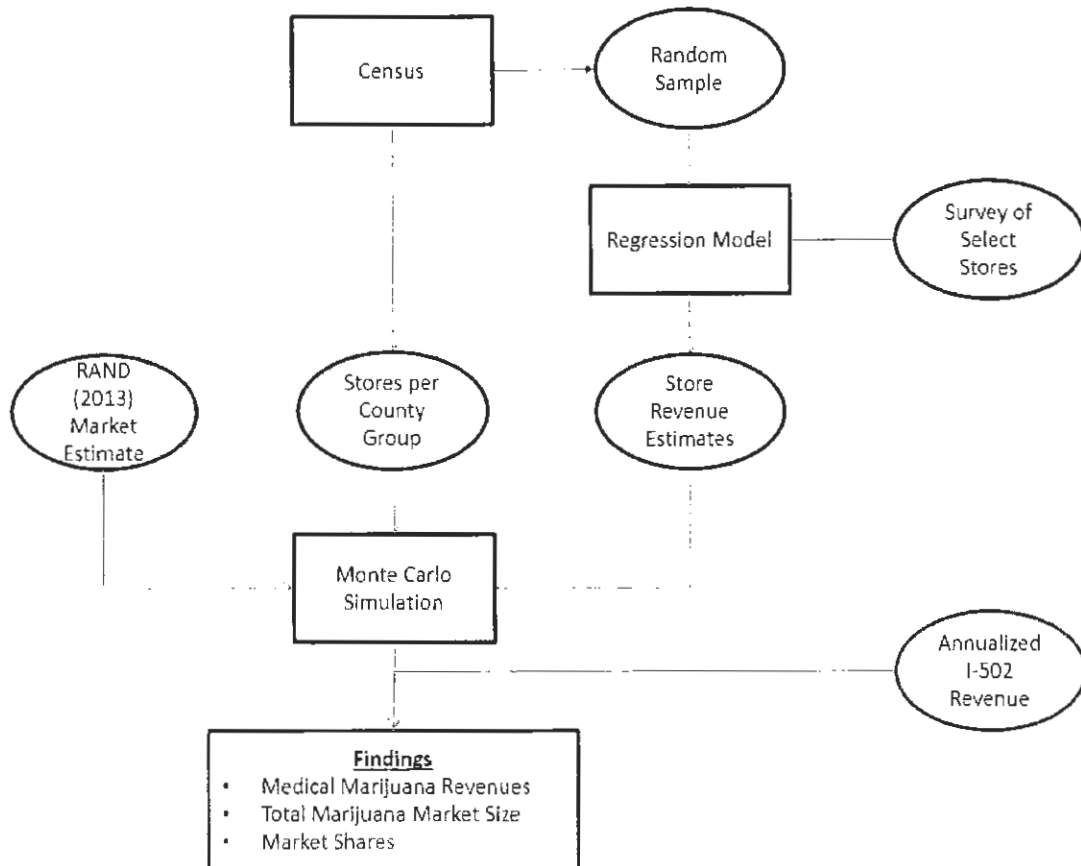
Converting from weight (in metric tons) to market value requires an estimate for the average price-per-gram of cannabis sold in Washington State. The methodology

to do so was described in the previous section, finding a statewide average price per gram between \$6.28 and \$7.19. To convert the RAND estimate to a market value, then, the amount in metric tons is simply divided by the price-per-gram.

Step 4. Estimate Market Shares and Sizes for Various Cannabis Markets

In Steps 1, 2, and 3, the BOTECH researchers estimate annual medical cannabis revenues statewide and the annual market value of all cannabis consumed in Washington State. Researchers also computed the annualized revenue for I-502 sales, based on October 2015. With these data in hand, it is relatively straightforward to estimate the market shares and sizes for Washington's three cannabis markets (I-502, medical, and illicit).

Figure 16. Research Workflow: Section 4



Calculate Market Share for Medical Cannabis Market

Section 1 estimated medical cannabis revenues of approximately (\$480 million). An estimate for the total market value of all cannabis consumed in Washington State is \$1.33 billion. That yields a market share of 37%. That does not include any medical cannabis that is produced at home for own-consumption or non-commercial sharing.

Due to the considerable amount of uncertainty in the estimation process, as well as the rapidly changing nature of cannabis markets in Washington at present, it is valuable to reference feasible ranges rather than a single point estimate. The Monte Carlo simulation facilitates the creation of feasible ranges. A 90% confidence interval can be constructed by sorting the trial outcomes from largest to smallest (for the estimate of interest, e.g., I-502 sales, or illicit market share, or medical cannabis sales to residents of county group A), and then finding the trials at the bottom and top 5 percentiles. For the medical cannabis market, the feasible range for annualized revenues ranges from \$290 to \$690 million.

Figure 17. Calculating medical cannabis market share

$$\text{Medical cannabis market share} = \frac{\text{Medical cannabis revenues}}{\text{Value of all cannabis in Washington}}$$

Calculate Market Share and Annualized Revenue for I-502 Market

Annualized cannabis revenues from I-502 stores are estimated to be \$460 million, for a market share of 35%. See section 1, subsection "Estimate County-level MMJ Revenue Using a Monte Carlo Simulation" for more detail on how the BOTECH researchers have retrieved and analyzed data on cannabis sales revenues from I-502 stores.

Data on sales revenue for the month of October 2015 are directly provided by the LCB (\$38 million). The revenues are annualized by multiplying by 12.

Note that annualizing revenues in this fashion yields an *instantaneous* estimate for the size of the I-502 market. Because the I-502 market has been rapidly growing, an instantaneous measurement will yield a substantially larger estimate than what would be measured simply by looking at sales in the past year.

Annualizing I-502 revenues does not constitute a prediction. In reality, sales on the I-502 market appear likely to continue to increase. Were the market share to be projected forward into the future, the number might be substantially larger.

Estimate Lower Bound for Black Market Cannabis Sales

Illicit market revenues are estimated simply by subtracting the I-502 and medical shares from the larger market. The best point estimate for annual sales of cannabis of illicit origin is \$390 million. In actuality, the illicit market is likely somewhat larger than that, since some cannabis sold in the illicit market originates via purchase from an I-502 store or from a medical cannabis retailer, and then is illegally diverted. That proportion is unknown.²⁵

The range of uncertainty for the estimate for illicit cannabis sales is unusually wide, since the estimate is dependent on both the BOTEK estimate for medical cannabis revenues, the estimate for the size of the broader cannabis market in Washington, and the estimate for I-502 revenues. (The illicit market estimate equals the size of the broader market minus those other two markets.) As a result, the feasible range covers as low as \$60 million and as high as \$740 million.

²⁵ Technically this would produce a lower bound estimate for the size of the black market, since some cannabis traded on the black market may originate from the medical or even I-502 sector.

Findings

BOTEC was asked to estimate the total annualized revenues of all medical cannabis outlets in Washington State and the size of that that sector’s share of the larger cannabis market. To answer these questions, BOTEC researchers used a methodology that produces both a “best- estimate” and a plausible range of outcomes.

Market Sizes and Shares of Washington’s Various Cannabis Markets

Figure 18. Annual Market Values and Shares of Washington’s Markets (in \$M)

	Total	Medical	I-502	Illicit
Low	\$1,070	\$290	\$460	\$60
Best Estimate	\$1,330	\$480	\$460	\$390
High	\$1,610	\$690	\$460	\$740
Market Shares				
Low	100%	21%	28%	5%
Best Estimate	100%	37%	35%	28%
High	100%	55%	43%	48%

For the share of the larger Washington cannabis market provided for by transactional medical cannabis outlets, our best estimate is 37% (\$480 million in sales revenue from medical cannabis outlets divided by \$1.33 billion value of all cannabis consumed in WA). Given the total value of cannabis consumed in Washington and the portion provided for by medical cannabis outlets, other market shares can be calculated. The current commercial market is estimated at \$460 million (35%) with the remaining \$390 million (28%) accounted for by medical home-growing and by the illicit market.

Medical Cannabis Revenues by County

The analysis suggests that Washington’s medical cannabis access points will account for between \$290 and \$690 million in sales in 2015; the best point estimate is \$480 million. More than half of those sales are concentrated in just three counties: King (\$183M), Snohomish (\$71M), and Pierce (\$67M); eighteen counties are estimated to have less than \$1 million in sales each.

Conclusion

This report provides information about the current size of Washington's markets in cannabis, with a special emphasis on the medical sector. It is largely a practice in market estimation. Key findings include:

- The market value of all cannabis consumed in Washington is about \$1.33 billion, but could be as low as \$1.07 billion or as high as \$1.61 billion.
- Revenues from the sales of medical cannabis in Washington are estimated at roughly \$480 million, but could be as low as \$290 million or as high as \$690 million. Annualized cannabis revenues from I-502 stores are estimated at \$460 million.
- The market share of the transactional component of Washington's medical cannabis sector is estimated at about 37 percent. Here, market share is calculated by dividing estimated medical cannabis sales revenue by the estimated market value of all cannabis consumed in Washington.
- Two counties account for more than half of the medical cannabis sales in Washington. King County accounts for about 38 percent and Pierce County accounts for about 16 percent.

For the annualized revenues of the medical cannabis sector, our best estimate currently accounts for approximately \$480 million per year (37%). By contrast, annual taxable retail sales reported to the Department of Revenue in fiscal year 2015 only totaled roughly \$100 million.²⁶ That discrepancy suggests that dispensaries have been grossly under-reporting their actual revenues for tax purposes. However, those figures should not be compared directly, given that the time periods are not precisely the same. The Department of Revenue's reported taxable sales pertain to Fiscal Year 2015 (July 1, 2014 – June 30, 2015) while BOTEC has estimated sales for calendar year 2015 (January 1 – December 31, 2015), based on revenues from October 2015. Despite those differences, it can be useful to compare the two data sources. The table below shows that while the BOTEC figure is more than four times larger than the figure reported to the Department of Revenue, the portion of sales contributed by each county group is markedly similar.

²⁶ Source: a public records request fulfilled by the Department of Revenue.

Figure 19. Comparing Reported Sales (Dept. of Revenue) and BOTEC Estimates

County Group	Department of Revenue		BOTEC	
	Reported Taxable Sales (M)	Revenue Share	Estimated Revenue (M)	Revenue Share
A	\$48	36%	\$183	38%
B	\$16	23%	\$146	31%
C	\$21	24%	\$87	18%
D	\$11	9%	\$49	10%
E	\$3	8%	\$12	3%
State-Wide	\$99	100%	\$480 ²⁷	100%

The measurements and estimates reported here aim to portray the situation in Washington as of October 2015, but the cannabis market in Washington State is dynamic, constantly changing both in total size and in composition, especially given the impending changes in the regulatory environment. Because the situation on the ground is changing so rapidly, the researchers emphasize that all estimates are only a single snapshot in time.

Interpreting the relative market shares of the illicit, medical, and I-502 markets requires some caution. As discussed in this report, market share is a portion of retail value, but it would be equally valid to think about the share that each market contributes to the total weight of cannabis consumed, or the number of cannabis users served, the total weight of THC, or the quantity of days of use or intoxication-hours. These differences in units of measurement would yield somewhat different results.

²⁷ County group sub-totals add up to slightly less than the \$480M estimate due to rounding.

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Young, Bob. A year in, taxes on legal weed yet to yield big windfall for state. Seattle Times. July 4, 2015. <http://www.seattletimes.com/seattle-news/a-year-in-taxes-on-legal-weed-yet-to-yield-big-windfall-for-state/>

Appendix A. Estimated Medical Cannabis Sales to Residents by County²⁸

Group	County	Past-Month Users (2013)	Revenue (\$ Millions)
Group A	King	179,734	\$183.4
Group B	Pierce	67,494	\$76.4
Group B	Clark	39,139	\$44.3
Group B	Kitsap	24,482	\$27.7
Group C	Snohomish	71,481	\$45.8
Group C	Spokane	31,896	\$20.4
Group C	Thurston	24,462	\$15.7
Group C	Island	7,747	\$5.0
Group D	Whatcom	27,759	\$13.5
Group D	Yakima	19,701	\$9.6
Group D	Skagit	17,615	\$8.6
Group D	Benton	11,434	\$5.6
Group D	Cowlitz	10,754	\$5.2
Group D	Mason	5,982	\$2.9
Group D	Franklin	5,040	\$2.5
Group D	San Juan	1,806	\$0.9
Group E	Grays Harbor	8,165	\$1.5
Group E	Clallam	8,018	\$1.5
Group E	Lewis	7,174	\$1.3
Group E	Grant	5,594	\$1.1
Group E	Chelan	5,038	\$0.9
Group E	Walla Walla	4,045	\$0.8
Group E	Jefferson	2,789	\$0.5
Group E	Okanogan	2,747	\$0.5
Group E	Kittitas	2,698	\$0.5
Group E	Whitman	2,676	\$0.5
Group E	Douglas	2,499	\$0.5
Group E	Stevens	2,278	\$0.4
Group E	Pacific	2,225	\$0.4
Group E	Asotin	1,479	\$0.3
Group E	Klickitat	1,333	\$0.3
Group E	Skamania	1,106	\$0.2
Group E	Adams	970	\$0.2
Group E	Pend Oreille	792	\$0.1
Group E	Lincoln	565	\$0.1
Group E	Ferry	518	\$0.1
Group E	Wahkiakum	370	\$0.1
Group E	Columbia	290	\$0.1
Group E	Garfield	105	<\$0.1
Total	-	610,000	\$ 480

²⁸ Some counties have prohibitions against medical cannabis outlets; for these counties, it is assumed that users cross county lines to purchase.

BEFORE THE WASHINGTON STATE LIQUOR AND CANNABIS BOARD

IN THE MATTER OF:

PUGET SOUND GROUP LLC d/b/a
PUGET SOUND GROUP
9451 35TH AVE SE STE 1 & 4
SEATTLE, WA 98126-3871

APPLICANT

APPLICATION NO. 413998
UBI 603 104 127 001 0003

PUGET SOUND GROUP LLC d/b/a
NORTHWEST PATIENT RESOURCE
CENTER
9456 35TH AVE SW
SEATTLE, WA 98126-3825

APPLICANT

APPLICATION NO. 413996
UBI 603 104 127 001 0001

LCB NO. M-26,022

OAH NO. 07-2016-LCB-00081

LCB NO. M-26,023

OAH NO. 07-2016-LCB-00082

ORDER GRANTING
APPLICANT'S MOTION TO
EXTEND THE FILING TIME FOR
PETITION FOR REVIEW

The above-captioned matter coming on regularly before the Board, and it appearing that:

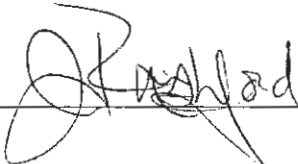
1. An Initial Order in this matter was issued by Administrative Law Judge Lisa N. W. Dublin on January 9, 2017. The Board received a copy of the Initial Order on January 10, 2017.
2. On February 1, 2017, the Applicant, John Davis, called the Board's Adjudicative Proceedings Coordinator Kevin McCarroll, stating that he had a new mailing address and had not received a copy of the Initial Order and requested a copy.
3. On February 1, 2017, Mr. McCarroll provided an electronic copy via email to Mr. Davis as well as the Applicant's Attorney who had purportedly not received the Initial Order either.

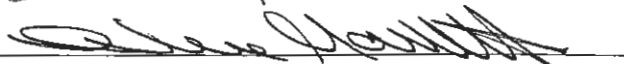
4. On February 8, 2017, the Applicant's Good Cause Request for More Time for Filing Petition for Board Review of Initial Order was received.

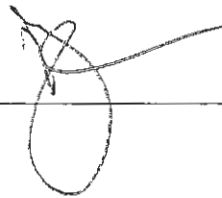
The Board hereby ORDERS that the Applicant's Good Cause Request for More Time for Filing Petition for Board Review of Initial Order is granted. The Applicant may file a Petition for Review by February 21, 2017. The Licensing Division will have an additional 10 days to file a Response.

WAC 314-42-095(2)(3).

DATED at Olympia, Washington this 14th day of February, 2017







RECEIVED

FEB 08 2017

Liquor and Cannabis Board
Board Administration

BEFORE THE WASHINGTON STATE LIQUOR AND CANNABIS BOARD

IN THE Matter of:
Puget Sound Group LLC,
dba Puget Sound Group
9456 – 35th Ave SW
Seattle WA 98126-3825

&

Puget Sound Group LLC,
dba Puget Sound Group
9451 – 35th Ave SW Suites 1 & 4
Seattle WA 98126-3825

Applicant,

License No. 413996 & 413998
UBI Nos. 603 104 127 001 0001 &
603 104 127 001 0003

OAH NO. 07-2016-LCB-00081 & 82

LCB No. M-26,022 &
M-26,023

**GOOD CAUSE REQUEST FOR
MORE TIME FOR FILING PETITION
FOR BOARD REVIEW OF INITIAL
ORDER**

TO: Kevin McCarroll, LCB
AND TO: Kim O'Neal, Senior Counsel, Attorney General's Office

NOTICE FOR MORE TIME

This is a request for more time to file a Petition for Board Review of Initial Order to the LCB Board. The reason is set forth below:

On Wednesday, February 1, 2017, John Davis, Owner of Puget Sound Group contacted Mr. Kevin McCarroll, the Adjudicative Proceedings Coordinator at the Washington State Liquor and Cannabis Board, to find out if there had been a ruling in his case as typically the

1 OAH would have sent notice to his address and to his attorney on the ruling. I myself did not
2 receive notice on Mr. Davis's case. However, Mr. Davis let Mr. McCarroll know that he had to
3 close his Collective Garden Store where he received all business related mail and he had a new
4 address. The old store address was 35th Ave SE Seattle, WA 98126. The new forwarding
5 address is:

6
7 John B. Davis
8 Puget Sound Group LLC
9 d/b/a Puget Sound Group
10 319 101st Ave SE #312
11 Bellevue, WA 98004-6157
12

13 Mr. McCarroll informed Mr. Davis that an order had been issued in his case on January 9, 2017
14 and that the 20 days to petition had passed. We now respectfully ask for more time as service
15 (notice) was not effectuated on the Puget Sound Group until Feb 1, 2017.

16 Under WAC 314-42-095(2), parties may file a request for an extension of time with the Board.

17 Additionally, WAC 10-08-110 (2) states:

18 (2) Service.

19 (a) All notices, pleadings, and other papers filed with the presiding officer shall be served
20 upon all counsel and representatives of record and upon unrepresented parties or upon their
agents designated by them or by law.

21 (b) Service shall be made personally or, unless otherwise provided by law, by first-class,
22 registered, or certified mail; by fax and same-day mailing of copies; or by commercial parcel
23 delivery company.
24

1 (c) Service by mail shall be regarded as completed upon deposit in the United States mail
2 properly stamped and addressed. Service by fax shall be regarded as completed upon production
3 by the fax machine of confirmation of transmission. Service by commercial parcel delivery shall
4 be regarded as completed upon delivery to the parcel delivery company, properly addressed
5 with charges prepaid.

6 (3) Proof of service. Where proof of service is required by statute or rule, filing the papers
7 with the presiding officer, together with one of the following, shall constitute proof of service:

8 (a) An acknowledgement of service.

9 (b) A certificate that the person signing the certificate served the papers upon all parties of
10 record in the proceeding by delivering a copy thereof in person to (names).

11 (c) A certificate that the person signing the certificate served the papers upon all parties of
12 record in the proceeding by:

13 (i) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the
14 proceeding or his or her attorney or authorized agent; or

15 (ii) Transmitting a copy thereof by fax, and on the same day mailing a copy, to each party to
16 the proceeding or his or her attorney or authorized agent; or

17 (iii) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial
18 parcel delivery company. WAC 10-08-110 (2).

19 Herein, we believe there is good cause and respectfully ask the Board for more time to
20 allow Puget Sound Group to Petition the Board for Review of the OAH's Initial Order in this
21 case. If service was not effectuated leading to service not being completed, then Puget Sound
22 Group has a good faith cause to have their request granted. We do intend to have the Petition to
23 the Board in a relatively short time.

24 RESPECTFULLY SUBMITTED this 7TH day of FEB, 2016

SIGNED: By: s/ Merwin Moe Spencer

Merwin Moe Spencer, WSBA #40963
SPENCER PALACE LAW - Applicant Attorney

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CERTIFICATE OF SERVICE

I certify that on this date, I sent for delivery a true and correct copy of the document to which is affixed by the method indicated below and addressed to the following:

Kim O'Neal - Attorney Office of the Attorney General, WA Olympia, WA	<input checked="" type="checkbox"/>	U.S. MAIL
		PROCESS LEGAL SERVER
	<input checked="" type="checkbox"/>	EMAIL – <i>Courtesy Copy</i>
		HAND DELIVERED
		EXPRESS DELIVERY
		FACSIMILE
	<input type="checkbox"/>	U.S. MAIL
		PROCESS LEGAL SERVER
		EMAIL
		HAND DELIVERED
		EXPRESS DELIVERY
		FACSIMILE

SPENCER PALACE LAW

DATED: Feb 7, 2016

SIGNED: By: s/ Merwin Moe Spencer
Merwin Moe Spencer