



Washington State Liquor Control Board

Washington State Liquor Control Board Meeting

Wednesday, December 11, 2013, 10:00 a.m.

Headquarters Building

3000 Pacific Avenue SE, Olympia WA 98501

Meeting Minutes

CALL TO ORDER

Chair Sharon Foster called the regular meeting of the Washington State Liquor Control Board to order at 10:00 a.m. on Wednesday, December 11, 2013. Member Ruthann Kurose and Member Chris Marr were also present.

APPROVAL OF MEETING MINUTES

MOTION: Member Kurose moved to approve the December 4, 2013, meeting.

SECOND: Chair Foster seconded.

ACTION: Motion passed unanimously.

BOARD DIRECTION TO STAFF

Re: Medical Marijuana Draft Recommendations - Legislative Mandate

Budget Proviso Language: 3ESSB 5034 Sec. 141(2):

(a) The liquor control board must work with the department of health and the department of revenue to develop recommendations for the legislature regarding the interaction of medical marijuana regulations and the provisions of Initiative Measure No. 502. At a minimum, the recommendations must include provisions addressing the following:

- (i) Age limits;
- (ii) Authorizing requirements for medical marijuana;
- (iii) Regulations regarding health care professionals;
- (iv) Collective gardens;

- (v) Possession amounts;
- (vi) Location requirements;
- (vii) Requirements for medical marijuana producing, processing and retail licensing; and
- (viii) Taxation of medical marijuana in relation to recreational marijuana.

(b) The board must submit its recommendations to the appropriate committees of the legislature by January 1, 2014.

Chair Foster discussed the process and timeline noting that the Board will be providing their input for the draft recommendations (HANDOUT 1) to Ingrid Mungia, LCB Administrative Regulations Analyst, today; Ms. Mungia will take the feedback to the Department of Health and the Department of Revenue team leads and bring the changes back to the Board for a final vote during the December 18, 2013, Board meeting; the recommendations will then be provided to the appropriate Legislative committees on January 1, 2014.

Chair Foster also acknowledged the tremendous amount of outreach that the Board members have done individually since the November 13, 2013, hearing on the medical marijuana draft recommendations and she believes that outreach and the subsequent feedback will be reflected.

Member Marr noted the amount of feedback that has been received during the November 13, hearing and in written form. He also expressed his appreciation for the hard work of Ms. Mungia.

Member Kurose said that in reviewing and responding to the recommendations she focused on strategies that addressed both recreational and medical marijuana taking into account that a patient's ability to obtain marijuana not be reduced by changes to safe and reasonable access or overly burdensome pricing influenced by taxes. She stated that there needs to be compliance with the Department of Justice memorandum which calls for a tightly regulated system.

Chair Foster then invited Ms. Mungia to the podium to provide a brief background. Ms. Mungia then asked the Board for their respective feedback on each of the (8) recommendations.

1. Age Limits

Chair Foster suggested a language change to bullet 3 to state: *reexaminations occur at least once every year or more frequently as medically indicated.*

Member Kurose agreed with the proposed language and agreed with Chair Foster's change.

Member Marr agreed with the proposed language and agreed with Chair Foster's change.

2. Authorizing Requirements for Medical Marijuana

Member Kurose stated that she had previously asked Ms. Mungia to compare the draft registry requirements with Oregon and other states and Ms. Mungia came back noting that this model is more efficient and less burdensome for patients.

Ms. Mungia stated that in Oregon the patient is required to send in numerous documents to the Oregon Department of Health to register and the registry requires much more detailed information. In the Washington system it would be the medical provider that would input all information into the system.

Chair Foster reiterated that the Washington model will be a web-based system and the health care provider will simply need to click a button notifying the Department of Health (DOH) and DOH will provide the patient with a card.

Member Marr believes a registry is an important aspect to a system but does not want the system to create an undue burden on the health care providers. He also wants to ensure patient confidentiality regarding medical records.

Chair Foster understood that all other states have a registry except Washington State. Ms. Mungia said that is correct.

3. Regulations Regarding Health Care Professionals

Member Kurose recommended for Bullet 7 to remove: *Patients with conditions other than those already authorized can follow the legislative process to change the law and can avail themselves of the recreational marijuana market until such time as the law is changed.* She stated that this is a role for DOH or medical providers with expertise, not the Legislature.

Chair Foster agreed with Member Kurose that this should not be determined by the Legislature.

Chair Foster recommended for Bullet 1: regarding the language *Define "debilitating" and "intractable pain"* and suggested that DOH, in consultation with medical professionals, define. The language she suggested included: *to clearly indicate the condition must be severe enough to significantly interfere with a patient's activities of daily living and ability to functions and can be objectively assessed and evaluated.*

Member Kurose agreed with Chair Foster's language.

Member Marr was comfortable with the original definition language from Bullet 7 regarding debilitating and intractable pain. He said the language gives the healthcare provider the ability to provide a subjective and professional opinion to qualify a patient. He did add that he would be comfortable with the language being changed to include that the definition should be developed in conjunction with DOH

and healthcare professionals. He added that we need to be mindful of health care practitioners that are operating inappropriately and creating an adverse perception.

Member Marr also suggested that we do away with the *petition process* as DOH may not be equipped to receive it and the Legislature may go through a more thoughtful process to seek professional opinions from the medical community before adding conditions.

Chair Foster suggested the following language to be added to Bullet 3: *Any restrictions regarding what percentage of a health care provider's practice can or should be devoted to authorizing medical marijuana shall not be considered to set a statutory precedent for limitations on other services provided by a health care provider. The boards and commissions that license health care providers who may authorize medical marijuana shall develop guidelines and/or rules to monitor and regulate the scope of a provider practice to ensure it does not consist primarily of authorizing medical marijuana.*

4. Collective Gardens

All Board members agreed with the recommendations under this section.

Member Kurose added that collective gardens were originally developed to provide small groups of patients access to medical marijuana coop style but have become illegal recreational marijuana dealing dispensaries.

5. Possession Amounts

Chair Foster suggested to "allow" home grows and the ability for a qualified patient or designated provider to possess (6) marijuana plants (3 flowering and 3 non-flowering). She also noted that she checked every other state's registry requirements and (6) is the average.

Member Marr agrees with (6) plants but noted that collective gardens have become a problem and he cautioned that the language needs to be clearly defined and sufficient protections around who is authorized. He does support personal grows but wants to ensure that they do not become an issue such as collective gardens had. He added that the Board relied on DOH input surrounding these issues.

Member Kurose agrees with the (6) plant limit and supports home grows for qualified patients or a designated provider. She stated that there are numerous patients who depend on home grows for their wellness and she wants those patients to have access to cannabis without additional registry requirements.

6. Location Requirements

Chair Foster suggested aligning with I-502 regarding the 1000' buffer rule.

Member Marr and Member Kurose support consistency with I-502 rule as well.

7. Requirements for Medical Marijuana Producing, Processing and Retail Licensing

Member Marr would like to see what this endorsement consists of and would like to see the Legislature help define the endorsement process. He also suggested there should be some type of education around the science.

Chair Foster added that she invites the current experienced medical marijuana retailers to assist the LCB and DOH with the endorsement language.

Member Kurose agrees and suggested that DOH establish an endorsement process. She also supports the recommendations for one integrated distribution system however the system must meeting and distinctly address the differences between recreational and medical needs.

8. Taxation of Medical Marijuana in Relation to Recreational Marijuana

Chair Foster agrees with the language in this section and assumes the Legislature will be providing input.

Member Marr agrees with the language and suggested this is a revenue issue and best left to the Legislature.

Member Kurose agrees with the language and also sees this as a Department of Revenue and Legislative issue.

PUBLIC HEARING 1

Public Hearing on Marijuana Consumption in Liquor Licensed Premises

Karen McCall, Agency Rules Coordinator, began the briefing with a packet of materials (HANDOUTS 2a, 2b). She provided a brief background noting that this is to amend WAC 314-11-015 prohibiting the consumption of marijuana or marijuana infused products at a liquor licenses premises.

Proposed Changes

WAC 314-11-015 - What are my responsibilities as a liquor licensee? Added language that any licensee may not:

- engage in or allow any employee or other person to engage in the consumption of marijuana, useable marijuana, or marijuana-infused product in a liquor licensed business, including outdoor service areas or any part of the property owned or controlled by the licensee;
- permit any person consuming, or who has consumed, any type of marijuana, useable marijuana, or marijuana-infused product to remain on any part of the licensed premises.

Chair Foster opened the public hearing and invited the first citizen to the podium to provide comments.

John Worthington - Citizen

Mr. Worthington stated that his sister was killed in a car accident as a result of being over-served at a local establishment and suggested that having on-site breathalyzers could have saved her life. He believes that marijuana should be treated the same as alcohol and should be allowed to be consumed at a private club.

Frank Schwarrs - Owner of Frankie's Bar

Mr. Schwarrs is concerned that marijuana smokers will not have a place to smoke and he wants to secure the rights of his customers to smoke marijuana in his private club. He added that the LCB should not be regulating who smokes outside his establishment.

Arthur West - PFJ

Mr. West complimented the Board on their process and for complying with the Open Public Meetings Act. He also stated that this rule is flawed and will not provide additional public safety. He expressed concern that this rule process did not include a small business impact statement.

Miss Poppy Sidhn - Purple Poppy Foundation

Ms. Sidhn expressed concern that private clubs that currently allow marijuana use will be shut down and she asked that the rule be amended or changed. She also suggested special permits as a solution.

Megan Sullivan - Represents Together and WASAVP

Ms. Sullivan thanked the Board for taking this first step to protecting public safety. She stated that there are well documented driving concerns regarding alcohol combined with marijuana as well as mental health issues.

Steve Sarich - CAC

Mr. Sarich stated that there is no study regarding increased impaired driving from alcohol combined with marijuana. LCB Chief Justin Nordhorn, informed Mr. Sarich that the information is based on a risk management assessment. Mr. Sarich continued by asking a few clarifying questions regarding potential licenses for private clubs or private parties. He also encouraged that a small business impact study be completed or it will bring additional challenges.

PUBLIC HEARING 2

Public Hearing on Spirits Sampling in Spirits Retail Premises

Karen McCall, Agency Rules Coordinator, began the briefing with a packet of materials (HANDOUTS 3a, 3b). She provided a brief background noting that this is to request approval from the Board to file the proposed rules (CR 102) for Spirits Sampling by Spirits Retail Licensees and revise rules for the B/W Tasting Endorsement for Grocery Store Licensees.

Rules are needed to implement the following legislation passed in the 2013 legislative session:

- SSB 5396 - Spirits Sampling by Spirits Retail Licensees
- SSB 5517 - B/W Tasting Endorsement for Grocery Store Licensees

Proposed Changes

WAC 314-02-102 - What are the requirements for a grocery store licensee to conduct beer and wine tastings? Removed language that required a licensee to have more than 50% of their retail sales in grocery products, or the licensee is a membership organization. Changed the size of the premises requirement from 9000 square feet to 10,000 square feet.

WAC 314-02-106 - What is a spirits retailer license? Added the requirements for a spirits retailer licensee to obtain a spirits sampling endorsement to conduct spirits sampling.

Chair Foster opened the public hearing and invited the first citizen to the podium to provide comments.

Mary Ellen Dela Pena - WA Association of Substance Abuse & Violence Prevention (WASAVP)

Ms. Dela Pena wanted to make the Board aware of a recent study conducted by the University of Maryland regarding underage drinkers (CITIZEN HANDOUT 1). The study reflects that combined use of alcohol and marijuana has a much higher impact on youth. She asked the Board to err to the side of caution on this issue.

Cindy Zehnder - Total Wine & More

Ms. Zehnder supports the rules and thinks they represent a good balance between protecting public safety and allowing the retail stores to market in a way that ensures survivability. She encouraged the Board to pass the regulations.

PUBLIC HEARING 3

Public Hearing on Olympia Alcohol Impact Area (AIA)

JoAnne Sample, Management Analyst, began the briefing with an Issue Paper (HANDOUT 4). She provided a brief background noting that the City of Olympia has been unsuccessful in their multi-year initiative, dating back to 2010, to mitigate the effects of Chronic Public Inebriation (CPI) through a voluntary Alcohol Impact Area in the city's downtown area. Board recognition will enable mandatory product restrictions within the geographic bounds of the Alcohol Impact Area, significantly improving the potential for positive change in the community. Absent Board recognition, the City's public safety initiative will devolve, resulting in increased drain on city law enforcement, emergency medical responders, and community social services. Ms. Sample stated that the Licensing Division staff recommends adoption of the City of Olympia's request for Board-recognition of the Downtown Urban

Core Alcohol Impact Area. She added that the City of Olympia has made tremendous strides in this process and said that there were several representatives in the room that will outline those steps.

Chair Foster opened the public hearing and invited the first citizen to the podium to provide comments.

Bill Stauffacher - WA Beer & Wine Distributor's Association

Mr. Stauffacher stressed the chronic public inebriation in the downtown core is a community problem and that abused products contribute to the issue. He identified a few concerns with the Olympia report that he and his membership have including; police incident reports and first responder reports do not mention many of the contributing products (which would also be a good source for data); numerous products that *are* mentioned in the police reports are not included on the product ban list; the two products that are frequently identified in police and litter reports are *Steel Reserve* and *Hurricane High Gravity* and he recommends that only these two products remain on the list.

Brian Wilson - Downtown Liaison and Code Enforcement Officer for the City of Olympia

Mr. Wilson noted the LCB's July memo to the City of Olympia requesting two additional issues be addressed including, 1) have further conversations with representatives from the beer and wine distribution industry regarding voluntary options, and 2) provide additional evidence identifying specific brands linked to chronic public inebriation. He noted these were completed. He said that the discussions with representatives were positive and the data collection allowed staff a good opportunity to gather information that resulted in surprising outcomes. Mr. Wilson said they conducted a 10-week survey sweeping the entire downtown core one random day per week (10 days total) gathering a large binder of data regarding discarded alcohol containers - they collected 1,020 containers during the 10-week period (even with several detail crews working (7) days a week to pick up litter) which revealed a challenging problem regarding product types. From this extensive process they identified (9) products indicated on the ban list. He asked the Board to support the City's petition.

Member Marr thanked Mr. Wilson for all of the hard work and he thinks they have provided a superior proposal and scope and the Board appreciates the effort.

Member Kurose said the information provided was very compelling and she appreciates the hard work.

Chair Foster thinks the City has benefitted from the subsequent request from the Board.

Paul Lower - City of Olympia Police Department

Officer Lower coordinates services for the downtown core of the City of Olympia and he stated that the downtown core has been hampered with the reputation of chronic public inebriants obtaining inexpensive alcohol products. He stated that we cannot arrest our way out of this problem and asked for the Board's support on this issue.

Darren Nienaber - City of Olympia Deputy Attorney

Mr. Nienaber is in support of the City's proposal and noted the two items the Board had asked them to address including meeting with the industry and narrowing the list. He stated that they learned a great deal during the process and they reduced the list significantly. He added that each container found represents two violations (banned product and littering). He also acknowledged the voluntary bans adopted by the industry.

Julie Hankins - City Council Member

Ms. Hankins is committed to addressing downtown Olympia's issues and working with partners to find solutions. They have been working hard to partner with the community and to leverage resources to improve the health and safety of the downtown neighborhood. She understands that one action will not eliminate the problems and the groups she represents have created a set of actions to work in concert to address the problem including:

- Brought back the walking patrol
- Created a downtown ambassador program
- Worked to strengthen the downtown neighborhood association
- Created public spaces
- Coordinated social services
- Established a best practices program for bars and taverns

She urged the Board to partner with the Olympia community and help address the problems around alcohol sales in the downtown core.

Phil Rollins - Downtown Business Owner (Archibald Sisters)

Mr. Rollins has seen the impact of the alcohol issues on a regular basis and is concerned about the chronic public inebriation downtown and asked the Board to grant the City of Olympia their AIA.

Mary Corso - Downtown Business Owner (Courtyard Antiques)

Ms. Corso's business is right next to City Hall and even in that location she is always picking up bottles and cans near her business. She has had customers witness people vomiting in the street and constant inebriants. She has had customers tell her they do not want to come to the downtown area due to this problem and she hopes this will be one important step in the right direction.

Connie Phegley - Downtown Business Owner (Old School Pizzeria)

Ms. Phegley understands that downtown Olympia is a central hub for an entire region. She stated that it is simply expected by visitors to the downtown area that they will see inebriants daily. She believes that part of the problem is that there have been tremendous cuts in social services and availability to social programs. She also sees this as an obvious next step and encouraged the Board's support.

Jim Phegley - Business Owner (Office Tavern)

Mr. Phegley owns a business by the college and when he visits the downtown area he has concerns about what he witnesses. He supports the ban.

David Ravli - KXXO FM & MIXX 96.1

Mr. Ravli owns a 24-hour business and is in support of the City's important proposal and encouraged the Board's approval.

Pit Kwiecinski - Downtown Business Owner (Brotherhood Lounge)

Mr. Kwiecinski thanked the City for their proposal and stated that this is a step in the right direction.

Chair Foster noted that she has lived in the City of Olympia since 1981 and does most of her shopping in the downtown core. She has encountered the same issues that others have noted today and looks forward to progress. She added that she hopes to someday see market rate housing in the downtown area to increase the tax base as well as revitalizing the area.

Chair Foster thanked everyone for their comments and noted that the Board will take everything into consideration.

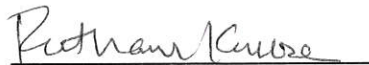
ADJOURN

Chair Foster adjourned the meeting at 11:55.

Minutes approved this 18th day of December, 2013



Sharon Foster
Board Chair



Ruthann Kurose
Board Member



Chris Marr
Board Member

LCB Mission

Promote public safety by consistent and fair administration of liquor and cannabis laws through education, voluntary compliance, responsible sales and preventing the misuse of alcohol, cannabis and tobacco.

Complete meeting packets will be available online following each meeting: <http://www.liq.wa.gov/board/board-information>