

Washington State Liquor Control Board
Post Office Box 43080
Olympia, Washington 98504-3080

Dear Chair Foster and Board Members Kurose and Marr,

As leaders and family members of Washington State's diverse ethnic and racial communities, we urge the Board to consider the following comments regarding Draft WAC 314-55, Marijuana Licenses, Application Process, Requirements, and Reporting.¹

We presume that the new law will lessen racial disparities in drug law enforcement, and we support the Board's efforts to improve public safety and public health through a tightly regulated and controlled market. While we are pleased with the Board's commitment to preventing the out-of-state diversion of product, ensuring traceability of product, promoting responsible business practices, limiting youth access,

and bolstering public and other consumer safety issues, we remain concerned about the impact of the new law and regulations on communities of color. History tells us that our communities often suffer unintended consequences when new social policies or strategies are introduced.

The recommendations we are submitting arise from a racial equity perspective because research indisputably shows ongoing racial and ethnic disproportionalities in our criminal justice and health care systems. Our concerns cover a wide range of issues and include:

- Being sensitive to how youth may interpret the new law;
- Building trust between community members and licensees;
- Highlighting economic opportunities for community members; and
- Decreasing health disparities and improving our overall physical and mental health.

Finally, **we urge the Board to reach out to our communities, by any means necessary**, so that we can fully understand and educate ourselves. All too often this step is skipped, preventing large portions of our communities who are not proficient in English from participating in the development of policies that impact their lives.

We hope the Board carefully considers each of our concerns and recommendations. Engaging our communities in the development and implementation of the regulations can help avoid unintended consequences that may be difficult to correct later. We thank the Board for its time and consideration of our request.

Sincerely,

¹ The organizations, coalitions, and individuals that signed onto this document come from different backgrounds and do not universally share the same beliefs about marijuana policy. Some do not support the legalization and regulation of marijuana. All signatories agree that it is important to protect youth and communities of color, ensure safety, and promote the health of Washington citizens fully and fairly.

“History tells us that our communities often suffer unintended consequences when new social policies or strategies are introduced.”

SIGNATORIES



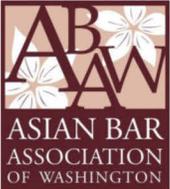
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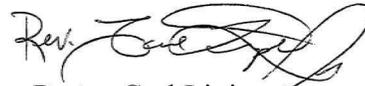
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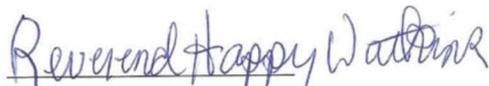
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OVERVIEW OF RECOMMENDATIONS

- Make Informational Materials About the Law and Regulations Available in the Same Languages the Secretary of State Provides Voter Materials, and Add the Google Translate Feature to the Board’s “I-502 Implementation” Web Pages
- Educate and Provide Outreach to Our Communities So That All Community Members, Including Those Who Are Limited English Proficient, Are Given a Meaningful Opportunity to Fully Participate in the Rulemaking Process
- Be Mindful of the Potential for Unintended Consequences in Our Communities
- Urge the Legislature to Require Medical Marijuana Businesses to Meet I-502 Regulatory Requirements, or at a Minimum, Be Subject to Separate But Similar Regulatory Rules
- Take Steps to Counter the Implied Message to Our Youth Under 21 That It Is Now Okay to Possess and Use Marijuana
- Develop And Implement Advertising Requirements And Restrictions That Minimize Marketing To Youth
- Do Not Concentrate Stores in Our Communities and Neighborhoods
- Try To Award Licenses to Both Large and Small Operators Who Reflect a Neighborhood’s Diverse Cultural, Social, and Economic Makeup
- Encourage Licensees to Hire Local Residents
- Commit Adequate Liquor Control Board Enforcement Resources, and Collaborate with State and Local Law Enforcement Agencies, to Ensure the Safety and Security of Neighborhoods Where Retail Stores and Other Licensees Are Located
- Evaluate the Law with Enough Frequency So That Positive and Negative Consequences in Our Communities Are Identified and the Appropriate Adjustments Are Made
- Help Our Communities Protect the Funding Dedicated to Public and Prevention Health Programs in Future Legislative Sessions
- Share Data with Other State and Local Agencies to Ensure That Treatment and Mental Health Services Are Available to All Who Need Them and Are Adequately Funded – Because Our Communities Are Disproportionally Affected
- Decrease Hours of Operation for Retail Outlets

RATIONALE

Make Informational Materials About the Law and Regulations Available in the Same Languages the Secretary of State Provides Voter Materials, and Add the Google Translate Feature to the Board’s “I-502 Implementation” Web Pages. There are several benefits with this recommendation. First, the technology used is easily adaptable to the rulemaking process that the Board has embarked on. Second, the last major election in 2012 was the most diverse ever with 28% of the voters being black, Latino, Asian-American, or other “minority” populations, up from 26% in 2008.² The Board should support this trend by implementing this recommendation and allow as many Washington citizens, including those who are non-English speakers, the chance to review and comment on the regulations.

Educate and Provide Outreach to Our Communities So That All Community Members, Including Those Who Are Limited English Proficient, Are Given a Meaningful Opportunity to Fully Participate in the Rulemaking Process. All too often, the approach has been simply to post the information on a website, and leave it to communities of color to seek the information out. That simply does not work for us. First, this assumes that our communities have easy access to the Internet, which is not always true. Second, the information is not always translated. Finally, many of our newly arrived members have a limited educational level, and may not even read their native language. It is important for all Washington citizens to participate in the rulemaking process. More importantly, we need to be fully educated so that we can clearly understand our rights and obligations under the new law and regulations. The alternative is for us to suffer the kind of unintended consequences mentioned in the next recommendation.

Be Mindful of the Potential for Unintended Consequences in Our Communities. We simply ask the Board to be vigilant since our communities are more frequently the victim of unintended consequences. For example, our communities were disproportionately impacted by higher arrests and court filings after Initiative 75’s passage, which was the City of Seattle’s attempt to “make the investigation, arrest and prosecution of marijuana offenses, when the marijuana was intended for adult personal use, the City’s lowest law enforcement priority.”³

Urge the Legislature to Require Medical Marijuana Businesses to Meet the Same Regulatory Requirements, or at a Minimum, Be Subject to Separate But Similar Regulatory Rules. It makes no sense to allow the medical marijuana industry, which operates in a legal gray area, to go unregulated while the recreational marijuana one is. Community members who already use, or who will become future users of, medical marijuana will benefit from the tightly regulated and controlled market that will exist under the proposed regulations. For example, the kind of uncontrolled growth complained of in communities like those surrounding South Rainier Avenue in Seattle would not occur under the strict controls proposed in the new regulations.⁴ Another example would be stricter requirements governing the

² *America Goes to the Polls 2012, A Report on Voter Turnout in the 2012 Election*, available at <http://www.nonprofitvote.org/voter-turnout.html>

³ *Final Report of the Marijuana Policy Review Panel On The Implementation of Initiative 75*, available at http://clerk.seattle.gov/~CFS/CF_309070.pdf

⁴ *Rainier Beach Businesses Looking to Rebrand ‘Medical Marijuana’ Image*, by Natalie Swaby, *King 5 News* (March 15, 2013), available at (<http://www.king5.com/video?id=198560501&sec=548932&ref=rcvidmod>)

production, processing, packaging and labeling of useable marijuana and marijuana-infused products. Such controls benefit the consumer because the product's contents would be scientifically tested and properly labeled. Therefore, state oversight would result in increased consumer safety irrespective of whether the controlling regulatory framework were WAC 314-55 or different but similar regulations.

Take Steps to Counter the Implied Message to Our Youth Under 21 That It Is Now Okay to Possess and Use Marijuana. Many of us came to this country in order to give our family members the chance to benefit from living in the United States. We are fearful that our children will misinterpret the law and its regulations and leap to the conclusion that it is now okay to use and possess marijuana. Already we are hearing such stories from our community members. We know this is not what the law or regulation permits, but this is what is happening, and we need to put an end to it. In addition, we recommend the Board require retail stores to visibly display prevention posters and signs next to the checkout counter. Without strong public health campaigns and messaging that counters industry marketing efforts, we fear that our efforts to provide a brighter future for our children will be for naught. All of us, regardless of whether we are newly arrived, want the same for our young people: Success and Happiness.

Develop and Implement Advertising Requirements and Restrictions That Minimize Marketing to Youth. Any useable marijuana or marijuana-infused product should be packaged uniformly with an emphasis on preventing access by young children. The Board should adopt rules that reasonably restrict the manner in which useable marijuana and marijuana-infused products are packaged to avoid appealing to youth. For example, the products currently sold by medical marijuana dispensaries include brightly colored lollipops, cotton candy, and snow cones.⁵ Such products have obvious appeal to children; in addition to explicit labeling, opaque packaging would minimize the risk of accidental consumption.

Do Not Concentrate Stores in Our Communities and Neighborhoods. Distribution of licensed stores in our neighborhoods should mirror the distribution of stores in more affluent, predominantly Caucasian neighborhoods. Research shows our neighborhoods have a disproportionate concentration of liquor stores. The same appears to be occurring with medical marijuana dispensaries in neighborhoods surrounding South Rainier Avenue in Seattle.⁶ An increased density of stores is associated with a greater likelihood of risky consumption,⁷ while a lower density of retail outlets is associated with lower rates of consumption and public health harms.⁸ The Board should work to ensure that implementation of Initiative 502 does not exacerbate existing health disparities.

⁵ “Medical marijuana: ‘Medibles’ industry thrives, lacks safety regulations,” by Jonathan Martin, *The Seattle Times* (Oct. 7, 2012), available at (http://seattletimes.com/html/localnews/2019372300_medibles08m.html); “Will ‘cannabis lounges’ pop up if marijuana is legalized?” by Ashley Gross, KPLU 88.5 NPR (Oct. 11, 2012), available at (<http://www.kplu.org/post/will-cannabis-lounges-pop-if-marijuana-legalized>).

⁶ See *supra* note 4.

⁷ *The neighborhood alcohol environment and at-risk drinking among African-Americans. Alcoholism: Clinical and Experimental Research* (2011), available at (<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3083455/>)

⁸ *Using Public Health and Community Partnerships to Reduce Density of Alcohol Outlets* (2013), available at (<http://dx.doi.org/10.5888/pcd10.120090>)

Try To Award Licenses to Both Large and Small Operators Who Reflect a Neighborhood's Diverse Cultural, Social, and Economic Makeup. This recommendation would help decrease the level of anxiety some community members have concerning the new law and its regulations. Generally, people establish greater rapport and levels of trust with others with similar backgrounds and life stories. This recommendation could also lessen the likelihood of individuals relying on the black market if community members trust the owners and operators in their neighborhood.

Encourage Licensees to Hire Local Residents. This would provide economic independence for many of our community members, especially for our young men and women. While the great recession has significantly impacted our nation's workforce, it has most severely impacted our communities. Latest figures show that in April of this year, unemployment rates for whites were 6.7%, but 13.4% for African-Americans, 8.4 % for Latinos.⁹ No one can argue against the positive effects associated with job attainment and retention.

Commit Adequate Liquor Control Board Enforcement Resources, and Collaborate with State and Local Law Enforcement Agencies, to Ensure the Safety and Security of Neighborhoods Where Retail Stores and Other Licensees Are Located. We thank the Board for the detail and attention devoted to this issue in proposed WAC 314-55-083. However, the requirements established in this regulation are only effective to the extent they are monitored and enforced. Therefore, we recommend that the Board provide adequate enforcement capacity so that inspections of all retail stores and other licensees are completed on a regular basis, and in a proactive fashion as opposed to responding to reported noncompliance.

Evaluate the Law with Enough Frequency So That Positive and Negative Consequences in Our Communities Are Identified and the Appropriate Adjustments Are Made. Under the statute, the Washington State Institute for Public Policy must conduct a series of evaluations on the impacts of I-502 in 2015, 2017, 2022, and 2032. The findings of these evaluations will let the public know whether, and to what extent, implementation of the law and the regulations have produced positive or negative public health outcomes. These findings will also provide legislators and the Board with information on which to base adjustments to the law or regulations. In order to detect and correct the occurrence of unintended consequences, we request that the collection of pertinent social and health data always include sufficiently-sized samples of Washington's diverse racial and ethnic groups to allow meaningful analysis and comparison with Caucasian demographics. Examples of data that should be collected are administrative sanctions against licensees, marijuana arrest records (including marijuana DUIs), incidences of chronic obstructive pulmonary disease (COPD), school discipline records, high school graduation rates, marijuana dependence treatment rates, and other relevant data

Help Our Communities Protect the Funding Dedicated to Public and Prevention Health Programs in Future Legislative Sessions. A dedicated percentage of the anticipated tax revenue from the sale of marijuana is mandated by statute for specific public health-related purposes. It is important that these funds are not repurposed for other programs. As we've seen with the tobacco settlement dollars intended to fund public health education programs,

⁹ Labor Force Statistics from the Current Population Survey (2013), available at (<http://www.bls.gov/web/empsit/cpseea29.htm>).

lawmakers have repeatedly diverted these resources to unrelated purposes.¹⁰ In Washington, state funding for tobacco prevention has been significantly reduced in recent years.¹¹ This must not happen to the money set aside for marijuana health and prevention programs. While we recognize that it is beyond the purview of the Board either to protect or redirect disbursements, it can advocate with the legislature to preserve resources demonstrated to protect public safety and physical and mental health.

Share Data with Other State and Local Agencies to Ensure That Treatment and Mental Health Services Are Available to All Who Need Them and Are Adequately Funded – Because Our Communities Are Disproportionally Affected. It is a known fact that certain communities of color “experience a disproportionate burden of preventable disease, death, and disability compared with non-minorities.”¹² Consequently, we urge the Board to share the data it collects regarding sales patterns and enforcement issues, and ask that it review other agencies’ data regarding use and treatment rates, to better inform decisions about which communities have greater need for the prevention, treatment, and mental health services funded with marijuana excise tax revenues. This is the equitable thing to do in light of the existing disparities in our communities.

Decrease the Hours of Operation for Retail Outlets. The Board should limit the hours that marijuana retail licensees may conduct sales to those that used to be in place for liquor stores prior to approval of Initiative 1183. Having marijuana readily available when bars and nightclubs are closing will increase the likelihood of late-night, impulse purchases and mixing alcohol, marijuana, and driving. This is especially dangerous in the current absence of a robust public education campaign advising consumers of the synergistically impairing effects of combining alcohol and marijuana use.

¹⁰ *Where Tobacco Settlement Funds Really Went*, available at (<http://abcnews.go.com/GMA/story?id=125919&page=1>).

¹¹ *Tobacco Prevention Program Newsletter - July 2011*, available at (<http://www.kingcounty.gov/healthservices/health/tobacco/facts/budgetelimination.aspx?print=1>).

¹² Centers for Disease Control, *Minority Health Webpage*, available at (<http://www.cdc.gov/omhd/topic/minorityhealth.html>).