Washington State
Liquor and Cannabis Board

CR 102 Memorandum

Regarding Medical Cannabis Endorsements.

Date: April 24, 2024
Presented by: Daniel Jacobs, Policy and Rules Coordinator

Background

RCW 69.50.375 establishes a medical cannabis endorsement for cannabis retailers allowing them to sell certain cannabis products authorized by the Department of Health to qualifying patients, as well as provide some of these products to patients at no cost, under specific circumstances, and so long as the retailers comply with various statutory requirements. The Washington State Liquor and Cannabis Board (Board) regulates the issuance of medical cannabis endorsements to retailers and identifies the requirements for possessing this endorsement in WAC 314-55-080. The cannabis license and application process generally, and the requirements for submitting documentation in order to get such a license, are identified in WAC 314-55-020.

In March 2023, the Board accepted a petition requesting to amend WAC 314-55-020 and WAC 314-55-080 to explicitly allow for revocation of a medical cannabis endorsement for failure to meet the regulatory requirements.

On October 25, 2023, the Board approved the filing of a CR-101 to begin the rulemaking process to amend WAC 314-55-020 and WAC 314-55-080 (WSR #23-22-063). An informal public comment open was open until December 9, 2023, during which time, three comments, identified as Attachments A and B, were received. In February 2024, a cannabis advocacy group submitted suggestions and proposed rule language, identified as Attachment C.

Stakeholder Engagement

The rules team, consisting of staff from Enforcement & Education, and Licensing divisions, as well as the public health and Tribal liaisons, were heavily involved in drafting the proposed rule language. The draft rule language was additionally circulated among agency partners with the Departments of Health, Agriculture and Ecology prior to being published. Public stakeholder engagement sessions were held on March 11 and 14, 2024, after draft rule language and discussion topics were published on the Board's website.

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Cannabis Consultant Hours

During the stakeholder engagement sessions, several individuals suggested that cannabis consultants being available "by appointment" should satisfy the proposed requirement for posting cannabis consultant hours. This was explained as arising out of a concern for turning the hours posting requirement into a requirement that cannabis consultants be required to spend certain hours dedicated solely to registering and entering patients into the database and not able to spend time on other business needs. Others also stated that the communities they served frequently would call the retailer before to schedule appointments, and allowing this practice to continue served the same goal of increased patient access.

The proposed rule language seeks to achieve a middle ground between requiring dedicated hours of cannabis consultant availability and allowing a "by appointment" system to satisfy that requirement. Allowing cannabis consultant availability solely by appointment to satisfy this requirement may return some patients to the status quo, where the burden is on the patient to call retailers and confirm when cannabis consultants would be available to provide services. The proposed rule language instead allows for "by appointments" to satisfy the consultant hours posting requirement provided that a general window of time is identified during which appointments can be scheduled. For example, a sign that says "Consultants available by appointment between 10 AM and Noon" achieves both goals of allowing for patients to have more reliability about when consultants are available, while simultaneously allowing cannabis consultants to do other business tasks when appointments are not booked.

In Stock Requirement

During both stakeholder engagement sessions, the "in stock" requirement, currently existing both in statute at RCW 69.50.375(3)(b) and in rule at WAC 314-55-080(3)(d) was discussed in depth. While the existing language of the "in stock" requirement in rule currently has additional wording that causes confusion and leaves room for debate, many stakeholders acknowledged that there is not an abundance of cannabis that complies with Department of Health requirements currently in the market. While there is optimism that recently passed Substitute House Bill (SHB) 1453 will change that, SHB 1453 is not the subject of this rulemaking. During the March 14 session, a participant suggested that "or on order" be added to the "in stock" requirement to allow a retailer to satisfy the in stock requirement by having an order in place for cannabis that complies with Department of Health requirements.

Cure Period

An internal agency suggestion in response to the initial petition submitted led to discussion of a "cure period" or a period after a licensee is notified of noncompliance and provided the opportunity to address the noncompliance before the endorsement is discontinued. Given that the endorsement is free to the retailer, but at the same time, as soon as a cannabis consultant leaves employment, stock of complaint cannabis runs out or the card-reader machine breaks, the endorsement requirements are no longer met, an opportunity is desired to allow retailers to address the noncompliance.

Additionally, because it may take longer to hire a new cannabis consultant than it would to fix a card machine, a variable amount of time to address noncompliance is desirable.

Estimated Costs of Compliance

Under the Regulatory Fairness Act (RFA) in chapter 19.85 RCW, agencies are required to consider the costs that complying with the proposed rules will impose on businesses, unless the proposed rules are subject to an exemption to this requirement. The CR 102 form describes these exemptions in more detail. None of the exemptions apply to this rulemaking.

LCB applied a default estimated compliance cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). This estimate is for cannabis retailers who hold a medical cannabis endorsement, and mainly relates to the presumed cost of updating their outdoor signage as would be required if the proposed rules are adopted. This cost was estimated to be $1,000.00. This is well below the minor cost calculated to be $3,360.73, which is explained in great deal in the Small Business Economic Impact Statement (SBEIS) section of the CR 102 form filed today.

Rule Necessity

These rule changes are needed to accomplish three primary goals: 1) creating a requirement of posting cannabis consultant availability alongside required store hours, 2) allow medical cannabis endorsement holders to have cannabis products that comply with WAC 246-70 “on order” to satisfy the “in stock” requirement, and 3) create a 30 day “cure period” to allow medical cannabis endorsement holders to correct regulatory noncompliance before an endorsement will be discontinued for noncompliance.

Description of Rule Changes

Section	Current Rule Language	Proposed New Language	Rule Necessity
(3)	With addition of new requirement at (3)(c), existing (3)(d) – (3)(i) is renumbered as (3)(e) – (3)(j) accordingly		Necessary for numbering.
(3)(b)	Have a consultant on staff in accordance with department of health rules;	Have a consultant on staff in accordance with chapter 246-72 WAC;	Improving clarity without changing effect.
(3)(c)	**New Language** (c)(i) Have consulting service hours for entering qualifying patients into the medical cannabis database posted alongside hours of operation as required in WAC 314-55-055; (ii) The requirement in (c)(i) of this subsection can be met by posting a window of time where appointments with cannabis consultants can be scheduled;		New requirement to increase transparency of retailers regarding availability of medical cannabis consultant.

(3)(d)	Maintain at all times, a representative assortment of cannabis products necessary to meet the needs of qualified patients and designated providers;	Have in stock at all times, or on order, cannabis products that comply with chapter 246-70 WAC;	Improving clarity and removing unnecessary additional wording that caused confusion and required regulatory guidance and interpretation. Added language indicating that having compliant cannabis on order satisfies this requirement.
(3)(f)	Demonstrate the ability to enter qualifying patients and designated providers in the medical cannabis authorization database established by the department of health;	Maintain the ability to enter qualifying patients and designated providers in the medical cannabis authorization database established by the department of health;	Improving clarity without changing effect.
(4)	**A cannabis retailer holding a medical cannabis endorsement may sell products with a THC concentration of 0.3 percent or less.** The licensee may also provide these products at no charge to qualifying patients or designated providers.	The licensee may provide cannabis products complying with chapter 246-70 WAC at no charge to qualifying patients or designated providers.	Improving clarity without changing effect. Medical cannabis endorsement holders remain able to sell products with THC less than 0.3 percent per RCW 69.50.378.
(6)	Failure to comply with subsections (3) and (5) of this section may result in suspension or revocation of the medical cannabis endorsement.	(a) Noncompliance with the requirements of subsection (3) of this section may result in the discontinuance of the medical cannabis endorsement. (b)(i) After being notified of noncompliance with the requirements of this section by the board, the endorsement holder shall have at least seven calendar days and no more than 30 calendar days to demonstrate compliance with this section. If noncompliance remains after the deadline identified by the board, the endorsement is discontinued. (ii) If a licensee applies for a medical cannabis endorsement after it has previously been discontinued pursuant to (b)(i) of this subsection, the application and documentation verifying compliance with the requirements of this section must be submitted to the board.	Replacing words “suspension” and “revocation” with discontinuance. Providing a cure period to address noncompliance with regulatory requirements. The length of the cure period will depend on the nature of the noncompliance. Continued noncompliance after the cure period results in discontinuance of the endorsement. Subsequent application for an endorsement requires a demonstration of compliance with the regulatory requirements.
(7)	Noncompliance with subsection (5) of this section may result in the discontinuance of the medical cannabis endorsement.		Creating a new subsection to separate language from old subsection (6).

Attachments:
Attachment A: CR 101 Informal Comment Table
Attachment B: Dec. 9, 2023 John Kingsbury Comments
Attachment C: Feb. 2, 2024 The Cannabis Alliance Letter and Proposed Draft Rule Language

CR 101 Public Feedback Table – Medical Cannabis Endorsements
Public feedback received October 25, 2023 through December 9, 2023 on the Medical Cannabis Endorsements project presented as CR 101 on October 25, 2023, filed as WSR 23-22-063. As noted in Notice to Stakeholders, public comment open until December 9, 2023.

Name	Feedback	Response
White Rabbit Retailers, LLC, whiterabbitretailers@gmail.com	10/25/23, 2:56 PM As a fully endorsed medical store with several consultants on staff, we should ver much like to give input to this process. Thank you, Teresa White Sincerely, **White Rabbit Retailers, LLC** 15928 Hwy 99 Lynnwood, WA 98087 **425-745-4242**	10/25/23, 3:38 PM Dear Teresa: Thank you so much for providing your comment on the CR 101 on Medical Cannabis Endorsements. The best way to stay up to date and informed on this project is to sign up to be on our GovDelivery email distribution list (select the Rulemaking option along with any other topic of interest). Your input is valuable and we look forward to reviewing your feedback. If we have any questions we will follow up by email. The Washington State Liquor and Cannabis Board (LCB) relies on public feedback, and welcomes the opportunity to hear more from you! Public participation helps LCB develop inclusive, transparent, and accountable policies and rules that serve the public interest. Please visit the LCB's website for more information about Medical Cannabis Endorsements and other current rulemaking activities. The LCB Board holds public meetings on Wednesdays at 10 a.m., twice monthly. Held both virtually and in-person, the meetings provide an opportunity for members of the public to address Board members during the Public Comment agenda item, or during scheduled Public Hearings held during the Board meetings. Board meetings are also broadcast live on the state's public access TV station TVW. Please visit LCB's Board meeting schedule and information webpage to learn more about observing or participating in a Board meeting. The next Board meeting will be held on Wednesday, November 8, 2023. Thank you again for reaching out! *LCB Policy & Rules Coordinators*
John Kingsbury, ajkingsbury@hotmail.com	10/30/23, 5:14 PM Dear Board Member, I need to express my appreciation for your approval of my petition to engage in rulemaking surrounding the enforcement of retail medical cannabis endorsements.	10/31/23, 2:47 PM John: Thanks so much for your feedback. I'm going to document this as a public comment to the CR 101 and label it accordingly.

	It is clear to me, after reading their brief, that the Rules department understands the issue, with the potential complicating issues, very well. I feel confident that the rulemaking process will result in restoring conformance to the requirements that the Legislature established for holding those endorsements, provide a clearer and less labor-intensive path for LCB to maintain compliance with those standards, and, most importantly, create a situation that is easier to navigate for both patients and retailers. One particularly problematic issue has been agencies' tendency to resort to, frankly, sketchy definitions of what are "…cannabis concentrates and cannabis-infused products identified by the department under subsection (4) of this section;" , rather than trying to find ways to fulfill the requirement that endorsed stores stock DOH Compliant product. With regard to this administrative tendency, I believe I have some reasonable, workable ideas about how to meet this legislated requirement without resorting arbitrary and capricious interpretive statements designed to in order to pretend to meet the requirements without actually providing what is beneficial to patients. This is an opportunity to solve those problems and make the system work better. We can do good work here –so 'Thank you.' During the last Board meeting, member Vollendroff asked about the number of patients who are registered (and I understood to mean 'qualifying, but not registered') in Washington State. I can shed a little light on that. Chair Postman was correct in his statement that Washington State is the only state that does not know how many patients are registered at a given time. Qualifying, but unregistered patients. During 2023, it can be assumed that Washington State has around **194,000 to 206,000 qualifying patients**.	

	This information is an extrapolation of Colorado's medical cannabis information, which is quite good. It takes into account population differences, registration/population ratios. What it does not take into account is disease prevalence, or cannabis use per disease. For example Colorado has five times the prostate cancer prevalence of Washington state; while Washington State has 22 times the national average of multiple sclerosis. However, a lower percentage of prostate cancer patients use cannabis to treat their conditions, while cannabis use as medicine is quite high for multiple sclerosis patients spasticity & neuropathic pain). This number range does not take those factors into account. What these estimates do take into account are the qualifying conditions. Colorado is less restrictive in its qualifying conditions than is Washington State. I have found the Rand Corporation provides the absolute best base data and assumptions to work from). Registered Washington State patients While, for whatever reason, Washington State has no easy mechanism for knowing how many patients are registered at one time. DOH is estimating there are about 12,000. It is important to remember that they are counting registration cards. Here is why that is important. I estimate the number of patients is **closer to 9,500**. What I am attempting to count in number of patients. The difference between registration cards and registered patients is 'designated providers.' Designated providers may or may not be patients, but they too much register. A common example would be the parent of a child with a seizure disorder. Children must have designated providers, would be their guardians. Only one of those is a patient, but the law requires that both register. Compared to other states.	

	In her Capstone study, Gwen Weber provided registration rates for 2022 and comparative populations to show how invested different states' patients are in their systems. I have audited her numbers and they appear to be accurate. New/Renewals 2022 Washington: 12,122/7,864,400 1/647 Arizona: 78,398/7,260,000 1/92.6 California: 2,820/39,000,000 1/13829.7 Colorado: 70,783/5,700,000 1/80.5 Nevada: 13,408/3,180,000 1/237 Oregon: 21,876/4,240,000 1/193.8 This chart indicates that Colorado patients are most engaged (even though they have non-medical homegrow provisions; Arizona second. Washington a distant fifth. California is a distant last but their system is so different that it is not comparable to anything else. I hope this is helpful in answering your question. John Kingsbury	
John Kingsbury, id.	12/10/23, 5:13 PM LCB Rules, It was my original intention to provide comments to endorsement rulemaking that were more specific, more thoroughly vetted, and included suggested rules language. However, I regret that other priorities have distracted me, time has gotten away from me, and I am mindful of the December 9th comment deadline. Toward that end, I am submitting the attached comments. It is probable that I will work on additional comments, including possible rules language. However, I wanted to be certain that I submitted these by the deadline.	12/11/23, 9:26 AM Dear John: Thanks so much for submitting these. We have our next rules team meeting next Monday, 12/18/23, and I will be forwarding these comments to the rules team so we can talk about them next week along with the other public comments we have received. Please feel free to follow up with any questions or concerns,

	Thank you for your work on this. I believe it very consequential. John Kingsbury See attached pdf.	

Attachment B

LCB Rulemaking:

RE: WSR 23-22-063

Thank you for engaging in rulemaking surrounding enforcement of retail medical cannabis endorsements. It is my hope that, by engaging in rulemaking for this chapter, the following objectives can be realized.

1. A clearer, more uniform set of expectations –conforming to legislative mandates and agency rules- can be set for stores, for patients, and for LCB licensing and enforcement staff.
2. Navigating the medical cannabis system can be made easier and less burdensome for patients by making services more consistent, reliable, and locatable.
3. To make maintenance and enforcement of the retail medical cannabis system more clear and less problematic for LCB, for complainants, and for retailers.

Toward that end, I am recommending the following modifications to the rules.

- A certified medical cannabis consultant must be on staff to apply for an endorsement. Their name and signature should be on the endorsement application.
  A significant reason the list of stores holding endorsements, that cannot actually provide the services required, is because it is currently effortless to apply for an endorsement, while it is difficult to remove endorsements for those stores that have ultimately failed to meet the requirements and unable to provide the services mandated to qualify for a retail medical cannabis endorsement.
  Toward that end, a 'speed bump', or a 'show of good faith', should be created at the time of application in order to show the retail applicant's intent and ability to meet the requirements, rather than allowing any applicant to receive an endorsement, and then trying to assess and remove the non-compliant applicants later.

- A clear complaint and response process should be established for failure to meet the terms of holding a medical endorsement, including:
  - A notice of time to correct (30 days, 60 days)
  - an agreement of the steps that will be taken to correct
  - A standardized notice reminding the licensee that retail medical endorsements are voluntary. Failure to meet the requirements is not a 'violation' in the traditional sense, but rather a failure to meet the terms of a voluntary endorsement.
    Including a statement that revocation or renouncement of an endorsement will not preclude or hamper reapplication for an endorsement in the future.

- A special circumstances waiver should be allowed for the statutory requirement to stock DOH Compliant product.

  According the rulemaking file, during March of 2016, Rick Garza (LCB) and Kristi Weeks (DOH) got together and decided that product that "maybe beneficial for medical use" meant 'any product that a patient chooses to purchase'. This definition was intended to fill the implementation gap until the Department of Health could conduct rulemaking regarding product that "may be beneficial for medical use."

  By September 2016, the Department of Health completed the rulemaking required under RCW 69.50.375 (4), replacing that vague definition "may be beneficial for medical use" with the standard that stores must stock an indeterminate amount of product that fits the labeling and testing standards of WAC 246-70-40, WAC 246-70-50, WAC 246-70-060, and WAC 246-70-90. For a variety of reasons, availability of that product has declined from 15 producers during 2017 to 3 producers during 2023. This has created a complicated situation in which LCB's lack of interest in enforcing this RCW has dis-incentivized producers from producing this product, making it even less available, and created a situation that has exacerbated the lack of awareness by endorsement holders that stocking this product is a legal requirement.

  Re-establishing the requirement without revoking endorsements.

  While there is DOH Compliant product available for retailers to buy today, there may or may not be enough DOH Compliant product available for all endorsement holders to buy today, while the expectation that retailers conform to the requirement of WAC 314-55-080 3(d) is re-established.

  While steps are being taken to make the production, stocking and sale of DOH Compliant product more viable, it would be counterproductive and harmful to patients to strictly enforce that rule by revoking endorsemens, in circumstances where retailers are unable to comply, thus denying patients of retailers who are able to provide the other services of endorsed stores.

  My request is that, where a store is not meeting the WAC 314-55-080 3(d) requirement, that a form be established in which the retailer can attest to the efforts that they made to acquire this project, along with a request for a six month waiver of the requirement, while they try to comply. The retailer's statement should include what contacts they made to find the product, along with any non-DOH product they stock that they believe is better suited to the needs of qualifying patients.

- Annual reviews that require an affirmative response.

  LCB should conduct an annual automatic review, in the form of a standardized

questionnaire, of all endorsement holders, to reaffirm that endorsed retailers want to retain their endorsements, that they understand the requirements, and that they meeting the statutory requirements for holding their endorsements.

a. Licensees must respond affirmatively, or they should be assumed to be non-compliant and provided notice of non-compliance.
b. In the case of non-response, it is appropriate that the agency provide a reminder to respond.
c. In the case of non-response, the licensee should be issued a notice of non-compliance, and LCB should ultimately be responsible for revoking the endorsement and informing DOR.

- <u>LCB should be responsible for reporting non-compliant licensees to DOR, rather than relying on licensees to do so.</u>

These are my preliminary comments. As time permits, I will likely provide suggested rule language and/or additional comments.

I appreciate so much LCB's willingness to engage in much-needed rulemaking around retail medical endorsements. Thank you!

If you have questions, comments, or require additional clarification, please let me know.

John Kingsbury
206-618-0576

Attachment C

THE CANNABIS ALLIANCE

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2 February 2024

To Whom it May Concern:

Thank you for engaging in rulemaking surrounding enforcement of retail medical cannabis endorsements. We would like to provide feedback for WSR 23-22-063 . It is our hope that, by engaging in rulemaking for this chapter, the following objectives can be realized.

Objectives

1. To ensure navigating the regulated medical cannabis system is easier and less burdensome for patients by making services more consistent, reliable, and locatable.

2. To create a more clear and uniform set of expectations for stores, for patients, and for LCB licensing and enforcement staff - conforming to legislative mandates and agency rules.

3. To make maintenance and enforcement of the retail medical cannabis system more clear and consistent, for LCB, for complainants, and for retailers.

Toward that end, we are recommending the following modifications to the rules:

Establishing An Endorsement

We recommend that a certified medical cannabis consultant must be on staff at the time the licensee applies for an endorsement. The consultant's name and signature should be on the endorsement application. Currently a store only needs to check a box on the application to indicate a desire to be a medically endorsed store. There is no actual application for the endorsement requiring some level of commitment to fulfilling the requirements to maintain the endorsement, while, at the same time, it is difficult to remove endorsements for those stores. This has resulted in a high volume of stores that have ultimately failed to meet the requirements, and are unable to provide the services mandated to qualify for their retail medical cannabis endorsements. Patients are often having to visit four or more stores that are

listed as medically endorsed before they are able to meet the requirements of their patient status or find DOH products.

Toward that end, a ‘speed bump’, or a ‘show of good faith’, should be created at the time of application. This would indicate the retail applicant’s intent and ability to meet the requirements, rather than allowing any applicant to receive an endorsement, and then trying to assess and remove the non-compliant applicants later. That ‘show of good faith’ should be having a certified consultant on-staff at the time the application is made.

DOH Product Availability

The availability of DOH Compliant products, which are cannabis products potentially beneficial for medical use, has faced challenges within the I502 system. Despite being initially defined by DOH and LCB in 2016, the number of producers offering these products has decreased from 15 in 2017 to only 3 in 2023. This situation has created complexity because the LCB's limited enforcement of RCW requirements regarding these products has discouraged producers from making them, leading stores to avoid stocking them, resulting in even lower availability. Consequently, many endorsement holders have become unaware of the legal obligation to carry these products.

However, outright revoking medical endorsements from retailers for failing to stock Compliant products could potentially harm patients more than help them. Until the I502 system can fully reestablish the expectation and ability to comply, it may be more appropriate to consider a phased-in or moderate approach to addressing this specific violation.

Re-establishing the Requirement Without Revoking Endorsements.

While DOH compliant products are currently available for retailers, it's uncertain whether there is a sufficient supply to meet the needs of all endorsement holders. As the expectation for retailers to comply with the requirement outlined in WAC 314-55-080 3(d) is being reinstated, it is prudent to establish a grace period for compliance. While efforts are underway to enhance the production, stocking, and sale of DOH compliant products, enforcing this rule strictly by revoking endorsements when retailers are willing but unable to comply would be counterproductive and detrimental to patients.

We propose that, in cases where a store fails to meet the WAC 314-55-080 3(d) requirement, a formal process should be created. This process would allow the retailer to provide evidence of their efforts to procure compliant products and request a six-month waiver from the requirement. The retailer's submission should include details of their attempts to source the

product and any alternative non-DOH products they carry that they believe could best serve the needs of qualifying patients until DOH product becomes available to them.

Medical Endorsement Compliance Procedures

Establishing a clear process for addressing failures to meet the terms of holding a medical endorsement is crucial. This process should include the following components:

1. Notification of Non-Compliance:
    - Issuance of a notice indicating a timeframe for correction (e.g., 30 or 60 days).
    - Agreement on the corrective steps to be taken.
2. Clarification that participation is voluntary:
    - Provision of a standardized notice emphasizing that retail medical endorsements are voluntary.
    - Acknowledgment that non-compliance is not a traditional 'violation' but a failure to meet the terms of a voluntary endorsement.
    - Statement indicating that revocation or renouncement of an endorsement will not hinder future reapplication.
3. Special Circumstances Waiver:
    - Allowance for a special circumstances waiver concerning the statutory requirement to stock DOH Compliant products.
4. Non-Punitive Penalty:
    - Emphasis on non-punitive penalties, with the sole penalty being the revocation of the endorsement and associated privileges.

Additionally, conducting routine annual outreach to endorsement holders is essential for maintaining order and accuracy. To ensure compliance, LCB should perform an annual automatic review of all endorsement holders, utilizing a standardized process. Licensees should be required to respond affirmatively. Failure to respond should trigger a reminder from the agency. If still unresponsive, a notice of non-compliance should be issued, and LCB should assume responsibility for revoking the endorsement and informing the Department of Revenue. LCB should also take charge of reporting non-compliant licensees to DOR, eliminating reliance on licensees for this task.

Conclusion

Please see our suggested rule language. We are aware that some suggested rule language may be clumsy, and we defer to your expertise on how to best codify the concepts.

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RECOMMENDATIONS FOR WSR 23-22-063

WAC 314-55-020

Cannabis license qualifications and application process—Licensing change requests.

Each cannabis license application is unique and evaluated individually. The board may inquire and request documents regarding all matters in connection with the cannabis license application.

(1) **Cannabis license qualification criteria and application process.** To be issued a license, all cannabis license applicants must meet the qualifications required by the board. The board will verify that the proposed business meets the minimum requirements for the type of cannabis license requested. The qualifications and application process for a cannabis license include:

(a) **A background check** to evaluate whether the applicant qualifies for a license, consistent with WAC 314-55-040 and 314-55-045.

(i) The background check includes completion of a personal and criminal history form provided by the board. The applicant is responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(ii) Financiers are subject to background checks equivalent to that of a license applicant. Financiers are responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) **Inquiry** to verify the source of funds used to acquire an existing business and start the business, the applicant's right to the real and personal property, and to verify the true party or parties of interest.

(c) **An inspection** of the proposed or currently licensed business location to determine if the applicant has met all of the requirements of the license or proposed changes to the licensed premises.

(d) **A residency check to confirm Washington state residency.** Under RCW 69.50.331 (1)(b), all applicants applying for a cannabis license must have resided in the state of Washington for at least six months prior to applying for a cannabis license.

(i) All business entities including, but not limited to, partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies applying for a cannabis license must be formed in Washington state.
(ii) All members, governors, or agents of business entities must also meet the six-month residency requirement. Managers or agents who manage a licensee's place of business must also meet the six-month residency requirement.
(e) **Applicants must be current in any tax obligations** to the Washington state department of revenue and other state agencies, as an individual or as part of any entity in which they have an ownership interest. Applicants must sign an attestation that, under penalty of denial or loss of licensure, statements concerning the status of tax obligations are true and correct.
(f) **Operating plan.** Each cannabis license applicant must submit an operating plan outlining required elements for the location as provided in this chapter pertaining to the type of license being sought. The operating plan must be submitted using an operating plan template supplied by the board. The operating plan must also include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed.
After obtaining a license, the license holder must notify the board's licensing and regulation division and receive prior approval before making any changes in their operating plan, floor plan, or both.
(g) If an applicant does not respond to the board's licensing and regulation division requests for information, documentation, or both within the timelines provided, the application may be administratively withdrawn, closed or denied.
(2) **Certificate of compliance.** Consistent with RCW 69.50.331 (8)(e), the board will issue a certificate of compliance if the proposed business premises meets the minimum distance requirements as of the date the application was received by the board. If the physical location changes during the application process, the certificate of compliance will be issued for the date that the premises change was received by the board. Applicants who were granted licenses prior to adoption of this rule may operate their business at the location notwithstanding a later occurring, otherwise qualifying minimum distance factor.
(3) **Notice of cannabis license application.** Consistent with RCW 69.50.331 the board will send a notice to cities and counties, tribal governments, and port authorities regarding the cannabis license application within the jurisdiction. The local authority, tribal government, or port authority has 20 days to respond with a recommendation to approve the application or an objection to the applicant, location, or both.
(4) **Notice of cannabis license application to tribal governments.** Consistent with RCW 69.50.331, the board will send a notice to tribal governments when an applicant or licensee proposes to be located within the exterior boundaries of the reservation of a federally recognized Indian tribe. The tribal government has 20 days to respond with an approval to the

application. If written approval is not received within 30 days, the board assumes the tribe does not consent to the applicant's location and the applicant must find a new location.

(5) **Displaying notice of new cannabis license application or application for change of location of an existing licensed business.** Applicants for a new cannabis producer, processor, retailer, transportation, or research license or those who apply to change their location must display a notice provided by the board on the outside of the premises to be licensed notifying the public that the premises are subject to an application for a cannabis license. The notice must be posted within seven days of submitting the location confirmation form for new licenses or the change of location application for existing licensees. The board may check for compliance with this requirement at its discretion. The notice must:

(a) Not be changed. The licensee must post the notice sent by the board without changing the text in any way;

(b) Be noticeably displayed on, or immediately next to, the premises subject to the application and in the location that is most likely to be seen by the public;

(c) Be of a size that can be readily seen by the public. At a minimum these notices must be 8 1/2 x 11 inches;

(d) Be posted within seven business days of the date the notice is sent to the applicant by the board; and

(e) The notice must be posted for 14 consecutive days.

(6) **Application holds and withdrawals.** The board may place licensing change applications made by a licensee on hold if the change application is reasonably related to an ongoing investigation.

(a) The board may withdraw licensing change applications pending the results of an adjudicative proceeding regarding a violation of this chapter. Depending on the outcome of the adjudicative proceeding, the licensee may reapply for the withdrawn licensing change application(s).

(b) Examples of licensing change applications that may be affected under this subsection include:

(i) Application for additional funding;

(ii) Application to add or remove a medical cannabis endorsement,
including a signed confirmation that the applicant understands the terms of holding an endorsement, and , including the name of the certified medical consultant that is on staff.

(iii) Assumption of a license;

(iv) Change in governing people, percentage owned, or stock/unit ownership;

(v) Change of location;

(vi) Expanding plant canopy to maximum allotted;

(vii) Request to change cannabis site or operating plan;

(viii) Request to add a processor license; or

(ix) Splitting a producer or processor license.

(7) **Industry tracking.**
(a) To help the board track employment and personnel trends of the industry as it continues to develop, the board requests that applicants seeking new licensure and licensees seeking license renewal provide the following information:
(b) Employee compensation and benefit data:
(i) Whether the applicant/licensee provide a living wage (at least 150 percent of the state minimum wage) to 85 percent or more of its hourly employees;
(ii) Whether the applicant/licensee will provide health insurance to at least 85 percent of its hourly employees;
(iii) Whether the applicant/licensee will provide a defined benefit pension plan to at least 85 percent of its employees;
(iv) Whether the applicant/licensee will provide five or more paid sick days annually to at least 85 percent of its employees;
(v) Whether there is a signed labor peace agreement or collective bargaining agreement with a labor organization in place.
(8) The issuance or approval of a license is not a license for, or an approval of, any violation of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.
(9) **Social equity applicant.** A person qualifying for the social equity in cannabis program under WAC 314-55-570 may apply for a cannabis license consistent with the provisions of this chapter.
[Statutory Authority: RCW 69.50.335, 69.50.336, 69.50.342, and 2022 c 16. WSR 22-21-058, § 314-55-020, filed 10/12/22, effective 11/12/22. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 21-02-096, § 314-55-020, filed 1/6/21, effective 2/6/21. Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-020, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-020, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-020, filed 5/20/15, effective 6/20/15. Statutory Authority: RCW 69.50.325, 69.50.331, 69.50.342, 69.50.345. WSR 13-21-104, § 314-55-020, filed 10/21/13, effective 11/21/13.]

WAC 314-55-080

Medical cannabis endorsement.
(1) **A medical cannabis endorsement added to a cannabis retail license allows the cannabis retail licensee to:**
(a) Sell cannabis for medical use to qualifying patients and designated providers; and
(b) Provide cannabis at no charge, at their discretion, to qualifying patients and designated providers.
(2) Qualifying patients between 18 and 21 years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement and may

purchase products for their personal medical use. Qualifying patients who are under the age of 18 with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement, but may not purchase products for their personal medical use. Only a designated provider may purchase products for a qualifying patient under the age of 18 who holds a valid recognition card.

(3) **To maintain a medical cannabis endorsement in good standing, a cannabis retailer must:**

(a) Follow all rules adopted by the department of health regarding retail sales of medical cannabis;

(b) Have a consultant on staff in accordance with department of health rules;

(c) Prohibit the medical use of cannabis by anyone at the retail outlet at all times, including medical use by qualifying patients;

(d) Maintain at all times, a representative assortment of cannabis products necessary to meet the needs of qualified patients and designated providers;

(e) Not market cannabis concentrates, useable cannabis, or cannabis-infused products in a way that make them especially attractive to minors;

(f) Demonstrate the ability to enter qualifying patients and designated providers in the medical cannabis authorization database established by the department of health;

(g) Issue recognition cards and agree to enter qualifying patients and designated providers into the database in compliance with the department of health standards;

(h) Keep records to document the validity of tax exempt sales as prescribed by the department of revenue for a minimum of five years. For the documentation requirements in RCW 69.50.375 (3)(e), licensees are not required to separately keep copies of the qualifying patient's or designated provider's recognition card because this information is stored in the medical cannabis authorization database;

(i) Train employees on the following:

(i) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical cannabis authorization database;

(ii) Recognition of valid recognition cards; and

(iii) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of cannabis concentrates, useable cannabis, and cannabis-infused products available for sale when assisting qualifying patients and designated providers at the retail outlet.

(4) **A cannabis retailer holding a medical cannabis endorsement may sell products with a THC concentration of 0.3 percent or less.** The licensee may also provide ~~these~~ cannabis products at no charge to qualifying patients or designated providers.

(5) **Unlicensed practice of medicine.** No owner, employee, or volunteer of a retail outlet and holding a medical cannabis endorsement may:

(a) Offer or undertake to diagnose or cure any human or animal disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, by use of cannabis products or any other means or instrumentality; or
(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of cannabis products.
(6) Failure to comply with subsections (3) and (5) of this section may result in suspension or revocation of the medical cannabis endorsement.

a. Failure to comply with subsections (3) or (5) may result in a notice to correct,
b. If the licensee fails to correct the deficiencies related to complying with the terms of their medical cannabis endorsement, they may be asked to voluntarily remove the endorsement; or, the Department may remove the endorsement.
c. in either case, the retailer will be issued a notice that failure to meet the terms of their endorsement is not a scored violation, will not be subject to a penality, but rather the revocation of a privilege, and renouncement or revocation of an endorsement will not preclude the licensee from applying for an endorsement in the future, when they can demonstrate the ability to comply.
d. Whether the endorsement is voluntarily surrendered or taken by the Department, it shall be the Department's responsibility to inform the Department of Revenue that the licensee no longer holds the privilege.

[Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-080, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW 69.50.325, 69.50.342, 69.50.345, and 69.50.369. WSR 18-22-055, § 314-55-080, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 16-11-110, § 314-55-080, filed 5/18/16, effective 6/18/16.]

WAC 314-55-5055

Resolution options.

(1) A licensee must respond to an administrative violation notice within 20 calendar days from receipt of the notice. The response must be submitted on a form provided by the board. The licensee may:
(a) Accept the recommended penalty identified in the administrative violation notice;
(b) Request a settlement conference in writing;
(c) Request an administrative hearing in writing.

(2)(a) If a licensee does not respond to an administrative violation notice within 20 calendar days of receipt of the notice, recommended penalties including, but not limited to, suspension, monetary penalties, and destruction of inventory may take effect on the 21st day.
(b) If the recommended penalty is monetary and does not include a suspension, inventory destruction, or both, the licensee must pay a 25 percent late fee in addition to the recommended monetary penalty.
(i) The board must receive payment of the monetary penalty and 25 percent late fee no later than 30 days after the administrative violation notice receipt date.
(ii) Payments received more than 30 days after the administrative violation notice receipt date are subject to an additional 25 percent late fee.
(iii) Licensees who do not respond to an administrative violation notice will not be eligible to renew their cannabis license.
(3) Licensees who do not pay monetary penalties for two or more administrative violation notices in a two-year period will not be eligible to renew their cannabis license.
(4) A licensee may request a settlement conference to discuss the board's issuance of an administrative violation notice issued under this chapter. The hearing officer or designee of the board will arrange the date, time, and place of the settlement conference. A settlement agreement provides that the licensee accepts the allegations contained in the administrative violation notice.
(a) The purpose of the settlement conference is to:
(i) Discuss the circumstances associated with the alleged violation(s), including aggravating or mitigating factors;
(ii) Discuss the recommended penalties; and
(iii) Attempt to reach agreement on the appropriate penalty and corrective action plan for the administrative violation notice.
(b) During a settlement conference, a licensee issued an administrative violation notice may request deferral of an administrative violation notice if all of the following criteria are met:
(i) The alleged violation is the first violation in a violation category;
(ii) The licensee has no other violation history in that penalty category within a two-year window; and
(iii) The licensee submits a plan to correct, remedy, or satisfy identified violations as described in the administrative violation notice including, but not limited to, monetary penalties.
(c) If the licensee is not issued any administrative violation notices or any other notice of noncompliance during the year following approval of the deferral of administrative violation, the record of administrative violation notice will not be considered for licensing renewal or penalty escalation.
(d) If the licensee is issued an administrative violation notice or any other notice of noncompliance at any time during the year following approval of the deferral of administrative

violation, the record of the administrative violation notice will remain on the licensee's licensing history, and the original sanction for the deferred violation will be implemented based on the frame established in the settlement agreement, or 10 days from the date of default.
(5) The hearing officer or designee will prepare a settlement agreement. The agreement must:
(a) Include the terms of the agreement regarding an alleged violation or violations by the licensee of chapters 69.50 and 69.51A RCW, any part of chapter 314-55 WAC, and any related penalty or licensing restriction; and
(b) Be in writing and signed by the licensee or the licensee's designee and the hearing officer or designee.
(6) If a settlement agreement is entered between a licensee and a hearing officer or designee of the board at or after a settlement conference, the terms of the settlement agreement must be given substantial weight by the board.
(7) The hearing officer or designee will forward the settlement agreement to the board or designee for final approval. If the board, or designee approves the settlement agreement, a copy of the signed agreement will be sent to the licensee, and will become part of the licensing history, unless otherwise specified in this chapter.
(8) If the board, or designee, does not approve the settlement agreement, the licensee will be notified of the decision in writing. The licensee may:
(a) Renegotiate the settlement agreement with the hearing officer or designee; or
(b) Accept the originally recommended penalty; or
(c) Request a hearing on the administrative issues identified in the administrative violation notice.
(9) Monetary penalty collection. If monetary penalties are assessed as part of an administrative violation, settlement agreement, or both, licensees must submit payment to the board in a time frame established by the board, consistent with subsection (2)(a) and (b) of this section.
(a) If a licensee does not timely submit payment of any monetary fine, the board will begin collection or other appropriate action.
(b) The board will provide a notice of collection action to the licensee. The notice of collection action establishes the licensee as a debtor for purposes of debt collection.
(c) If the licensee does not respond to the notice of collection within 30 days, the board may:
(i) Assess a 25 percent late fee consistent with subsection (2)(a) of this section; and
(ii) Assign the debt to a collection agency.
(10) If the violation is for failure to stock DOH compliant product per WAC 314-55-080 (3)(d) and WAC 314-55-107 ,
(a) the licensee should submit a statement about what attempts they have made fo obtain this product,

(b) or, in the case where they have been unable to obtain this product, they should submit a statement about what alternative products they have made available to meet the needs of qualifying medical patients, and then a six month grace period may be granted.

WAC 314-55-524

Category V.

Violations that are procedural and operational.

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Medical Endorsement Requirements 314-55-080	revocation of endorsement	revocation of endorsement	revocation of endorsement	revocation of endorsement