



MEMORANDUM

TO: Marijuana Control Board

DATE: January 23, 2020

FROM: Glen Klinkhart, Interim Director

RE: Director's Report

OPERATIONS:

Besides my last-minute decision to jump into AMCO to fill the Directors position with the Alcohol and Marijuana Control Board, Mikal Martin, recently tenured her resignation as our Records and Licensing Supervisor in order to pursue other very admirable opportunities. I wish to thank Ms. Martin for her wide and various contributions to the AMCO offices and both boards. Before her departure Ms. Mikal assisted the office in finding talent within the AMCO offices with Ms. Carrie Craig agreeing to fill Mikal's shoes as our new Records and Licensing Supervisor.

I also wish to state that upon my arrival I took the first three days to individually meet with each staff member of AMCO. Every person provided me with clear and positive insight into the work they do and the jobs they love. Upon completion of our discussions several things were consistent and one thing in particular stood out to me. The staff is a hardworking and dedicated group of people and both boards are fortunate to have this staff working every day on their behalf.

As part of helping and supporting the staff of AMCO I began to institute an ongoing program where the AMCO staff and I visit volunteer licensees and their businesses so we can get to know some of the many groups we regulate. We began in December by visiting two different marijuana entablements, both of which invited us to meet them, to ask questions, and to see firsthand the relationship between regulations and commerce. Some of the AMCO staff had never even seen marijuana plants before and were enthusiastic to ask questions of the cultivators, the manufacturers, and retail shops. At the end of these field trips, both the staff and the licensees provided positive feedback from the experience. In February I am planning more "AMCO field trips," this time to some volunteer alcohol establishments, including distilleries, who are willing to give us an opportunity to see how they operate. I wish to thank those organizations who were and are willing to allow us to meet with them to see firsthand how the AMCO mission of regulations, standards, and protecting the public are being implemented in the real world.

On a negative note, in January AMCO received reliable information from a concerned licensee that a disgruntled employee had made threats to harm AMCO staff. The threat was taken seriously with the Department of Public Safety becoming involved as an investigating agency. I am grateful for the call from the licensee and I thank them for being willing to cooperate with the investigation. AMCO staff and I developed a series of procedures to increase the safety of everyone at work as well as providing security assistance to staff walking to and from the office. Additionally, I am working on having a class on workplace safety presented to the AMCO staff in the coming months.

Two additional AMCO job openings have been posted and resumes accepted for a Program Coordinator and a Local Government Specialist. The postings, interviews, and final selection is expected to be completed soon. There has been a lot of very good board discussions in the past around “working groups” and how such groups can help the board, the industry, and public with larger, more complex projects and I completely support such endeavors. Oversight of these working groups will be one of the roles and responsibilities of our new Program Coordinator. Additionally, reviewing the minutes from the last several board meetings, I noticed there was a great amount of board discussion about industry outreach and education. Being a very staunch supporter of education myself, I will be looking forward to the incoming Local Government Specialist whose job will include education and industry outreach. That being stated, I have made it clear to the entire AMCO staff that education, outreach, helping licensees and the public will always be the responsibility of all staff members, including myself.

Recently a major public health issue was discovered concerning a marijuana licensee which took up most, if not all, of the AMCO resources away from both boards for several weeks and would have been nearly impossible to overcome if not for the hard work of the AMCO licensing staff, admin staff, and the enforcement team. Additionally, we were fortunate to receive additional help from our friends at the SOA Department of Health and Social Services, the Department of Environmental Conservation, and the Department of Law. Finally, it was also several licensees and industry leaders who assisted the State of Alaska in helping to inform the public and who volunteered to assist in recovering tainted items from across the state. This was a major undertaking and I wish to thank everyone for their assistance during this time.

Over the past two months several operational concerns have become evident as AMCO and your director struggles to meet the needs and expectations of two very different boards. One of the reasons I agreed to this position was because I wanted to see where I could best assist these two boards. I was brought in to look at the environment at the AMC office, the boards, and to see what evidence I could uncover, and what, if any, conclusions and solutions I might create to solve potential issues.

I will tell you, the board, the same thing I have said to every chief of police, every commissioner, chief of staff or supervisor I have worked for. I am not a “yes” person. You may not like what I tell you but what I bring to you will be evidence based, and it will be the truth. If you choose to ignore what I present to you, then that is your decision.

I sleep well knowing I provided people with evidence-based decision-making opportunities.

One truth I have already reported is that the staff of AMCO is not broken, they are hardworking and often tired, but they are not broken. They do however need more help and more support from their director.

The second truth I bring forward to you is these two boards, the staff, the licensees, and the public are not being served equally or equitably by the Director or the AMC office. On any given day 75% to 90% of the director's job is spent working on day to day marijuana only issues. Additionally, most of the Director and staff time is spent on problems of the moment, fires which if not handled quickly will cause larger problems for the office and the board. This means there is no time and resources available to devote to long-term planning or the implementation of future goals for either board or the industries they are supposed to regulate. This problem of the day, or the moment, is not healthy nor sustainable for an organization like AMCO.

An additional symptom of such an environment is that the enforcement division of AMCO does not receive a proportional amount of the director's time, direction, and approval to provide consistent, fair, and equitable directions required in order to fairly regulate the licensees and to keep the public safe. They are a cornerstone of the regulatory process and they need to be able to have a defined purpose and clear processes to follow. I have a plan which, once in place, will allow me to spend a great deal more time with the entire enforcement team beginning in the second quarter of this year. I intend to help them with priorities, policies, procedures, mentoring, and assisting them in their mission of investigation, compliance and public safety.

There are many other issues caused by the current structure around AMCO and these two co-connected boards which I will not list here for the sake of brevity however each of the boards will continue to be confronted with ongoing, repetitive, issues if not properly addressed.

Please note these issues are not a reflection on current or former directors, for I stand before you on the shoulders of all the directors who came before me. Nor are any of these issues a reflection on the staff or the members of either board. These issues are not self-correcting and they will not be resolved by finding a better, smarter, or harder working, director, staff, or members of the board.

I have been taught over the years to believe if one is going to point out problems, then one also has a responsibility to also bring forth solutions to those problems. In that vein I have developed a plan of action to create a better way for AMCO to truly serve BOTH boards, the staff, the licensees, and the public.

I am moving forward to bring to onboard within the AMC offices not one, but two deputy directors, each responsible for one of the two boards, one for Alcohol, and one for Marijuana. Each of these directors will devote 100% of their time, resources, and efforts

to their single boards and respective licensees. Under this plan the AMCO staff should not be negatively affected rather the staff will be more effective and efficient as they will be able to work with one point of responsibility for each unique industry. Licensees and board members will be better served with one director devoted solely to the unique issues each industry faces at the office level as well as at the board meetings.

Like an arranged marriage, these two boards were put together as a marriage of convenience. I understand it was necessary in helping to create an entirely new industry from scratch. However, after two plus years of being tied together there are clearly irreconcilable differences between them. Rather than forcing each board to stay in an unhealthy co-dependency situation I am proposing giving these two boards the autonomy and the attention they each need to prosper on their own, with their own direction, and their own deputy director.

This analysis was not made in a vacuum nor was it made lightly. It was made with weeks of fact gathering, analysis, and input from the many reliable witnesses and from every process I evaluated. The staff, the licensees, and I believe the board wants change for the better. It is said the definition of "insanity" is doing the same thing over and over and expecting a different outcome. What I propose is to try something different, and to create something better for both industries. Providing each board their own deputy director will provide both groups the ability to be better, not just now but in the future.

Once this plan is in place I expect there will be a request to the legislature to make a minor change to the state statute governing a single director of AMCO and to make the law reflect two separate and independent boards, each with their own director. I have just received a proposed legislative overview which is provided to board for consideration and which will be discussed later in this meeting.

I understand this is a lot to process however I wish to be cognizant of the board's time as well as the time of people who are patiently listening to this board meeting. I am available to discuss all of my report in more specifics should the board wish to engage in a larger or more detailed conversation around this internal restructuring of the AMC office and its relationship with the two boards.

REGULATIONS:

Attached to this report is a regulations projects spreadsheet.

Additionally, at the regulations section of the agenda I will be formally requesting considerations for regulation additions and changes which were developed after seeing the need for regulatory mitigations to issues regarding the safety of the public as it pertains marijuana product safety.

NEXT MEETING:

The next Marijuana Board meeting is scheduled for April 2 and April 3, 2020 in Anchorage. The intent is to start the meetings each day at 9 am.

Applications must be deemed complete by examiners by March 13nd, 2020 to be on the meeting agenda.

Glen Klinkhart

Interim Director

Alcohol & Marijuana Control Board

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Forthcoming AMCO Legislation

This year, the administration is supporting the following approach to provide the Alcoholic Beverage Control Board and Marijuana Control Board with the support needed to complete their respective missions, including improved efficiency and responsiveness in the regulation of alcohol and marijuana.

This forthcoming legislation will include:

- Transferring the Alcohol and Marijuana Control Office (AMCO) into a component within the Division of Corporations, Business, and Professional Licensing (CBPL) to capitalize on the efficient and established licensing and investigative functions already administered by CBPL.
- Eliminating the boards' shared director position and replacing it with executive administrator positions for each board and respective industry.

What to know about this legislation:

- This legislation will not change the boards' authority over their respective industries. The boards will still hold full authority over the regulation of the programs, as they do now. See the State Medical Board or Board of Nursing, for example.
- Moving AMCO into CBPL will give each board access to existing licensure, policy, and governance resources, as well as shared human capital—including proven, defensible institutional processes.
- Each board and respective industry will receive individual attention, which is necessary due to the complexity and workload of each program.
- AMCO staff will continue to operate as they always have, at least for the time-being. CBPL and AMCO will set up a Reimbursable Services Agreement (RSA) with CBPL to allow for AMCO's funds to be used to regulate its programs. AMCO and CBPL revenues will not be co-mingled. If and how staff operations may evolve will be determined in partnership with the boards over future years. It is essential that we provide Alaska's alcohol and marijuana boards and industries adequate support to meet existing regulatory challenges. We believe this legislation will accomplish that.
- This bill supports Governor Dunleavy's Open for Business initiative.

It is our hope that the boards will vote to support these goals in concept today. Once the draft bill has been finalized, the department will provide a copy to the Alcoholic Beverage Control Board and the Marijuana Control Board and request that the boards hold supplemental meetings via teleconference to vote on supporting the introduced versions of the legislation.