How did we get here?

History of State Cannabis Programs and Colorado Close Up
2017 National Cannabis Summit
August 29, 2017

Karmen Hanson, MA, Program Director, National Conference of State Legislatures
Representative Jonathan Singer, Colorado
HISTORY OF MEDICAL CANNABIS LAWS

- CA: First state to pass with Prop. 215 in 1996
- Since then, 28 states, DC, Guam and PR have followed: AK, AR, AZ, CO, CT, DE, FL, HI, IL, ME, MD, MA, MI, MN, MT, NV, NH, NJ, NM, NY, ND, OH, OR, PA, RI, VT, WA, WV, (29 states + 3 territories total)
- 16 became legal through voter/ballot initiative process
- 15 legal through legislation (CT, DE, HI, IL, MD, MN, NH, NJ, NM, NY, OH, PA, RI, VT, WV) (and 1 through Dept. of Health regulation)
MMJ Programs Vary*

Some require or allow for:

- Patient Registries: 27+
- Grower/Caregiver Registries and Limits: varies
- Dispensaries: 20~
- Specific Conditions: 28+ and all CBD programs
- Recognize Patients from Other States: 7
- Product Testing: varies
  - * 2016 & 2017 approved details YTBD
**HISTORY OF LIMITED MEDICAL LAWS**

- New “low THC” or “high cannabidiol” (CBD) medical programs: 17 states (11 in 2014 + GA, ID (vetoed), OK, TN, TX, VA, WY, in 2015, IN in 2017)
- Vary widely by source of CBD products, % of CBD or THC, research, distribution, conditions, etc...
CBD Program Comparison

- Definition of “low THC”
  - Lowest: below .3% THC and ≥ 5%-15% CBD by weight
  - Highest: Below 3% THC and/or above 10% CBD by weight

- Conditions for use
  - Severe intractable seizure disorders/Dravet syndrome, epilepsy, muscle spasms, neuro disorders, cancer pain and others

- Source of product
  - Universities with medical schools: AL*, KY, MS, NC, TN, (UT and GA – universities)
  - Dispensaries NOT affiliated with schools: FL, MO
  - University Mississippi (federal grow): MS and NOT defined: AL, IA, SC, WI

- Protections: some allow for patient’s legal defense, some protect referring doctors, some may put doctors or universities/providers/patients at risk of breaking federal laws
**Medical & Federal Opinions**

- Institute of Medicine: May help some people
- Treatment Research Institute: Not advised
- Other conditions/groups vary on the issue
- Recent comprehensive review by National Academies of Sciences on MJ use- 100 conclusions, needs more research
- Marijuana still Schedule I federally: No accepted medical use
- As of this week USDOJ is not prosecuting those adhering to state laws for medical distribution, but reserves the right to
  - New administration is considering options
- Organizations have lists of groups' positions:
LEGALIZED ADULT USE IN 8 STATES

- 2012: Colorado (A 64-2012) and Washington (I 502-2012)
- Colorado had 24-member Implementation Task Force at work-rulemaking
  - Included 4 state legislators. Chairs are executive director of Dept. Revenue and the Gov’s chief legal counsel
- Washington implementation with the state Liquor & Cannabis Board
- Alaska- growing/possession legal as of Feb. 24, 2015 licensing/regulation starting late 2016
- Oregon- Ore. Liquor Control Commission
- DC- limited personal growing and sharing allowed (not regulated)
- 2016: 4 new states (California, Maine, Massachusetts, Nevada)
SIGNIFICANT PENDING LEGISLATION*

- States/territories with proposals to legalize and regulate adult use: “similar to alcohol” in 2017: 22 & DC. (DIED)
  AZ, CT, GA, HI, IL*, KS*, KY, MD, MN*, MS, MO, NH, NJ, NM, NY*, PA, RI, TX, VT*, WV, WY and DC

- States with bills to create new comprehensive medical marijuana programs in 2017: 16 (DIED) (PASSED)
  IA*, IN (amended to CBD only), KS, KY, MS, MO, NE, NC, OK*, SC*, TN*, TX, UT, VA, WV, WI

- 2016 Ballot Initiatives: Adult-use- AZ, CA, ME, MA, NV.
  Medical- AR, FL, MT, ND.

*new and potential for carry-over as of August 1, 2017
LEGISLATIVE ROLES IN REGULATION

- Drafting legislation or enabling language
- Creating rules/ regulations or assigning responsibility
- Establishing fees, tax mechanisms, funding
- Oversight or assigning program implementation and evaluation
REGULATIONS AND OVERSIGHT

- Colorado: Dept. of Revenue, Marijuana Enforcement Division (MED)
- Washington: Washington State Liquor and Cannabis Control Board
- Oregon: Oregon Liquor Control Commission
- Alaska: Alcoholic Beverage Control Board/Marijuana Control Board
- DC: limited personal growing and sharing allowed (not regulated or tracked)
- Similarities: ALL 21+
- Variations: Possession, cultivation, purchasing, facility limits, licensing fees and limits, tracking, reporting, testing, labeling, taxes, local control, etc...
<table>
<thead>
<tr>
<th>State</th>
<th>Limits: Possession, Cultivation, $Purchase</th>
<th>Businesses Allowed &amp; Restrictions</th>
<th>Tracking &amp; Security</th>
<th>Local Role &amp; Limits</th>
<th>License Determination</th>
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| AK    | P- 1 oz.  
C- 6 plants (3 mature)  
$- 1 oz. | Cultivation, Manufacturers, Testing Labs, Retail Stores  
No state limits | Potency, warnings, contamination | Time, place, manner and #.  
Can prohibit through ordinance or voter initiative | Min. requirements established in rules by MCB |
| CO    | P- 1 oz. (public)  
C- 6 plants  
$- 1 oz & ¼ oz. | Cultivation, Product Manuf. Testing Labs, Retail Stores  
No state limits | Seed to sale, video, alarms and locks | May limit, license, restrict, tax | Any qualified applicant through the state, locals may limit |
| OR    | P- 1 oz. (public) or 8 oz. (private)  
C- 4 plants per residence  
$- ¼ oz. until 1/1/17 | Producers (growers), Processors (manuf.) Wholesalers and Retailers | Plants and products tested for contaminants, potency, detailed labeling | Time, place, zoning, Local election, or ordinance (varies) | Meet OLCC criteria, meet standards |
| WA    | P- 1 oz. (public)  
C- N/A  
$- 1 oz. (varies) | Producers, Processors and Retailers  
556 limit, sq. ft. | Analytic tests on products, Locals can advise state board on license. Prohibition being appealed. | If more applicants than allotted, state selects by lottery | |
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<tr>
<td>CA</td>
<td>P- 2.5 oz., concentrates C- 6 plants $- 1 oz., ¼ oz. concentrates</td>
<td>Cultivation, Manufacturers, Testing Labs, Retail Stores No state limits but localities may restrict or ban</td>
<td>TBD by regs</td>
<td>May limit by ordinance until 2019, then by popular vote</td>
<td>Priority for applicants with experience since Sept. 2016</td>
</tr>
<tr>
<td>ME</td>
<td>P- 2.5 oz. C- 6 plants $- 2 1/2oz &amp; ¼ oz.</td>
<td>Cultivation, Manufacturers, Testing Labs, Retail Stores, Social Clubs.</td>
<td>TBD by regs</td>
<td>Must have “local approval”</td>
<td>Medical experience given priority for retail</td>
</tr>
<tr>
<td>MA</td>
<td>P- 8 oz. or 5 grams concentrate C- 6 plants $- 1 oz. or 5 grams concentrate</td>
<td>Cultivation, Manufacturers, Testing Labs, Retail Stores.</td>
<td>TBD by regs</td>
<td>May limit location and times</td>
<td>Medical experience given priority, then lottery</td>
</tr>
<tr>
<td>NV</td>
<td>P- 1 oz. (public) or 1/8 oz of concentrate C- 6 plants $- 1 oz. or 1/8 oz concentrate</td>
<td>Cultivation, Manufacturers, Testing Labs, Retail Stores</td>
<td>TBD by regs</td>
<td>Locals may adopt measures to enforce zoning and land use regs</td>
<td>Medical experience priority for first 18 months</td>
</tr>
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TAX AND REVENUE ISSUES

- Colorado: [https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data](https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data)
  - 24 of 64 counties allow MEDICAL industry and 22 of 64 counties allow for ADULT RETAIL industry

- Local Tax Rates: varies (on the final customer price)

- **Retail** Marijuana Sales Tax Rate: 15% **retail EXCISE tax**, and consumers will also pay a 10% **sales tax** on all retail sales of retail marijuana and marijuana-infused products in the state. (on the final consumer price.)

- **Medical** Marijuana Tax Rates: **NOT subject to the 15% retail marijuana state excise tax**. (Consumers pay 2.9% state sales tax plus any local sales taxes on the final consumer purchase.)

- FY2016-2017 **$200,000,000**~ on $1.3B sales.
  - FY2015-2016 $112,234,247
  - FY2014-2015 $68,390,458
TAX AND REVENUE ISSUES

- Colorado- Where did the money go?
  - FY 2013-2014 and 2014-2015 approx. $35m TOTAL remaining in the Marijuana Tax Cash Fund (2.9% sales and 10% special sales tax)
    - First $40m of EXCISE tax to BEST fund per constitution, not included in this calculation
    - Dept. of Human Services (prevention, SUD Tx for youth and pregnant women, etc.): $8.6m
    - Dept. of Health Care Policy and Financing (intervention/prevention/treatment): $7.6m
    - Dept. of Revenue (regulation oversight, tracking, etc.): $7.6m
    - Dept. of Public Health and Environment (education, measurement, surveillance): $7.1m
    - Dept. of Education (behavioral health issues in public schools): $2.5m
    - Dept. of Law (regulation and peace officer training, etc.): $1.6m
    - Dept. of Public Safety: $200k
    - Gov’s office of Marijuana Coordination: $190k
TAX AND REVENUE ISSUES

- Washington tax rate: 37% excise tax on ALL sales of flower, concentrates, infused products, collected by retailers at POS.
- First 12 months of sales $257m   First 12 months of taxes: $64m
- Where does the $ go? Fiscal note annual estimates:
  - $244m WA Basic Health Care Plan
  - $216m General fund and local budgets.
  - $68m Youth Drug Prevention
  - $44m MJ Public Health Education
  - $5m Evaluation and Research
  - $5m Program Administration
TAX AND REVENUE ISSUES

  - Temporary tax on adult use sales by medical dispensaries-25% Point-of-sale on adult/rec, no tax on medical
  - Permanent state tax will be 17%. Localities can add another 2%.
  - Estimated 350 licensed adult-use retailers in 2016-2017 up to 550 in 2017-2019
  - Revenue to cover administrative costs, Common School Fund: 40%. Mental Health, Alcoholism, and Drug Services Account (ORS 430.380): 20%, State Police: 15% Cities, for local law enforcement: 10% Counties, for local law enforcement: 10% Oregon Health Authority, for alcohol and drug abuse prevention, early intervention, and treatment services: 5%.

Formula for local disbursements will be determined by population through July 2017. After this date, disbursements will be determined by the number of licenses issued by OLCC in a given area. **Areas that prohibit recreational marijuana facilities won’t receive any marijuana tax revenue.**
Alaska - $50 per ounce on marijuana cultivator, or approximately 20 percent effective tax rate. May change over time.

Retail marijuana sales started late 2016.

The license application period began February 24, 2016, and a marijuana inventory tracking system launched on May 23, 2016.

The state Department of Revenue estimated state tax revenue between $5.1 million and $19.2 million per year, with regulatory and enforcement costs between $3.7 million and $7 million.
TAX AND REVENUE ISSUES

- Maryland Congressman Andy Harris (R), an opponent of marijuana legalization, inserted a provision into a federal budget bill prohibiting the District of Columbia from using federal or local funds to “enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance.” Consequently, while the initiative making marijuana legal has gone into effect, the District is prohibited from establishing any taxation, regulation, or sales structure.
- One version of a bill considered by the D.C. Council would have set a 15 percent sales tax on marijuana, generating perhaps $20 million per year.
TAX RATES AND OVERSIGHT: NEW

- California- $9.25 per oz. cultivation tax for flowers and $2.75 per oz. for leaves. 15% sales tax on gross receipts
- Maine- 10% sales tax
- Massachusetts- 10.75% state excise tax, 6.25% state sales tax, up to 3% local sales tax (roughly 20%)
- Nevada- 15% excise tax on wholesale, 10% retail excise tax

OVERSIGHT:
California- Bureau of Marijuana Control within the Dept. of Consumer Affairs
Maine- Dept. of Agriculture, Conservation and Forestry
Massachusetts- The Cannabis Control Commission
Nevada- Department of Taxation
FAQs

- Q: How much diversion out of established medical and adult-use programs?
- Q: Medical organizations that approve/disapprove of marijuana for medical use?
  - A: Disapprove: Hard to find a comprehensive list, many have concerns from lack of rigorous, scientific research, which is now starting in the US.
- Q: What are the current bills and which seem likely to pass?
  - A: Bills vary, however NCSL does not prognosticate. Nearly all states with existing programs have bills to make adjustments.
NCSL RESOURCES

- Webpages:
  - LegisBriefs:

Regulating MJ- A Year and a Half In
COLORADO CLOSE UP

Representative Jonathan Singer (D)
District 11 (Boulder County)

- Chair, Public Health Care & Human Services Committee
- Vice Chair, Joint Technology Committee
- Member, Local Government
- Social Worker
- Lead sponsor on numerous cannabis regulation bills
Thank you!

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