

LEGISLATIVE UPDATE

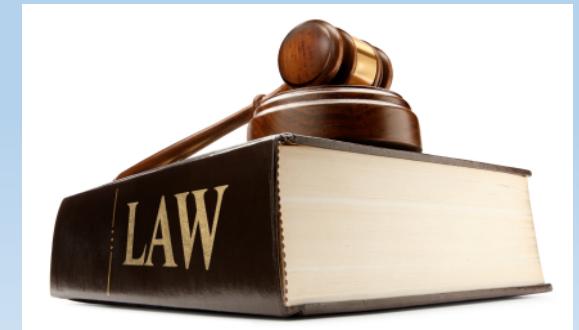
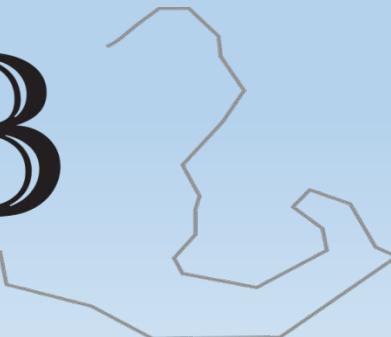
Cheryl Sbarra, J.D.

Director of Policy and Law

November 2017

MAHB

Assisting Massachusetts Boards of Health through
training, technical assistance and legal education



Learning Objectives



Objectives

- Special Commission on Local and Regional Public Health (SCLRP)
- Adult-Use Cannabis Law
- Update on tobacco “omnibus” bill

RESOLVE ESTABLISHING THE SPECIAL COMMISSION ON LOCAL AND REGIONAL PUBLIC HEALTH'S PURPOSE

- **Assess the effectiveness and efficiency of local and regional public health systems.**
- **Make recommendations about how to strengthen the delivery of public health and prevention services.**
- **Members:**
 - **Executive Branch:**
 - Exec. Office of Administration and Finance, Lauren Peters
 - Commissioner of Public Health, Monica Bharel, Chair
 - Commissioner of Agricultural Resources, Jason Wentworth
 - Department of Environmental Protection, C. Mark Smith
 - **Appointments by legislative leadership**
 - Representative Hanna Kane
 - Representative Steven Ultrino
 - Senator Jason Lewis
 - Senator Richard Ross

Additional Members

- Mass. Taxpayers Foundation, **Eileen Mizikar**
- Mass. Public Health Association (MPHA), **Bernard Sullivan.**
- Mass. Health Officers Association (MHOA), **Sam Wong.**
- Mass. Association of Public Health (MAHB), **Cheryl Sbarra.**
- Mass. Environmental Health Association (MEHA), **Steve Ward.**
- Mass. Association of Public Health Nurses (MAPHN), **Terri Khoury.**
- Western Mass. Public Health Association (WMPHA), **Laura Kittross.**
- Public Health Regionalization Project Working Group (BUSPH), **Harold Cox.**

Governor's Appointees



- Research or academic institution with experience in public health data collection and analysis, **Justine Hyde**.
- Community health center, **Maria Pelletier**.
- Hospital system, **David McCready**.
- Expert in public health workforce development, **Charles Kaniecki**.
- Municipality with a population of more than 50,000, **Sharon Cameron**.
- Municipality with a population of between 5,000 and 50,000, **pending**.
- Regional health model with at least 1 town with a population of less than 5,000, **Phoebe Walker**.
- At large, **Carmela Mancini**, physician.

Commission's charge

- Examine the capacity of local and regional public health authorities in comparison with national public health standards and recommendations from:
 - Centers for Disease Control and Prevention (CDC);
 - Public Health Accreditation Board (PHAB);
 - National Associations of Local Health Boards (NALBOH);
 - National Association of State and Territorial Health Officials (NASTHO); and
 - “other relevant organizations.”
- Assess capacity of local public health authorities to carry out their statutorily mandated powers and functions;
- Evaluate existing municipal and state resources for local health;
- Address per capita funding levels within cities and towns;

Commission's charge (continued)

- Evaluate workforce credentials of current and future public health workers;
- Assess the current capacity of the office of local and regional health;
- Evaluate existing regional collaboration and various models of public health service delivery;
 - Including stand-alone;
 - Shared service;
 - Fully comprehensive regional districts.

Staffed by DPH

- Report due to the Governor by July 31, 2018??
- Commission may solicit public input through public hearings and testimony.



Inaugural Meeting

- Welcome
- Introductions
- Open Meeting Law and Conflict of Interest
- Local Public Health in Massachusetts, Eileen Sullivan, Chief Operating Officer, DPH
- Review of Chapter 3 of the Resolves of 2016, Cheryl Sbarra, Director of Law and Policy, MAHB
- Meetings “roadmap”, Stakeholder Engagement, and Communication plans, Ron O’Connor, Director, Office of Local and Regional Health, DPH
 - Meetings 1-2 Develop a common understanding of issues and process
 - Meeting 3-4 Assess local public health
 - Meetings 5-6 Develop recommendations
 - Meeting 7 Approve the final report



Inaugural Meeting (continued)

- Proposed subcommittees:
 - Data
 - Standards
 - Structure
 - Workforce Credentials
 - Finance
- Non-members interested in Subcommittee Participation
 - MPHA
 - Needham Board of Health
 - MAPC
 - Springfield Health Department
 - Others to be determined



September 15, 2017 Meeting #2



- Welcome and introductions
- Presentation: National Perspective on Local and Regional Public Health
 - Pat Libbey, Co-Director, Center for Sharing Public Health Services
 - Grace Gorenflo, Special Project Consultant, Center for Sharing Public Health Services
- Subcommittee breakout
- Subcommittee reports
- Subcommittees meeting separately to get work done.
 - Each subcommittee is staffed by DPH.

November 3, 2017 Meeting #3

- Subcommittee Status Reports
 - Workforce Credentials
 - Structure
 - Finance
- Report of the Standards Committee
 - Recommendation for a minimum set of services to be provided by Massachusetts local public health authorities.
- Discussion on Standards Committee's recommendation
- Report of Data Subcommittee





Medical and Adult- Use of Cannabis in Massachusetts



Chris Walsh, Editorial Director of *Marijuana Business Daily* said at CSP's Total Nicotine Conference:

- “This is a professional industry now. . .”
- 2016 election: “This will move quickly.” “. . . More than 50% of Americans support recreational marijuana.”
- “At some point, legislatures will have to address that.”
- Industry will generate \$14 billion to \$17 billion in 2016, according to Walsh.
- “Baby boomers are huge for this industry.” Wide consumer base.
- “Absolutely, Big Tobacco is looking at this.”
- “They know how to cultivate crops, they know how to market adult products, they know how to distribute.”

DPH's Medical Marijuana Program

- Ballot initiative 2012 – 63% to 37% - only 2 out of 351 municipalities voted no.
- Program housed and regulated at Department of Public Health.
- Edibles not considered “food” for purposes of Food Code.
 - Conundrum #1
 - Locals do not need to enforce, unless they want to.
- Local permitting and regulation allowed.
 - No preemption
- Non-refundable application fee of \$30,000.
- Annual registration fee of \$50,000 – supports funding DPH program.

Results of
November 2016
ballot question “to
regulate cannabis
like alcohol” 260 –
yes. 91 - no



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Massachusetts Question X

Secure | https://www.nytimes.com/elections/results/massachusetts-ballot-measure-4-legalize-marijuana

President Senate House Forecast Exit Polls State Results

Massachusetts Question 4 — Legalize Marijuana — Results: Approved

BY THE NEW YORK TIMES FEB. 10, 2017, 4:41 PM ET

ANSWER	VOTES	PCT.
✓ Yes	1,745,945	53.6%
No	1,513,304	46.4%

100% reporting (2,173 of 2,173 precincts)

Voters approved Question 4 — Legalize Marijuana — in Massachusetts on Tuesday. The initiative calls for legalizing marijuana while regulating it in a manner similar to alcoholic beverages. A commission will be created to regulate marijuana in the state. Marijuana is currently permitted only for medical use.

LEADER: Yes No Tied

“An Act to Ensure Safe Access to Medical and Adult-Use of Marijuana in the Commonwealth” effective: 12.12. 2016 - amended 7.28. 2017

- Housed at the Office of the Treasury.
- Cannabis Control Commission (CCC) of 5 members with following backgrounds:
 - Steven J. Hoffman, Chair: retired Bain and Company executive
 - Kay Doyle, J.D., former DPH attorney for Medical Marijuana Program
 - Jennifer Flanagan, former legislator
 - Shaleen Title, co-founder of THC Staffing, cannabis advocate
 - Britte McBride, former assistant attorney general
- Commission appoints Executive Director, Sean Collins, J.D.
 - Chief financial and account officer and other employees.

Funding mechanism

- 20% tax on product.
 - 10.75 excise tax on retail marijuana sales.
 - 6.25% sales tax.
 - 3% local tax if desired by municipality.



Responsibilities of CCC

- Promulgate regulations prior to licensing.
- Supervise industry.
- Implement state licensing system.
- Issue licenses to operate.
- Investigate and enforce violations.



Cannabis advisory board (25)

- Executive Director
- Commissioner of Public Health
- Department of Housing and Economic Development
- Commissioner of Revenue
- Commissioner of Agricultural Resources
- State police representative
- Massachusetts Municipal Association
- Massachusetts Patient Advocacy Alliance
- Qualifying Medical Marijuana Patient
- ACLU of Massachusetts
- Marijuana cultivation expert
- Marijuana retailing expert
- Marijuana manufacturing expert
- Expert in laboratory sciences and toxicology
- Legal expert in representing marijuana businesses
- Expert in minority business development
- Expert in economic development strategies for under-resourced communities.
- Expert in farming
- Expert in municipal law enforcement
- Experience in impairment detection and evaluation

Cannabis Advisory Board (continued)



- Expert in social justice
- Expert in criminal justice reform
 - To mitigate disproportionate impact of drug prosecutions on communities of color
- Expert in minority-owned businesses
- Expert in women-owned businesses
- Expert in prevention and treatment of substance use disorders

“Marijuana accessories” as defined by the law

- “ equipment, products, devices or materials of any kind that are intended or designed for use in . . .
ingesting, inhaling or otherwise introducing marijuana into the human body.”



Conundrum # 2

- Used to be called “drug paraphernalia.”
 - Only permitted if retailer had a tobacco sales permit.
- Now called “marijuana accessories.”
 - Not illegal.
 - Head shops are perfectly legal businesses.
 - No need for tobacco sales permit.



Local Control – Conundrum #3



- Locality may not prohibit an RMD licensed by July 1, 2017, from becoming a recreational marijuana store. Head start for RMD's?
- May not limit (or prohibit) the number of marijuana stores, except:
 - If the city/town voted **FOR** legalization, voters at annual or special election can vote the bylaw or ordinance up or down.
 - If city or town voted **AGAINST** legalization Board of Selectmen or City Council can prohibit marijuana establishments.
- May require “community impact fee”
 - Must be related to costs imposed on community; not more than 3% of gross sales of establishment or be effective for more than 5 years.
- Can't require signage more restrictive than alcohol signage.

Local Control (continued)

- Can pass reasonable zoning ordinances and by-laws.
 - Temporary moratoria enacted in dozens of city/towns.
- Cannot be “unreasonably impracticable.”
 - “subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.”
 - What does this mean?
- Can enforce the food code.
 - But what about medical marijuana?
 - Current DPH regulations say medical marijuana edibles are not food.

CCC will develop regulations to address:

- Licensing requirements
 - Who gets a license – “**expedited review**” for RMD’s?
- Minimum security requirements
- Health and safety standards (in consultation with DPH)
- Requirements for packaging, including certified child-resistant and resealable
- Require the division of each servings so that a person can identify a single serving
- Ban use of bright colors, cartoon characters
- Assure packaging is opaque or plain in design

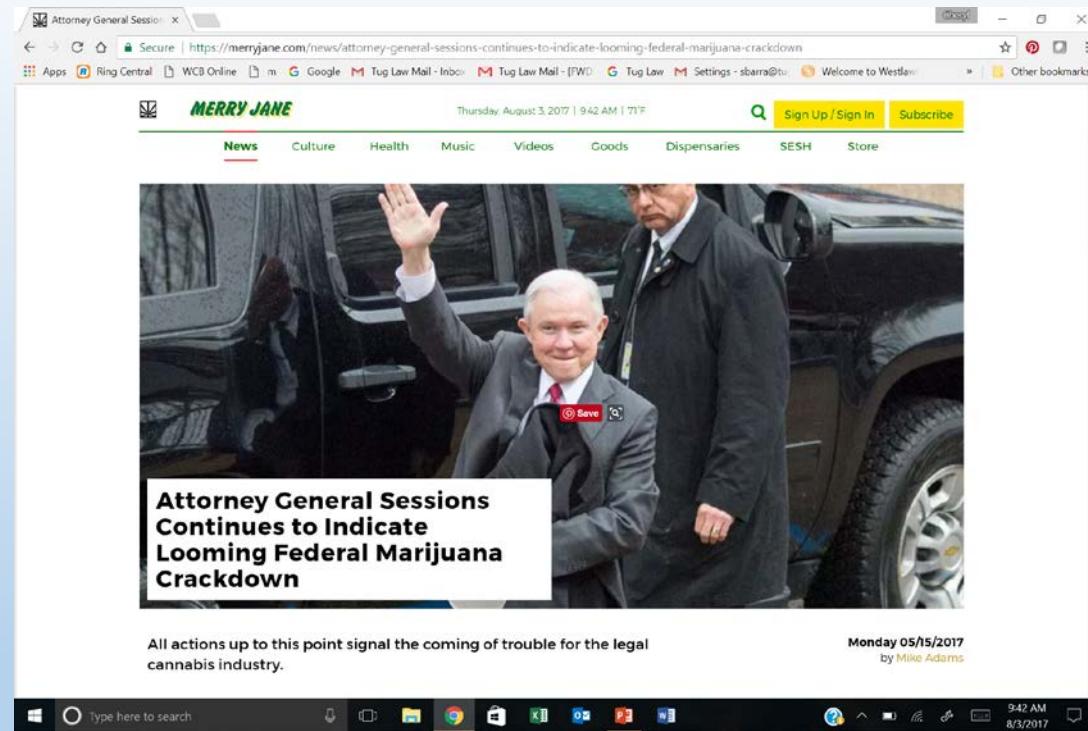


Labeling requirements

- Symbol or recognizable mark issued by the CCC
- Warning that product is harmful to children
- Name and contact information of cultivator or manufacturer
- Lab that tested the product
- Certification that product meets testing standards
- Unique batch number
- List of ingredients
- Percentage of THC in each serving
- Disclaimer – product not FDA approved



Conundrum #4 – illegal on federal level



So what?

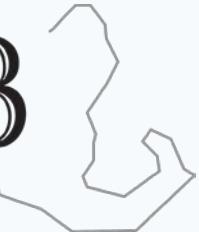
- Cash business – banks won't touch it.
- Previous administration's standard operating procedures vs. current administration.
- Proceed at your own risk.



Advertising requirements – Conundrum #5

- Not restricted like we are with tobacco because product is still illegal federally.
- No deceptive, false or misleading ads.
- No ads on TV, radio, internet, billboard or sponsorship of charity events
 - UNLESS 85 % of audience is “reasonably expected” to be more than 21.
 - Up-to-date audience composition data.
- Can't portray anyone less than 21.
- No mascots, cartoons, brand sponsorships and celebrity endorsements DEEMED TO APPEAL TO A PERSON LESS THAN 21.
- No giveaways, coupons or free or donated marijuana.
- Reasonable local regulation on timing and use of illuminated external signage and neon signs.





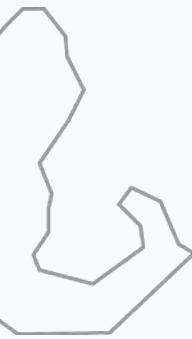
Marijuana Regulation Fund

- To implement, administer and enforce the law
- Public and behavioral health
 - Evidence-based and evidence-informed substance use prevention, treatment and early intervention services
 - School districts and community coalitions
 - Public safety
 - Municipal police training
 - Prevention and trust fund
 - Programming for restorative justice
- Jail diversion
- Workforce development
- Technical assistance for industry
- Mentoring service for economically-disadvantaged persons in communities disproportionately impacted by high arrest rates and incarceration for marijuana offenses

Research Agenda of CCC

- Study social and economic trends of marijuana in Massachusetts.
- How to close illicit marketplace.
- Public health impacts of marijuana.
- Patterns of use.
- Methods of consumption.
- Sources of purchase.
- Marijuana use among minors, etc.
- Conduct baseline study.
- Incidents of impaired driving.
- Ownership and employment trends in marijuana industry.





Time table



- Dec. 15, 2016: Personal use legal – up to 12 plants in home – up to 2 ounces on person.
- Aug. 1, 2017: Governor must make initial appointments to CAB
- Sept. 1, 2017: State Treasurer must make initial appointments to CCC.
- Mar. 15, 2018: CCC must promulgate regulations.
- Apr. 1, 2018: CCC must begin accepting licensing applications from all retailers, manufacturers and cultivators. Conundrum #6:
 - RMD's and provisional RMD's get an "expedited" review process.
 - How do we tell the difference between nontaxable and taxable marijuana?
 - Profit or not for profit?
- Dec. 31, 2018 – Medical program moves to CCC – but what about now?

Omnibus Tobacco Bill HB2864



- Increase minimum legal sales age to 21
 - 66.1% of residents covered by local regulation that does this (156)
- Add e-cigarettes to smoke free workplace law
 - 56% of residents covered by local regulation that does this (130)
- Prohibit sale of tobacco in pharmacies
 - 67.2% of residents covered by local regulation that does this (152)
- Hearing before Joint Public Health Committee May 2017
- Still in committee
- Legislative drops 3 times a week.

questions
sbarra@mahb.org

