LEGISLATIVE UPDATE

Cheryl Sbarra, J.D.
Director of Policy and Law
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Learning 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;
• 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

- 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.

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