



Marijuana Legalization Update

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Context

- Many moving parts in Cannabis Control Commission (CNB) regulatory process
- Information and recommendations subject to change pending final CNB decisions and implementation actions
- Outcome of CNB regulations will inform municipal level decisions
- City of Boston is submitting coordinated public comment
- More to follow

Federal Law Enforcement

- Previous US Department of Justice policy (Ogden and Cole Memos) had guided federal law enforcement officials and prosecutors to use prosecutorial discretion relative to drug enforcement activities against marijuana possession and sales where legal under state law
- AG Sessions rescinded this guidance in January, directing federal law enforcement to “enforce the laws enacted by Congress and to follow well-established principles when pursuing prosecutions related to marijuana activities”
- US Attorney for MA Andrew Lelling issued a statement including: “our office will continue to investigate and prosecute bulk cultivation and trafficking cases, and those who use the federal banking system illegally”
- Potential implications for banking, investment, state and local tax revenue
- Some protections for medical marijuana in 2014 federal budget Rorabacher-Blumenauer amendment, which prohibits use of DOJ funding to prosecute medical marijuana users in states where it is legal (ongoing status beyond March 23 dependent on Congress)
- CNB has vowed to move forward with implementation
- Increasing pressure for Congress to act; bills filed

Board of Health Involvement

11/2013

- Board approved Medical Marijuana Regulations

11/14

- Update on first potential medical dispensary applicant
- Patriot Care, 21 Milk St; Zoning Board of Appeal approved 8/2015

7/16

- Update on permitting process; permit issued 8/2016

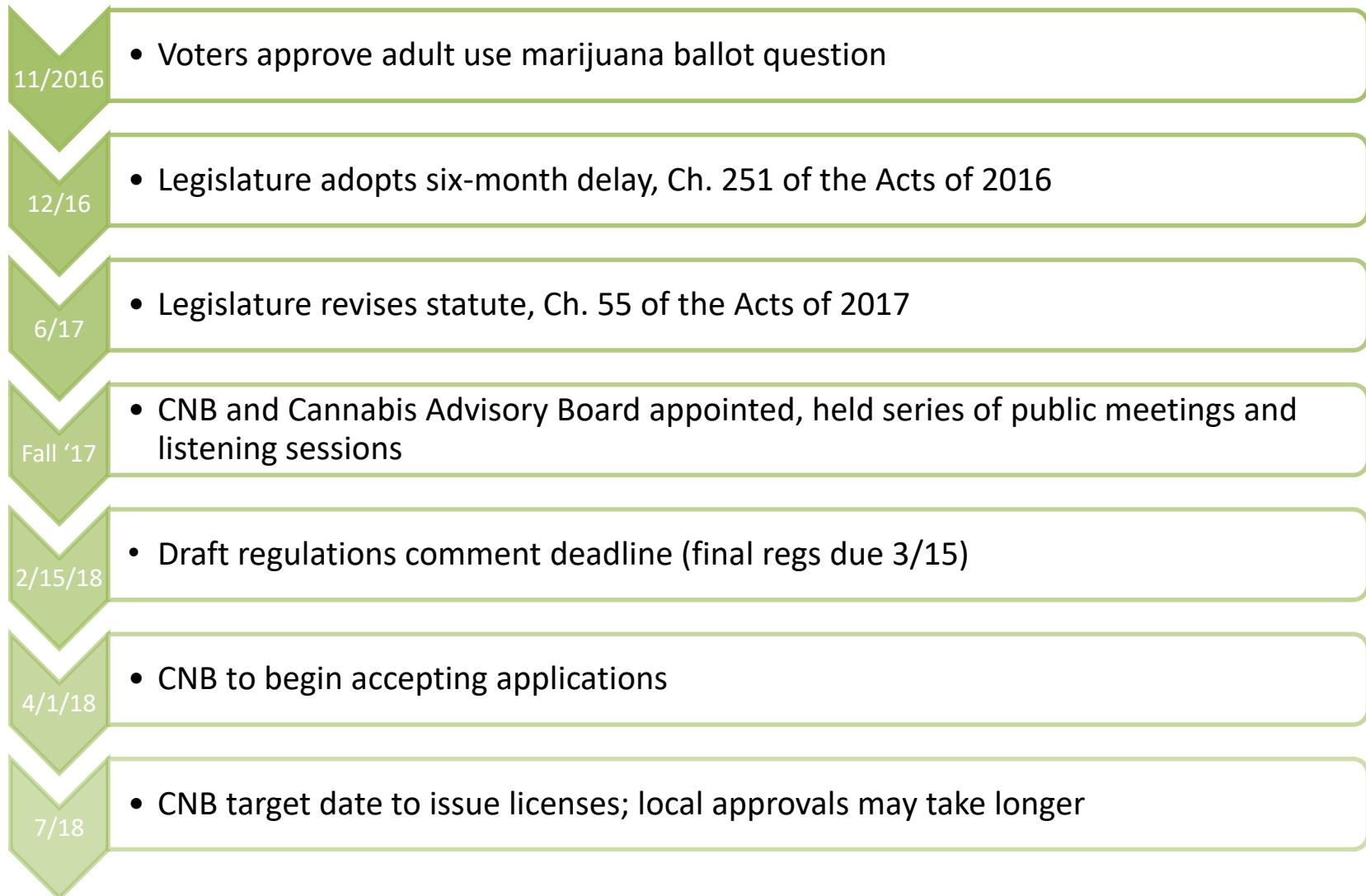
11/16

- Denver officials outline lessons learned
- BPHC staff highlight issues in the ballot question

7/17

- Update outlining pending legislation changes

CNB Implementation Timeline



BPHC Tasks

- Regulatory oversight of medical marijuana operations
- Established internal BPHC working group
- Advocate along with City for improvements in CNB regulations
- Provide public information
 - Respond to resident questions about smoking in multi-unit housing and workplaces, cannabidiol
 - Provide accurate info about what the law allows
 - Deliver guidance on adult misuse, use during pregnancy and breastfeeding, dosing, smoking prevention, and driving
- Develop and disseminate youth prevention communications resources
- Expand youth prevention programming and coalition partnership
- Enhance marijuana public health surveillance; monitor impact on BPHC programs

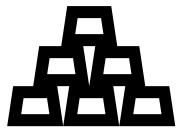
Law: Public Health

- The original ballot language gave CNB the authority to regulate advertising, packaging and labeling and to require purity testing
- Compromise bill gives more specific direction to CNB about product labeling, safety, and marketing
 - Specifies measures to prevent products from appealing to young people, such as prohibiting edibles that resemble branded consumer products, and prohibiting advertising in media unless more than 15% of its audience is expected to be over 21
 - Requires edibles to be marked with the serving size; sets maximum
 - Prioritizes spending from the marijuana tax to fund public health and public safety campaigns, particularly school-based programs
 - Establishes a commission to study regulation and testing for impaired driving

Law: Mandated Studies

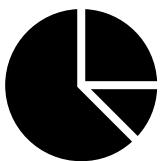
- Marijuana Baseline Health Study (Ch. 251 of Acts of 2016)
 - MDPH directed to provide information to assess baseline rates and patterns of marijuana use, related risk behaviors such as use in combination with alcohol, prescription drugs, impaired driving, marijuana-related visits to emergency departments or urgent care facilities
 - \$275K to UMass School of Public Health and Health Sciences, the UMass Donahue Institute
 - Due no later than July 1st, 2018
- Ongoing research agenda (Ch. 94G s. 17)
 - Directs CNB to partner with other agencies to pursue research agenda including patterns of use, methods of consumption, sources of purchase, perceptions, impaired driving, hospitalization, use of health care services, and economic impact to state and local governments
 - Requires annual report on the results and recommendations for further research or policy changes
 - Due no later than July 1st, 2019

Tax Revenue



MA Department of Revenue estimates:

- \$44m - \$82m in FY19



Total 20% tax rate:

- 10.75% state excise + 6.25% state sales
- 3% local option



- ✓ State excise to State budget account restricted to implementation, then substance abuse prevention, youth education and Prevention and Wellness Trust Fund
- ✓ Sales tax to State general fund
- ✓ Local option revenues unrestricted

CNB Regs: Social Consumption

- Draft regulations create new establishment license category of “social consumption establishments” that allow sales and on-site consumption of single servings of marijuana
 - Public health risk associated with prolonged exposure of workers to marijuana smoke
 - More permissive than rules in other jurisdictions; none currently operating in US
- Conflicts with state Smoke-Free Workplace law, which prohibits smoking any substance in the workplace. G.L. c. 270, s. 22
- Conflicts with Boston regulations, which prohibit smoking and vaping tobacco, nicotine and marijuana as well as new smoking establishments and smoking in outdoor workspaces
- Draft regulations appear to conflict with marijuana statute c. 94G, s. 13(c), which states:
 - “No person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited [...except] in a designated area of a marijuana establishment located in a city or town that has voted to allow consumption on the premises where sold.”
- Allows for social consumption in mixed-use businesses
 - Limits on-site consumption to areas accessible to staff and consumers over 21
 - Address inadequate protections for separating youth if mixed-use is allowed
 - Clarify status of under 21 medical clients
 - Separating marijuana sales and use from other products would reduce exposure
 - Mixed use could also be problematic for medical licensees, as MMJ rules require that outlets sell nothing other than marijuana and paraphernalia

CNB Regs: Local Control

- Language presumes local licensing requirements, but does not fully clarify the authority of local governments to determine which agencies and entities will license establishments:
 - Application must include “A description of plans to ensure that the Marijuana Establishment is or will be compliant with local codes, ordinances, and bylaws for the physical address of the Marijuana Establishment, which shall include but not be limited to the identification of any local licensing requirements for adult use of marijuana” 935 CMR 500.101(A)(i)
 - “A Marijuana Establishment and other registered persons shall comply with all local rules, regulations, ordinances, and bylaws [...] 935 CMR 500.170
 - Allows “lawful local oversight and regulation, including fee requirements, that does not conflict or interfere with the operation of 935 CMR 500.000”
 - Does not explicitly address the authority of local boards of health to regulate adult use marijuana

CNB Regs: Siting

- Gives municipality 60 days to confirm that the establishment complies with local law
- Includes inconsistent siting language:
 - Must confirm that proposed site “is not within 500 feet of a pre-existing public or private school providing education in kindergarten or grades 1 through 12, unless the municipality has adopted an ordinance or bylaw that reduces that distance” 935 CMR 500.101(A)(1)(h)
- Discrepancy in siting language; other section cites other youth uses:
 - “A Marijuana Establishment shall comply with all local requirements regarding siting, provided however that if no local requirements exist, then Marijuana Establishment shall not be sited within a radius of 500 feet of a public or private school, daycare center, or any facility in which children commonly congregate” 935 CMR 500.110(C)

Discussion

- What additional information would be useful moving forward?
- What is the ideal role for BPHC in the longer term?
 - Enforce existing public health laws and regulations against marijuana sites
 - Develop education and prevention communication materials
 - Partner in youth prevention efforts, especially those that will be funded
 - As revenue begins to materialize, ensure BPHC receives adequate funding for any expanded role