Implementation of Legalization in Colorado

Mark Bolton
Senior Deputy Legal Counsel
Office of Governor John Hickenlooper
The Colorado Model

- 12 state agencies engaged in marijuana regulation and enforcement
  - Dept. of Revenue & Marijuana Enforcement Division (MED)
    - Licensing, regulation, enforcement, & taxation of businesses
  - Dept. of Public Health & Environment
    - Public education & monitoring health concerns
    - Patient & caregiver registry
    - Testing
  - Dept. of Public Safety
    - Data collection
    - Black market enforcement
Federal Strategy

• Shared goals with federal government
• Built a strong system that is a model for other jurisdictions
  • Committed to addressing abuses & unintended consequences
• Best path forward: cooperative federalism
Gray & Black Market

• Diversion from unregulated market (home grows)
  • House Bills 17-1220 & 17-1221
  • CBI Task Force

• Diversion from regulated market (looping)
  • Proposed rule: defines “single transaction” & creates knowing standard
Research & Development

• House Bill 17-1367: Beginning July 1, 2018, CO will issue R&D licenses for marijuana clinical research.
  • Allowable research
  • Public vs. private research
  • Regulatory requirements
Forthcoming Issues

• Delivery
• Open & public consumption
  • Social clubs
• Publicly traded companies
National Roundtable – State and County Government

Deonne E. Contine
Executive Director
Nevada Department of Taxation
Ballot initiative passes and includes the following regulatory mandates for the Dept. of Taxation:

- Issuance, renewal, suspension, and revocation of licenses
- Security
- Prevention of sale/diversion to persons under 21
- Packaging & restrictions on signage, marketing, display, and advertising
- Testing and labeling (including potency)
- Record keeping
- Collection of taxes, fees, and penalties & civil penalties for failure to comply with regulations
- Establish fair market value at wholesale
- Transfer of a license or location
- Dual licensee to operate both medical marijuana and marijuana establishments at the same location
January 2017

Governor Sandoval’s *State of the State*

- About $100 million of marijuana revenue
- 10% retail tax on adult-use marijuana
- Revenue to be collected beginning July 1, 2017

February to June 2017

Nevada Legislature in session

- Enacts 10% retail tax
- Governor signs bill in mid June
➢ March 2017

Governor’s Task Force

- Representatives from public health, law enforcement, social services, local governments, industry, legislators
- 8 working groups, including consumer safety, law enforcement, and regulatory structure
- 60 meetings between the Task Force and its working groups
- Report issued to Gov. at the end of May 2017
January to March 2017

Dept. drafts temporary regulations

- By early May, the Department adopts regulations to provide for licensing and regulation of marijuana businesses, using framework already in place under the state’s medical marijuana program
  - May 31 application deadline
  - Only medical marijuana establishments can receive licenses for first 18 months
  - One additional license type (distribution) beyond what was available under the medical program

Marijuana distribution

- Marijuana distribution licenses can only be issued to alcohol distributors for first 18 months, “unless the Department determines that an insufficient number of marijuana distributors will result from this limitation.”
June 2017

Court challenge over distribution licenses begins

- 1 or 2 small alcohol distributors create a non-profit corporation and sue the Department
- Court issues order prohibiting the Department from licensing a marijuana distributor unless it has an alcohol distributor license until the Department makes additional rules to determine what number of distributors is necessary to serve the marijuana market

July 1, 2017

Legal sales begin

- Approximately 50 licensed retail stores
- No distributors licensed at this time
Dept. adopts rules on distribution licenses envisioned by the court’s June order
- Adopted as “emergency regulations”
- Considered market needs/demand and the ability of liquor distributors to serve the market
- Licensed first marijuana distributor

Dept. launches public awareness campaign and marijuana.nv.gov public information website
- 3-month run of statewide radio and TV public service announcements
- Focus: laws, consumer safety (esp. edibles), keeping kids safe
➢ July 24-28, 2017

Dept. holds public workshops on draft permanent regulations
- 8 different workshops for about 200 pages of regulations
- Regulations incorporate many recommendations from the Governor’s Task Force
- Permanent regulations are currently in review with the NV Legislative Counsel Bureau
- Aiming for adoption near the first of the year
August 2017

Dept. holds “sufficiency determination” hearing on marijuana distribution, determines liquor distributors are insufficient to serve the market

- Same small group of liquor distributors appeals to the NV Tax Commission; Commission upholds Department’s determination
- Department issues distribution licenses to marijuana establishments

September 2017

First revenue figures come in (for July sales): $3.68M in tax revenue; retail sales hit $27M
Marijuana Enforcement Division Staff

- Marijuana and medical marijuana enforcement consolidated under Taxation
- 10 Inspectors
- 3 Compliance/Audit Investigators + 1 Chief Investigator
- 5 Auditors

Authority under regulations

- Assess civil penalties ranging from $1,250 to $35,000
- Suspend or revoke licenses
- Due process outlined in regulation
State of Nevada

Key Issues & Challenges

➢ Distribution Issue

- Liquor distributors demanding exclusivity, but unprepared to be licensed
- Created significant bottleneck for stores attempting to resupply products
- Reports of product ready from cultivators and manufacturers that sat waiting for transport for days
- Less product in stores, lower sales, effect on revenue/budget
- Financial and logistical strain on vertically integrated establishments that transported their own medical marijuana and products
- Ongoing uncertainty around licensing and stores’ ability to get product timely
Successes

➢ 6-month implementation

- From passage of the initiative to the Department accepting license applications
- To date, the Department has issued the following number of licenses:
  - 91 cultivation
  - 53 retail store
  - 64 production
  - 9 testing lab
  - 32 distribution

- Much of the success can be attributed to having a solid framework of medical marijuana regulations to build on, as well as the experiences of other states
Alcohol and Marijuana Control Office

Erika McConnell, Director
October, 2017
Marijuana Control Board established to “control the cultivation, manufacture, and sale of marijuana in the state.”

Five members appointed by the governor and confirmed by the legislature.
  • Two Industry seats
  • One Public Safety seat
  • One Public Health seat
  • One Rural Public seat

Alcohol and Marijuana Control Office (AMCO) housed within Department of Commerce, Community, and Economic Development.
  • Six licensing positions
  • Eight enforcement positions (five in Anchorage, two in Fairbanks, one in Juneau)
  • One education specialist
  • Four administrative positions

AMCO manages alcohol program (@2,000 licenses) as well
Alaska Regulations

- Article 1: Licensing & Fees
- Article 2: Local Option Rules
- Article 3: Retail MJ Stores
- Article 4: MJ Cultivation Facilities
- Article 5: MJ Product Mfg Facilities
- Article 6: MJ Testing Facilities
- Article 7: General Operating Requirements
- Article 8: Enforcement
- Article 9: General Provisions
• Separation from certain protected land uses: schools, places of worship, recreation or youth centers, correctional facilities;
• Licensees must be Alaska resident, no disqualifying criminal conviction;
• Local government may protest application which must be upheld by Board unless found arbitrary;
• Yearly renewal;
• Handler permit required for licensees, employees, agents;
• License issued for specific premises; restricted access areas vary by license type;
• Security alarm system, exterior lighting, continuous video monitoring, commercial grade locks;
• Seed-to-sale inventory tracking system;
• Secure transportation.
<table>
<thead>
<tr>
<th>Article 3</th>
<th>Retail MJ Stores</th>
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<tbody>
<tr>
<td>Food permit req.</td>
<td></td>
</tr>
<tr>
<td>Packaging and labeling</td>
<td></td>
</tr>
<tr>
<td>Limits on quantity sold</td>
<td></td>
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<tr>
<td>Advertising restrictions</td>
<td></td>
</tr>
<tr>
<td>Consumer notices</td>
<td></td>
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<tr>
<td>Potential onsite consumption endorsement</td>
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</tr>
<tr>
<td>71 approved</td>
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<tr>
<td>46 operating*</td>
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<thead>
<tr>
<th>Article 4</th>
<th>MJ Cultivation Facilities</th>
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<tbody>
<tr>
<td>Food permit req.</td>
<td></td>
</tr>
<tr>
<td>Packaging and labeling</td>
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<tr>
<td>Random sampling</td>
<td></td>
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<tr>
<td>Tax paid by cultivators</td>
<td></td>
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<tr>
<td>148 approved</td>
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<tr>
<td>85 operating*</td>
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<tr>
<th>Article 5</th>
<th>MJ Product Mfg Facilities</th>
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<td>Food permit req.</td>
<td></td>
</tr>
<tr>
<td>Infused fats and oils not for sale to consumers</td>
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<tr>
<td>Closed-loop system for solvent- or gas-based extraction</td>
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<tr>
<td>5mg limit/serving</td>
<td></td>
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<tr>
<td>Packaging and labeling</td>
<td></td>
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<td>14 approved</td>
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</tr>
<tr>
<td>8 operating*</td>
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<thead>
<tr>
<th>Article 6</th>
<th>MJ Testing Facilities</th>
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<tr>
<td>Scientific director req.</td>
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<tr>
<td>Methodologies identified</td>
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<tr>
<td>One sample per harvest to be tested</td>
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<tr>
<td>One edible per production batch to be tested</td>
<td></td>
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<tr>
<td>Retests approved by board or director</td>
<td></td>
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<tr>
<td>No pesticide testing at this time</td>
<td></td>
</tr>
<tr>
<td>4 approved</td>
<td></td>
</tr>
<tr>
<td>2 operating*</td>
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*As of 10/15/17
Through local election or ordinance, a local government (city or borough) may prohibit sale or importation of marijuana, or the operation of a specific license type(s).

- Inspection before issuance of license
- Advisory notice
- Notice of Violation
- Accusation to initiate proceeding to suspend or revoke license
- Summary suspension to protect public health, safety, or welfare
- Seizure, following by board hearing within 10 days
- Civil fine
- Appeal rights—may request formal hearing before Administrative Law Judge
Key Issues and Challenges

- Sufficient resources
- Setting precedent
- Clear rules and regulations
- Testing
- Industry on control board
- Keeping up with the industry
- Federal uncertainty

Alaska-specific
- No established medical dispensary system
- Distance
- Transportation
Lessons Learned/Best Practices

- Precautionary Principle
- Focus on public health and safety
- Don’t take anything personally!
Thank you!

Erika McConnell, Director
Alcohol and Marijuana Control Office
erika.mcconnell@alaska.gov
www.commerce.alaska.gov/web/amco/
Commercial Cannabis in California and Los Angeles County

Los Angeles County Office of Cannabis Management
Joseph M. Nicchitta, Los Angeles County Cannabis Management Officer
California’s legal background

- **Prop 215: Compassionate Use Act**
- Allowed qualified patients with a valid doctor’s recommendation to possess and cultivate cannabis for personal medical use

1996
California’s legal background
California’s legal background
California’s legal background

- **Medical Cannabis Regulation and Safety Act (MCRSA)**
- Adopted by Cal. Legislature
- Established the first regulatory framework for *medical* cannabis

**2015-16**
California’s legal background

Nov. 2016

• Proposition 64: Adult Use of Marijuana Act (AUMA)
• Legalized nonmedical/adult-use cannabis use, possession, and cultivation (limitations apply)
• Established a regulatory framework for adult-use cannabis
• Required state to start licensing commercial adult-use cannabis businesses by Jan. 1, 2018
California’s legal background

- Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)
- Adopted by Cal. Legislature as a cleanup bill
- Repealed MCRSA and amends AUMA to include regulations for medical cannabis ($MCRSA + AUMA = MAUCRSA = one regulatory framework$)

June 2017
State cannabis licensing authorities

Cal. Dept. of Public Health
- Manufacturing

Bureau of Cannabis Control
- Retailers
- Distributors
- Lab Testing

Cal. Dept. of Food and Agriculture
- Cultivators
- Track and Trace
Dual licensure

• In most cases, *cannabis businesses need a state license + a local license* to operate a cannabis business

• State must see evidence of a valid local license before issuing a state license – however:

“An applicant that voluntarily submits a valid, unexpired license, permit, or other authorization from the local jurisdiction **shall be presumed to be in compliance with all local ordinances** unless the licensing authority is notified otherwise by the local jurisdiction.” (Bus. & Prof. Code 26055(e))
Dear mom and dad, please send state regulations

- California law requires the state licensing authorities (Public Health, Bureau of Cannabis Control, and Food and Ag.) to issue regulations to implement cannabis laws

- State agencies published first set of proposed regulations for medical cannabis in April 2017, but withdrew the proposed regulations due to subsequent changes in state law

- “Emergency” regulations are expected between 45 and 15 days before licensing is scheduled to begin

- Basic information about a businesses’ operational requirements remains TBD
Please, please send state regulations...

• It remains unclear whether state or local officials will take primary role in enforcing state cannabis laws and regulations at the local level

• Because of LA County’s size, **many important California regulatory programs are implemented locally by LA County officials, but it is unclear whether cannabis regulations will be an exception**
  • Environmental sanitation?
  • Product labeling and testing?
  • Weights and measures (scales)?
  • Pesticide enforcement and pesticide injury investigation?

• LA County also provides contract services for nearly all of the 88 cities within LA County
Temporary state licenses: more wackiness

• Proposition 64 (AUMA) mandates that state licensing commence on January 1, 2018

• To meet this mandate, recent changes under MAUCRSA allow state agencies to issue **temporary licenses** if a business is in compliance with the laws of the local jurisdiction

• In Southern California and elsewhere there has been a **rush to pass ordinances and license businesses to gain the competitive advantage** of receiving a temporary state license

• With no state regs in place, businesses may have to make costly changes to their operation
You should have that tested...

- Proposed state regulations (which have been withdrawn) provided a 180-day grace period for retailers to sell untested inventory
Not your grandmother’s patchwork

• Local jurisdictions can **allow some or all cannabis business types**, or they can **ban** cannabis business activity

• State law sets a **default buffer of 600 ft.** between cannabis businesses and schools (K-12), licensed day cares, and youth centers
  • Local jurisdictions can increase these buffers, or **reduce or eliminate them**
  • Local jurisdictions can identify other sensitive uses (e.g., places of worship)
  • Potential for **cross-jurisdictional impacts**

• State law establishes a state excise tax on cannabis businesses, but **each local jurisdiction can place a local excise tax on cannabis businesses** (with voter approval). Voters in cities within LA County have approved a wide range of tax rates, from 5 percent to 17 percent
Not your grandmother’s patchwork

“Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. **A local jurisdiction may establish additional standards, requirements, and regulations.** “ (Bus. & Prof. Code 26501).

• Supplemental warning, packaging, and labeling requirements?
• Local THC potency limits?
• Product-specific rules (e.g., no cannabis-infused beverages)?
• More stringent background checks?
How is this playing out in LA County?
Fun facts about LA County

• 88 cities and a large unincorporated area within LA County
• LA County total population: 10.1 million
  • City of Los Angeles pop.: 3.9 million
  • **Unincorporated LA County pop.: 1.1 million**
  • City of Long Beach pop.: 470,000
• **50 percent of the unincorporated LA County population** is contained in **2 percent of the land area**
• Unincorporated county includes some of the densest urban centers in the nation, coastal mountains, upscale suburban, high desert, and industrial corridors
• LA County 2017-18 budget: **$30.058 billion**
Pink = unincorporated

White = cities
Not-so-fun facts about LA County

• Until very recently, nearly all cities and the unincorporated area prohibited cannabis businesses, including the City of Los Angeles

• Some estimate over 1,700 unlicensed dispensaries are operating in LA County as a whole, with anywhere from 60 to 120 unlicensed dispensaries in unincorporated county areas (number is constantly fluctuating)

• No good estimate on how many unlicensed cultivators and manufacturers are doing business in LA County
Illegal cannabis activity causes practical hurdles

• How to transition the market from illegal to regulated?
• Should unlicensed operators be “rewarded” with licenses?
• How do licensed businesses compete against illegal ones?
• Why should impacted communities believe that licensing and regulation will be any better?
How many do you see?
Public engagement

• May-Aug. 2017: LA County held 10+ town hall style meetings and 20 public workshops

• Public asked for input on:
  • Youth access and exposure
  • Where cannabis businesses should locate
  • Taxation and revenue
  • Equity and economic development
  • Personal cultivation
What we have learned

• Many are **afraid of dispensaries**.

• Frequently proposed buffers: schools, day cares, parks, residences, places of worship, libraries, liquor stores, senior centers, senior housing, drug treatment facilities, group homes, affordable housing developments.

• How far? **2,500 feet to one mile** are common responses.
  • The more buffers you put in place, the more you **concentrate impacts in lower income communities**, which are more likely to be industrial adjacent
What we have learned

• Big difference between a “yes” vote on Proposition 64 and being okay will commercial cannabis in neighborhoods
• Belief that a ban will make problems go away
• Many concerns stem from perceptions about unlicensed cannabis businesses or belief that business owners are gang members or criminals
• Communities with dispensaries want to see tangible benefits, including local allocation of cannabis tax revenue
Timeline

• LA County unincorporated area on pace for 2018 licensing launch
• Some cities in LA County have already issued local licenses or intend to start licensing by January 1, 2018
More information

Office of Cannabis Management

http://cannabis.lacounty.gov

cannabis@lacounty.gov