

FIRST ANNUAL ACTIVITIES REPORT: ADULT-USE MARIJUANA PROGRAM

September 28, 2018

Report as mandated by Chapter 55 of the Acts of 2017,
An Act to Ensure Safe Access to Marijuana

LEGISLATIVE MANDATE

Under Chapter 55 of the Acts of 2017, *An Act to Ensure Safe Access to Marijuana* (Act), the Cannabis Control Commission (Commission) is charged with implementing the statutory and regulatory schemes governing the adult-use marijuana program. The following report is issued pursuant to Section 31 of the Act, which provides in relevant part:

“The commission shall annually submit a complete and detailed report of the commission’s activities, including a review of the implementation and enforcement of this chapter and the governance structure established in this chapter, not more than 90 days after the end of the fiscal year to the governor, the attorney general, the treasurer and receiver-general, the clerks of the house of representatives and the senate, the chairs of the joint committee on marijuana policy and the chairs of the house and senate committees on ways and means.” St. 2017, c. 55, § 31.

EXECUTIVE SUMMARY

Purpose

This report provides information regarding the implementation under the Act of the adult-use marijuana program pursuant to the aforementioned legislative mandate.

This report mentions, but does not focus on, the medical-use program or the transfer of that program. While Section 64 of the Act requires the Commission and Department of Public Health (Department) to “develop and implement a transfer agreement providing for the orderly transfer of the [medical-use marijuana] program, including personnel, from the department to the commission pursuant to sections 64 to 69, inclusive,” the medical-use program has not yet been transferred. St. 2017, c. 55, § 64. As described in the Interim Report: Transition of The Medical-Use Marijuana Program, filed on July 19, 2018, the Commission has addressed its additional legislative mandate to develop and implement an agreement for the transfer of the medical-use program with the Department.

Findings

The Commission continues to focus on the legislative mandate to establish and implement the adult-use marijuana program. To that end, the Commission made significant progress in the operational areas identified by the Legislature, specifically in the areas of law, licensing and enforcement, communications, community outreach, constituent services, public records, finance, personnel, technology, research, and office space.

INTRODUCTION

On November 8, 2016, Ballot Question 4 “Legalize Marijuana” passed with 53.6% of the vote. At that time, Massachusetts joined seven other states, in addition to the District of Columbia, which legalized marijuana for adult-use (a.k.a., recreational use). The resulting law, Chapter 334 of the Acts of 2016, *The Regulation and Taxation of Marijuana Act*, which was amended by Chapter 55 of the Acts of 2017, *An Act to Ensure Safe Access to Marijuana*, delegated to the Commission authority over the adult-use program. In September 2017, the Governor, Treasurer, and Attorney General appointed five Commissioners to serve in full-time positions. The Executive Director began in November 2017 and the agency is currently staffed by a total of 33 employees, including Commissioners and the Executive Director.

The mission of the Commission is to honor the will of the voters of Massachusetts by safely, equitably and effectively implementing and administering the laws enabling access to medical and adult use marijuana in the Commonwealth.

The Commission fosters the creation of a safely regulated industry that will create entrepreneurial and employment opportunities and incremental tax revenues in and to communities across the state and will serve as a best practice model for other states. The industry will be characterized by participation by small and larger participants and with full and robust participation by minorities, women, and veterans. The Commission is developing policies and procedures to encourage and enable full participation in the marijuana industry by people from communities that were previously disproportionately harmed by marijuana prohibition and enforcement and positively impact those communities.

IMPLEMENTATION OF ADULT-USE PROGRAM

Law

Promulgation of the Adult-Use Regulations. From October 2 through October 14, 2017, the Commission held a public listening period prior to issuing draft regulations. Listening sessions took place across the Commonwealth in Boston, Holyoke, Barnstable, Martha’s Vineyard, Worcester, and Pittsfield. Contemporaneously, the Cannabis Advisory Board convened and organized subcommittees on Industry, Public Health, Market Participation and Public Safety to provide recommendations on draft regulations. After multiple public meetings by each subcommittee, the Cannabis Advisory Board subcommittees presented their recommendations to the Commission on December 5, 2017. The Commission deliberated in public meetings and approved draft regulations for comment on December 21, 2017. From February 5 to February 14, 2018, the Commission conducted public hearings regarding the draft regulations in Boston, Greenfield, Dartmouth, Holyoke, Barnstable, Martha’s Vineyard, Worcester, and Pittsfield and written comments on the draft regulations were accepted through February 15, 2018. The Commission considered approximately 500 emails and written public comments. The Commission again deliberated in multiple public meetings in early March 2018

and approved regulations for promulgation on March 6, 2018. On March 23, 2018, the regulations, 935 CMR 500.000: *Adult Use of Marijuana*, were published in the Massachusetts Register.

Guidance. In addition to the regulations, the Commission regularly approves of guidance for licensing and other administrative processes implicated by its legislative mandate. To date, the following guidance documents are available: Guidance for Application and License Fees; Guidance on Background Authorization Forms; Guidance for Business; Guidance for Community Outreach & Forms; Guidance for Consumption of Marijuana for Adult Use; Guidance on Distribution; Guidance for Equity Provisions; Guidance for Farmers; Guidance on Home Cultivation; Guidance on Host Community Agreements; Guidance for Identifying Areas of Disproportionate Impact; Guidance on Marijuana Establishment Agent Registration; Guidance for Marijuana Establishment Licensure Applicants; Guidance on Marijuana Establishment License Types; Guidance on Municipal Equity; Guidance for Municipalities; Guidance on Required Positive Impact Plan And Diversity Plan; and Guidance on Seed-to-Sale Tracking. The Energy and Environment Workgroup created pursuant to Section 78 of the Act is preparing guidance on energy and environmental issues, such as energy conservation, waste and best practices for cultivation. Guidance documents are available at <https://mass-cannabis-control.com/guidancedocuments/>.

Drafting of the Medical-Use and Colocated-Operations Regulations. Pursuant to the authority granted under the Act, M.G.L. c. 94G, *Regulation of the Use and Distribution of Marijuana Not Medically Prescribed*, and M.G.L. c. 94I, *Medical Use of Marijuana*, effective December 31, 2018, the Commission initiated the promulgation process for the following draft regulations, 935 CMR 501.000: *Medical Use of Marijuana*, that transfer existing regulations, 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana*, as part of the overall transfer of the medical-use of marijuana program from the Department to the Commission.

At the same time, the Commission initiated the process for new draft regulations 935 CMR 502.000: *Colocated Adult-Use and Medical-Use Marijuana Operations*, that address colocated operations for adult-use Marijuana Establishments licensed by the Commission and medical-use Registered Marijuana Dispensaries (RMDs) currently registered by the Department. These draft regulations address requirements for licensing, operations, inspections, and waivers.

Before finalizing these regulations, the Commission will conduct two public hearings on Monday, October 29, 2018, in Springfield and in Boston. The Commission opened an extensive public comment period on September 6, 2018, which ends at the close of business on October 29, 2018.

Licensing & Enforcement

Through the adult-use program, the Legislature required the Commission to certify priority applicants, license Marijuana Establishments, register marijuana agents and laboratory agents, and approve applicants for the Social Equity program. To that end, the Commission and its vendors designed and implemented Massachusetts Cannabis Industry Portal (MassCIP), its electronic registration system, and its electronic seed-to-sale tracking system.

Priority Applicants. Between April 17, 2018, and May 22, 2018, the Commission completed the application process for priority certification. In total, 322 applications were submitted, with 82 RMD applicants and 123 economic empowerment applicants ultimately granted priority certification.

Provisional & Final Applicants. The Commission is authorized by the Legislature to license Marijuana Establishments, and when necessary, seek enforcement of licensees' compliance with the adult-use marijuana laws. Briefly described, the licensing process is as follows:

To obtain a license to operate as a Marijuana Establishment, an applicant must first apply via MassCIP, the online portal. The applicant must submit the following packets: (1) an Application of Intent packet, (2) a Background Check packet, and (3) a Management and Operations Profile packet, and (4) a payment packet. Once these initial submissions are deemed complete for the purposes of staff review, the applicant may no longer edit or change the application materials without obtaining approval. The Commission's licensing and enforcement staff, in consultation with the Executive Director, are primarily responsible for conducting investigations into the qualifications of an applicant for provisional, and ultimately, final licensure. For each applicant, the application materials, including Criminal Offender Record Information (CORI) information, are reviewed by the Commission's licensing staff, and subsequently by the enforcement staff, which includes onsite inspections. Other staff members cannot view application materials as they are treated as confidential materials compiled outside of public view.

After the initial review of the three application packets, the Commission's licensing and enforcement staff, in consultation with the Executive Director, make a recommendation at a public meeting to the five-member Commission as to whether to grant or deny a provisional license. In advance of the public meeting, the Commissioners are provided with an Executive Summary – a report generated by staff segregating essential application information for review and consideration. These summaries provide detailed information on the applicant's Background & Application of Intent Review; Suitability Review; and Management and Operations Review. At the public meeting, the Commissioners deliberate and vote on the qualifications of an application for provisional, but not final, licensure. After provisional licenses are granted or denied, the Commission posts the Executive Summaries for approved provisional licensees on its website.

Once granted a provisional license, an applicant is authorized to develop its application and qualifications for final licensure under 935 CMR 500.103. As part of an ongoing review, the Commission's licensing and enforcement staff conducts inspections to verify consistency with what was represented in the application. Staff may also consult with state and local officials and agencies on issues pertaining to the operation of the Marijuana Establishment, e.g., security plans. As part of that process, the staff may also seek supplemental application materials. After its review and inspections are completed, licensing and enforcement staff, in consultation with the Executive Director, make a recommendation in a public meeting to the Commission as to whether to grant or deny a final license. Once granted a final license, the licensee may operate as a Marijuana Establishment.

As of September 20, 2018, 2,698 applications for licensure as a Marijuana Establishment and for registration as a marijuana establishment agent were opened with the Commission. More specifically, Commission staff are reviewing 143 applicants and further reviewing and inspecting 30 provisional licenses. Of the 143 applicants, 79 are RMD priority applicants; 3 are economic empowerment priority applicants, which involve individuals from communities disproportionately harmed by marijuana prohibition and enforcement; and 61 are general applicants. To date, the Commission approved 30 RMD priority applications for provisional licensure but has not yet approved any for final licensure.

No provisional licenses were issued to economic empowerment priority applicants. The Commission conducted a survey to gather more information as to why more economic empowerment priority applicants have not applied. Preliminary responses indicated that the top three challenges were: difficulty raising capital; time needed to develop a business plan; and difficulty obtaining approval from a city or town.

The Act requires the Commission to study meaningful participation by minority business enterprises, women business enterprises, and veteran business enterprises and, if necessary, to adopt diversity licensing goals. To date, none of the 30 provisional licenses approved are owned by disadvantaged business enterprises. The Commission is actively seeking to create recruitment, training, and outreach programs to allow disadvantaged business enterprises, farmers, and small businesses to successfully apply for licensure over the course of the next year.

Social Equity Program. The Social Equity Program is designed to build a pathway for individuals and businesses to enter the cannabis industry. Its overall mission is to decrease the disparities in life outcomes for impacted individuals and improve the quality of life in areas of disproportionate impact.

The goals of the program are to:

- Reduce barriers to entry in the commercial marijuana industry, regardless of desired specialty within the industry;
- Provide professional and technical services as well as mentoring for individuals and businesses facing systemic barriers; and

- Promote sustainable, socially, and economically reparative practices in the commercial marijuana industry in Massachusetts.

To qualify for the Social Equity Program, an applicant must meet one of the following criteria:

- Residency in an area of disproportionate impact for at least 5 of the past 10 years and income may not exceed 400% of federal poverty level.
- Applicant has a past drug conviction and residency in Massachusetts for at least the preceding 12 months; or
- Applicant has been married to or is the child of a person with a drug conviction and residency in Massachusetts resident for at least the preceding 12 months.

Communications

The Commission is in regular contact with members of the public through various formats. Commissioners regularly attend and present at public events. Between September 2017 and August 2018, Commissioners made or participated in over 100 presentations before stakeholder groups that included community organizations, chambers of commerce, public health organizations, travel and tourism bureaus, attorneys, municipal officials, and law enforcement. The Commission's website (www.MassCannabisControl.com), received 67,000-page views and 22,000 visits to date. In addition to information on the Commission and Cannabis Advisory Board, there are regular updates to the website on issues concerning the law, regulations, guidance, and licensing. On a regular basis, more than 2,000 individuals and entities receive a periodic newsletter via email, with an open rate of nearly 30%. The Commission's social media presence includes Twitter (@MA_Cannabis) and Facebook (Massachusetts Cannabis Control Commission), with plans to develop an Instagram presence. Through these various channels, the Commission continues to communicate with the public regarding the work of the agency and the emerging industry.

Public Awareness Campaign. The Commission collaborated with the Department of Public Health, pursuant to Section 51 of the Act, to develop a statewide public awareness campaign in anticipation of the introduction of adult-use cannabis. The campaign, titled More About Marijuana (www.MoreAboutMJ.com), was developed in partnership with MORE Advertising, and utilized surveys and focus groups consisting of Massachusetts residents in its production.

The key messages of the campaign include the age of legal use, the effects on driving, the effects of edibles and the variety of potency levels. The campaign also focuses significantly on youth access and offers tips on how to effectively engage children in conversations about the risks of youth use.

The campaign also includes a broad outreach plan, with traditional broadcast such as television, radio, billboards, and transit banners, but also fully engages a variety of digital

opportunities, e.g. social media and display ads. Print collateral was produced and is available to the public through the Massachusetts Health Promotion Clearinghouse (<https://massclearinghouse.ehs.state.ma.us/>).

The Commission intends to follow up on the effectiveness of the campaign with post-surveys to be administered between January and February of 2019.

Community Outreach

The Commission will plan, promote, and deliver cannabis equity-based and diversity-based policies and initiatives to communities as well as increase overall awareness, accessibility, and connection to the Commission and its representatives, through phone and email, meetings with community leaders, trainings, and events. The Commission seeks to build collaborative partnerships with communities throughout the Commonwealth, promote and increase engagement with the Commission, include communities disproportionately harmed by marijuana arrests and incarceration, and engage with people of color, women, veterans and farmers, in accordance with the state law and the Commission's mission statement.

Constituent Services

The Commission handles inquiries from the public and ensures a timely response. Constituents may email, call, or write in with their opinions, questions, comments, and concerns. The Commission generally receives an average of 25-30 inquiries per day. The Director of Constituent Services liaises with other departments and staff to resolve constituent cases that require their review. The staff also attends community meetings and events to ensure that people can speak directly with Commission representatives. Constituents generally have questions and comments regarding compliance with the marijuana laws, marijuana policy, the industry, and related state laws. While the Commission cannot and does not provide legal or business guidance, the staff attempts to answer constituents' questions as completely as possible or refer them to the appropriate resources.

Public Records and Transparency

As of September 20, 2018, the Commission's Records Access Officer has received and responded to 51 requests for public records.

Although certain materials are withheld during the licensing and investigative process, the Commission's goal is to promote transparency. To that end, it regularly posts the following:

- Applicants That Have Submitted All Required Packets by City/Town and License Type, which can be found at <https://mass-cannabis-control.com/wp-content/uploads/2018/09/Applicants-That-Have-Submitted-All-Required-Packets-by-CityTown-and-License-Type09062018.pdf>.

- Segregated application information via Executive Summaries for those entities approved for provisional licensure, which can be found at <https://mass-cannabis-control.com/documents/>.

At the completion of its licensing and investigative process, the Commission anticipates posting most application materials on its website. The Commission will explore technological solutions, e.g., open data (see below for further detail), for providing quicker access to Commission records.

Finance

The adult-use program is funded through the Marijuana Regulation Fund, which is subject to appropriation. In FY18, the Commission's expenditures in its administrative line item, 1070-0840, totaled \$2,237,962. The FY19 budget includes \$7,987,870 for this line item.

Personnel

The Human Resources department is responsible for creating and implementing policies, processes and programs to support the Commissions' mission and strategic vision and creating a great place to work. The Commission has a strong commitment to attracting, rewarding, developing and retaining an inclusive, diverse, and talented workforce. In 2018, the Commission recruited and hired additional staff, which brings the total number to 33 as of the date of this report.

Technology

As noted above, the Commission implemented MassCIP, its electronic license and agent registration system, and its electronic seed-to-sale tracking system of record. As of September 20, 2018, 2,698 applications for licensure as a Marijuana Establishment and for registration as a marijuana establishment agent were opened with the Commission via MassCIP.

The Commission's technology staff also addressed the needs of the organization by establishing a secure and stable network and supplying desktop and laptop computers, desk and cell phones, that communicate with that network.

Finally, the Commission is in the process of procuring a Business Intelligence and Open Data technology that supports operational insight and transparency related to (1) Marijuana Establishment licenses and (2) marijuana establishment agent registrations. The Commission intends to partner with a vendor that can demonstrate expertise related to data delivery mechanisms that enable internal data access and analytics as well as self-service open data access for the community. This data access will enhance insight and governance internally and externally.

Research

The Commission is required to assess the impact of the enactment and implementation of the Act. The Research Department is currently working internally as well as collaborating with various state agencies, academic and think-tank researchers, and other entities to employ primary and secondary data collection methods to examine a spectrum of items, which include, but are not limited to, general changes of use and perceptions of cannabis, economic and fiscal impacts, and varying effects on public safety, public health, educational system, industry participation, and social justice and equity. Additionally, the Commission identified specific areas of focus to assess effects on both disproportionately-impacted communities and at-risk cohorts.

As cannabis policy research is gaining interest nationwide and across diverse stakeholders and academic disciplines, the Commission set both long- and short-term goals to ensure the research is of high quality, impactful, comprehensive, and collaborative. There are also plans to facilitate an Institutional Review Board mechanism to review research projects prior to their commencement and a peer-review group to review documents prior to their publication.

Office Space

The Commission currently occupies approximately 6,000 square feet of office space at 101 Federal Street in Boston. The Commission, through the Division of Capital Asset Management, is currently seeking a headquarters in Worcester and a satellite office in Greater Boston to accommodate both the medical-use and adult-use programs. The Commission will identify its future headquarters in the Fall of 2018 and anticipates moving into these new spaces by the Summer of 2019.

CONCLUSION

This report identifies the activities of the Commission in the first year since establishment as well as the operational needs implicated by the implementation of the adult-use marijuana program. As the report demonstrates, the Commission continues to meet statutory requirements.