

April 3, 2017

Chairwoman Patricia Jehlen
Chairman Mark Cusak
Joint Committee on Marijuana Policy
State House
Boston, MA, 02133

Re: Recommendation for Public Health Protections in the Implementation of Recreational Marijuana Law

Dear Chairwoman Jehlen and Chairman Cusack:

We are eager to see the implementation of recreational marijuana proceed promptly and efficiently. As Massachusetts begins this process, we believe there are three areas that deserve particular attention and which warrant legislative action to clarify or strengthen the current law. These areas are 1) promoting racial equity, 2) protecting youth, and 3) providing for appropriate oversight and data collection.

Promoting Equity

Stark racial disparities in the enforcement of marijuana prohibition in Massachusetts have been well documented. The discriminatory arrest rates of people of color, particularly African-Americans, for marijuana possession have had numerous negative effects on individuals and their communities, including loss of employment, housing, and educational opportunities. These factors – or social determinants of health – are closely linked to poor health outcomes and health inequities across racial groups. The legalization of recreational marijuana should include efforts to reverse the repercussions of discriminatory enforcement of prohibition. Furthermore, we should seek to actively promote equitable access to wealth building and job opportunities in the new legal marijuana industry, especially for people and communities of color that have suffered harm under prohibition.

To promote equity and to address the historical legacy of racism in marijuana prohibition, we ask that the legislature take the following two steps:

1. **Enact legislation that will allow for the expungement criminal records for possession of one ounce or less of marijuana.** Please support SB1063, *An Act relative to expungement for repealed crimes* by Sen. Jehlen and SB1075/HB2785, *An Act relative to the expungement of convictions for marijuana possession*, by Sen. Lewis and Rep. Vega. This legislation will allow for the expungement of criminal records for possession of one ounce or less of marijuana and will allow individuals with expunged records to answer ‘no record’ on employment applications that inquire about criminal background.
2. **Promote racial equity in the new recreational marijuana industry.** Now that marijuana is legalized, members of the communities most impacted by marijuana prohibition should be able to access wealth building and job opportunities in the legal industry. Please support equal opportunity to this new industry by: a) stipulating that the Treasurer’s Office, in coordination with the Cannabis Control Commission, implement policies to ensure that all Massachusetts residents are afforded equal business opportunities; and b) authorizing the Supplier Diversity Office to create opportunities for marijuana-related businesses to qualify as Minority Business Enterprises or Women Business Enterprises.

Protecting Youth

As adult usage of marijuana is legalized, we are concerned that adolescent and child access to marijuana and marijuana products may increase and that the perception of harm among adolescents may decrease. Marijuana is not harmless for adolescents or children who consume it intentionally or unintentionally. Numerous peer-reviewed studies have shown that because adolescents’ brains are still developing, regular youth use of marijuana is associated with learning and memory challenges, increased risk of mental health problems, and lower academic performance.¹ Unintentional ingestion of marijuana by children is a particular

¹ Battistella et al. “Long-term Effects of Cannabis on Brain Structure.” *Neuropsychopharmacology*, 2014, 39.; Levine et al, “Evidence for the Risks and Consequences of Adolescent Cannabis Exposure,” *Journal of the American Academy of Child and Adolescent Psychiatry*, Vol. 56, No. 3 (2017); Meier et al. “Persistent Cannabis Users Show

concern. In Colorado, for example, emergency department visits for children who accidentally ingested marijuana increased significantly after legalization of recreational marijuana.

To protect children and adolescents in the Commonwealth, we ask that the legislature take the following three steps:

1. **Dedicate funding for youth prevention.** Please support SB1097/HB2382, *An Act to prevent adolescent substance use by Sen. Flanagan and Rep. Malia*. This legislation establishes an Adolescent Substance Use Prevention and Early Intervention Trust Fund and allocates 3% of excise taxes from the sale of recreational marijuana to support evidence based and evidence informed adolescent substance use prevention programs.
2. **Enact strong labeling and packaging standards for edibles.** Marijuana edibles pose unique risk to children who may mistake marijuana edibles for food or candy. Strong packaging and labeling standards are needed to prevent accidental ingestion of marijuana edibles by children and teens and to provide transparent information for adult consumers. Please support SB1077/HD3420, *An Act relative to marijuana product packaging and labeling* by Sen. Lewis and Rep. Kane, which will require that packaging for marijuana and marijuana products be child resistant and will prohibit the use of packaging that would appeal to children or teens.
3. **Place restrictions on misleading and exploitative advertising.** The newly created recreational marijuana industry is likely to follow the playbook of big tobacco through the use of advertising and promotional tactics that target vulnerable populations, including children. Restrictions are needed to prevent misleading or exploitative advertising by the industry. Please support SB1067/HD3592, *An Act further regulating marijuana commercialization* by Sen. Lewis and Rep. Kane. This bill would prohibit marijuana companies from using advertising or marketing campaigns that appeal to minors, will prohibit the use of misleading advertising, and will stipulate that promotional materials contain a public health advisory.

Neuropsychological Decline from Childhood to Midlife,” *Proceedings of the National Academy of Sciences of the United States of America (PNAS)*, E2657-E2664 (2012)

Appropriate Oversight and Data Collection

Reactional marijuana policy in Massachusetts should include the appropriate regulatory structure to ensure the necessary oversight without erecting burdensome regulations on the burgeoning industry. To ensure this occurs, we ask that the legislature include the following three measures:

- 1. Increase the tax rate to cover regulatory costs and prevention investments.** The current tax level on recreational marijuana (a maximum of 12%) is unlikely to cover the full cost of regulating and implementing the new industry – including costs to the Cannabis Control Commission and other state and local agencies. We ask that the legislature raise the tax level on recreational marijuana to a level sufficient to cover the costs of implementation and regulation of the new industry and to cover the costs of youth prevention investments and data collection.
- 2. Protect local control and reasonable local health regulation.** The responsibility for enforcing the legalized marijuana industry will significantly impact local boards of health which will be tasked with holding marijuana businesses accountable for compliance with current regulations. We ask that the legislature authorize municipalities to issue local permits for recreational marijuana facilities and to enact reasonable regulations on recreational marijuana facilities and businesses. We also ask that the legislature prohibit any further restrictions on local control.
- 3. Require robust data collection and analysis.** Baseline and ongoing data collection is necessary to track the public health, racial equity and safety consequences of the legalized recreational marijuana industry. Please support SB1072/HD3411, *An Act relative to marijuana research, data collection, and best practices* by Sen. Lewis and Rep. Kane. This bill would stipulate that the Cannabis Control Commission develop an annual research agenda to understand the social and economic effects of legalized recreational marijuana in Massachusetts, including the relationship between marijuana and the criminal justice system, and to obtain scientific information relative to marijuana use and individual and public health.

Including these clarifications and improvements in the law will allow Massachusetts to move forward with marijuana legalization in a way that respects and supports all residents of the Commonwealth.

Thank you for your attention to this matter. If I can be of any further assistance to you, please do not hesitate to contact me at 617-697-2107 or mribble@mapublichealth.org.

Sincerely,

A handwritten signature in black ink that reads "Maddie Ribble". The script is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Maddie Ribble
Director of Public Policy
Massachusetts Public Health Association