

Filling the vacuum: A public health approach to regulating non-medical cannabis

David Jernigan, PhD¹

Rebecca Ramirez, MPH²

Brian Castrucci, DrPH, MA³

Catherine Patterson, MPP³

Grace Castillo, MPH³

1-Boston University, Boston, MA

2-Public Health Consultant, Silver Spring, MD

3-de Beaumont Foundation, Bethesda, MD

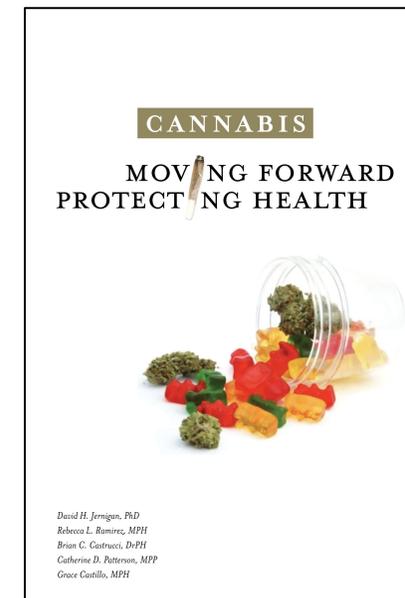
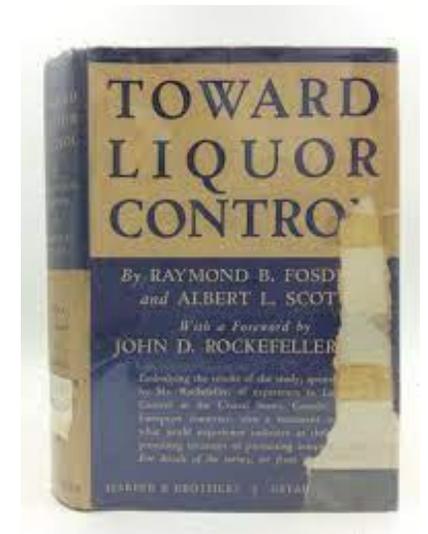
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**As required by the Alcohol Policy 19 Conference,
I/we have signed a disclosure statement and note the
following conflict(s) of interest:**

None

Background

- *Toward Liquor Control* – provided guidance for states in the 1930s for alcohol regulation
- Need for strong evidence-based public health voice on cannabis
- de Beaumont Foundation commissioned comprehensive report on cannabis regulation and promising public health-focused policy options
- Does NOT take a position on legalization
- Published by APHA Press



Public health goals for a cannabis regulatory system

1. Preventing youth cannabis use;
2. Controlling the prevalence, frequency, and intensity of cannabis use;
3. Reducing cannabis-related harms to individuals and communities;
4. Ensuring accurate information about the risks of cannabis use; and
5. Minimizing the influence of the cannabis industry and the profit motive in setting cannabis policies.

Elements to consider IF states legalize:

- Cannabis regulatory systems
- Products
 - Packaging and labeling
- Physical availability
- Promotions/marketing

- Prices/taxes
- Social justice
- Enforcement
- Surveillance systems

Cannabis Regulatory System Options

- Home cultivation only
 - D.C.
- Cannabis social collectives
 - Belgium, Spain, Uruguay, CA and WA in medical-only ear
- Wholesale and/or retail monopoly
 - 13 Canadian provinces (in some form)
 - Alcohol: 15 US jurisdictions
- Public authority
 - North Bonneville/Stevenson WA
 - Alcohol: Virginia Alcoholic Beverage Control Authority
- Licensed regulatory system
 - Public health focus (none)
 - Commercial focus (All U.S. states so far)

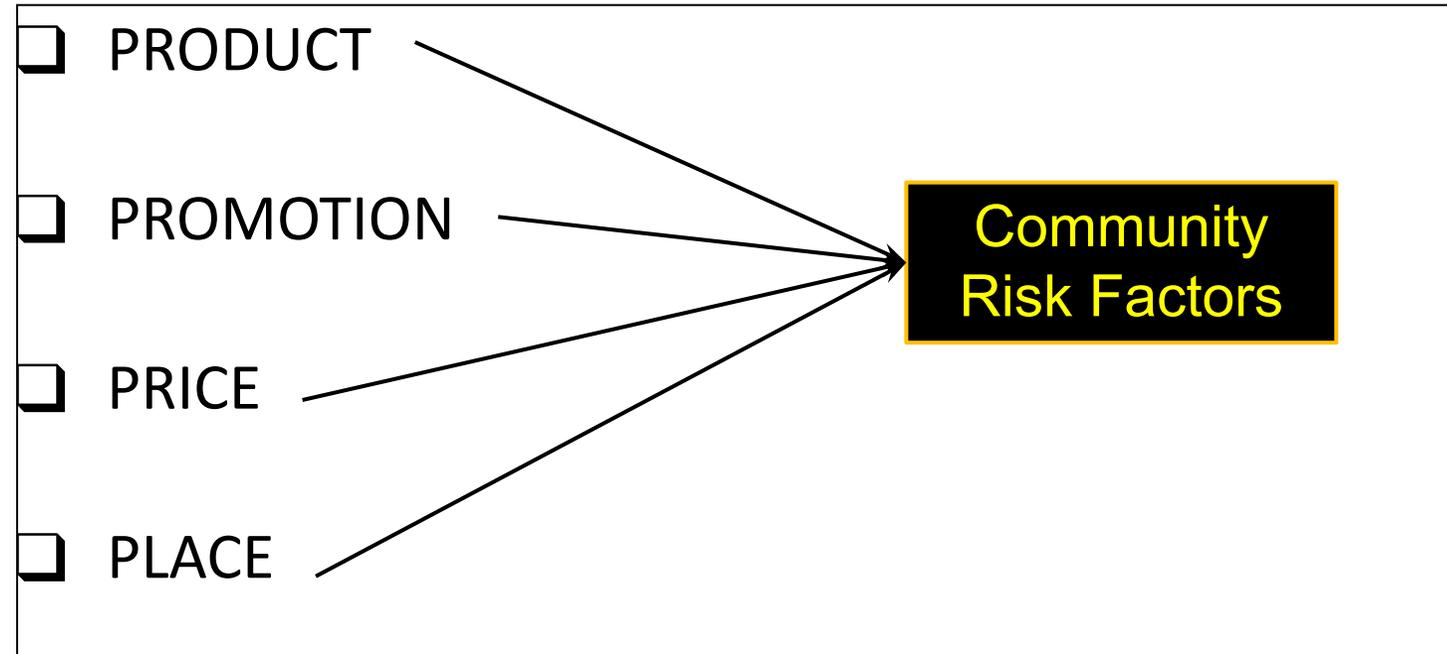
Key lessons from alcohol and tobacco

- Establish four independent regulated tiers (production/cultivation, product processing/packaging, wholesaling/distribution, and retailing)
- Enable local control
- Keep businesses small and diverse
- Take steps to prevent industry influence, including
 - Restricting industry members from sitting on any government body, committee, or advisory group
 - Separating administrative authority (e.g. the power to grant licenses) from enforcement of actions regarding those licenses, to prevent regulatory capture.

Cannabis Regulatory Systems: Policy Recommendations

- Move slowly – take a cautious approach to developing a regulatory system.
- Put protections in place to reduce profit motives by the cannabis industry and to keep businesses small, or provide cannabis without creating a private cannabis industry.
- If adopting a licensing system, make it public health-focused, and adopt measures that:
 - Guard against regulatory capture;
 - Prohibit vertical integration;
 - Prevent industry influence over policy decisions;
 - Keep businesses small and diverse; and
 - Permit local jurisdictions to place additional requirements on cannabis businesses.

Environmental Prevention: The “Four P’s”



Products



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New Products...



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Product-related health concerns

- No or inconsistent basic consumer information
- Sets user up to consume more than they planned
- Current product range appeals to heaviest users
- Higher-potency products danger to young and inexperienced
- Pesticide use alone poses risks and is unevenly regulated
- Cultivation also pollutes, uses much water and energy, with climate effects largely unstudied

Products: *Packaging* Policy Options

- Require child-proof or child-resistant packaging.
- Require on all product packaging rotating and specific health and safety warnings that cover at least 30% and ideally 50% or more of a package's principal display area.
- Require plain packaging (i.e., no branding).
- Require clearly visible labels that list percent concentration and THC/CBD ratio.
- Require labeling that indicates whether pesticides were used in cultivation of product.

Products: Policy Recommendations

- Prohibit concentrates.
- Prohibit any products that contain alcohol or tobacco.
- Establishing a THC ceiling of 15%.
- If high-potency products allowed, regulate and make available separately, for instance through government-controlled stores with purchasing requirements and safety standards.
- Establishing a minimum CBD-to-THC ratio with flexibility to alter this as research emerges.
- Ban edibles and drinkables, or follow Canada's example and phase in sale of edibles after legalization of cannabis for nonmedical use if they are not already available.
- If edibles are allowed, prohibit their sale in outlets within 1,500 feet of schools, a more stringent prohibition than for outlets that do not sell edibles.
- Prohibit any product deemed to be “appealing to children.”
- Prohibit free giveaways of products or branded items.

Physical Availability

- Cannabis availability – how easy and convenient it is to obtain cannabis – is a significant determinant of cannabis use and associated problems.
- Cannabis outlets are tending to cluster in poor and minority communities.
- A large body of research has documented relationships between alcohol outlet density and various harms, including violence, motor vehicle crashes, and underage use.
- Research on the relationship between cannabis outlet density and harms is preliminary and more mixed.
- Until there is a clear association between harms and cannabis outlets, policymakers should consider that it is easier to limit outlet density before large numbers of retailers have established themselves than to reduce density and the number of outlets later.

Physical availability tools

- States and localities have three categories of land use regulations they can use to control the placement and density of cannabis outlets:
 - zoning restrictions (e.g., commercial versus residential),
 - proximity buffers (e.g., no cannabis outlets within 1,000 feet of sensitive land uses), and
 - density controls.
- There are examples of states using all three options in regulating cannabis businesses.
- In addition, experience from the alcohol field suggests that greater local control provides public health with more leverage to put in place protective measures

Physical availability concerns

- Days and hours of sale, security personnel, access to youth
- 21 age minimum for purchase, access to stores
- On-site consumption – cannabis lounges, tour or party buses, on-site sampling, special events, concerts, festivals
- Direct-to-consumer sales including home delivery, internet sales, third-party delivery, delivery by mail
 - Circumvent and undercut local control

Physical Availability: Policy Recommendations

- Minimum purchase age laws: 21+
 - No one under 21 employed in cannabis businesses
 - Sanctions for underage purchasers civil not criminal; primary enforcement on the outlets not the youth
- Local control, including zoning powers, proximity buffers, controls over outlet density
- Ensure that cannabis businesses are equitably distributed
- Population-based caps on the number of cannabis outlets
- At least a 1,000- foot buffer zone from sensitive land uses
- Ensure that zoning restrictions and proximity buffers equitably distribute cannabis businesses through a community
- Ban home delivery, or give localities the option to do so
- Include cannabis provisions in social host laws
- Enforcement is important!

Cannabis Marketing



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Cannabis Marketing: Developing in age of social media

- Social media doesn't always look like marketing.
- A majority of cannabis-related social media accounts are run by advocacy groups and industry interests, rather than by individuals sharing opinions or experiences.
- A number of Instagram influencers appear to be doing paid work for cannabis companies, despite a ban on cannabis businesses advertising directly on Instagram, Twitter, and Facebook.

Park SY, Holody KJ. Content, Exposure, and Effects of Public Discourses about Marijuana: A Systematic Review. *J Health Commun.* 2018;23(12):1036-1043.

Varghese S. Weed firms are using Instagram influencers to dodge regulations. *Wired UK.* January 19, 2019, 2019.

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Cannabis Marketing and Problematic Cannabis Use Among Adolescents

- Adolescents who saw billboards rarely/sometimes had 5 times the odds of a Cannabis Use Disorder
- Adolescents who saw billboards most/all of the time had 7 times the odds of weekly use and 6 times the odds of Cannabis Use Disorder
- Adolescents who owned/were likely to own branded merchandise had nearly 23 times the odds of weekly use

Trangenstein PJ, Whitehall JM, Jenkins MC, Jernigan DH, Moreno MA. Cannabis Marketing and Problematic Cannabis Use Among Adolescents. *Journal of Studies on Alcohol and Drugs*, 82(2), 2021.

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Youth exposure: does it matter?

- Lots of studies from alcohol and tobacco; conclusion from alcohol literature is that exposure is a causal factor in use
- Cannabis studies almost all cross-sectional – find associations between exposure and use but not clear which way the arrows of causality might go
- One longitudinal study – those who saw ads at baseline twice as likely to be using or intending to use a year later; those with higher than average exposure reported greater cannabis use and more negative consequences six years later

Marketing: Policy Recommendations

- Remove, at the state level, tax deductibility of marketing expenses for cannabis
- Focus restrictions on marketing content and placement on what is *allowed* instead of what is prohibited
- Restrict advertising to media and events where the audiences contain 15% or fewer youth under 21, roughly the percentage of 12-20 year-olds in the general population
- Create a state cannabis scientific advisory board to review the scientific literature in order to approve/reject health claims and ads that could be appealing to youth
- Use a portion of cannabis revenues to fund counter-advertising/marketing campaigns
- Fund a robust marketing monitoring system
- Enable strong administrative penalties for marketing violations

Taxation options

Method	Advantages	Disadvantages
WEIGHT	Easier to administer	Harder to use prices to reduce intensity of use
PRICE (SALES TAX)	Relatively easy to administer	If –pre-tax costs go down (likely with legalization), so will price of cannabis, with likely increase in consumption
POTENCY <ul style="list-style-type: none">• Milligram of THC• Product category• Potency range• Hybrid of these	Best option for achieving public health goals of preventing cannabis-related harms	Complex and difficult to administer and enforce

Other price/tax options

- Other options for influencing cannabis prices include:
 - local taxes,
 - minimum unit pricing,
 - banning price discounts, such as coupons, price promotions, and bulk purchases at discount.
- These approaches should be considered in addition to robust taxation.
- An effective cannabis taxation system requires robust administration and enforcement.

Prices/Taxes: Recommendations

- Set taxes high enough to increase prices post-legalization
- Base them on potency and regularly adjust for inflation
- Use minimum pricing, minimum markup, and tax floor policies
- Ban Price promotions, bulk purchases, coupons, and bundling of products with services
- Generate sufficient tax revenue to support:
 - Robust cannabis control agency to evaluate the health and safety impact of legalization
 - State, local and mass-reach interventions, substance use prevention, cessation and treatment, counter-marketing, surveillance, and evaluation.
- Maintain flexibility to account for product innovations

Cannabis Regulation and Social Justice: Summary of Findings

- Legalizing cannabis for non-medical use decreases the overall number of cannabis-related arrests but racial inequalities persist among those arrested.
- Programs designed to facilitate entry into the cannabis market by members of communities harmed by cannabis may have unintended effect of increasing consumption and harms in those communities.
- Better approach to rectifying past injustices: reinvest cannabis revenues in non-cannabis wealth generation in those communities (e.g. subsidizing home ownership).

Cannabis Regulation and Social Justice: Policy Recommendations

- Decriminalize cannabis possession for both adults and youth.
- Establish expungement programs for previous cannabis-related criminal convictions.
- Burden of the expungement process should be on the criminal justice system and not on previously convicted individuals.
- Address disparities in arrests of African American and Latino persons in and of themselves, separate from changes in cannabis policy.
- Explore options for reinvesting cannabis revenue into socially disadvantaged communities without linking these initiatives to cannabis businesses.

Monitoring and Surveillance

- WE ARE NOT READY!
- Existing national surveys are still asking the wrong questions
 - Mode, frequency, quantity of consumption
- There is no national detailed legal database tracking policies and changes over time to facilitate evaluation.
- State licensing, enforcement and adjudication data are not often not accessible.
- We need publicly available seed-to-sale tracking systems for cannabis production and sales, consistent across states.
- We need more research to understand and regulate cannabis impairment and traffic crashes.

Enforcement recommendations

- Sufficient funding, resources, and expertise for enforcement of cannabis laws.
- Policies and practices to ensure that enforcement operations and priorities are not influenced by revenue or cannabis industry pressures.
- Clear enforcement guidelines and protocols to ensure fair and consistent enforcement.
- Publicly available and accessible records management system tracking enforcement actions.
- Inclusion in such a system of data by income, race, sex, and location to facilitate public monitoring of equity in enforcement practices.

Images of Legalization



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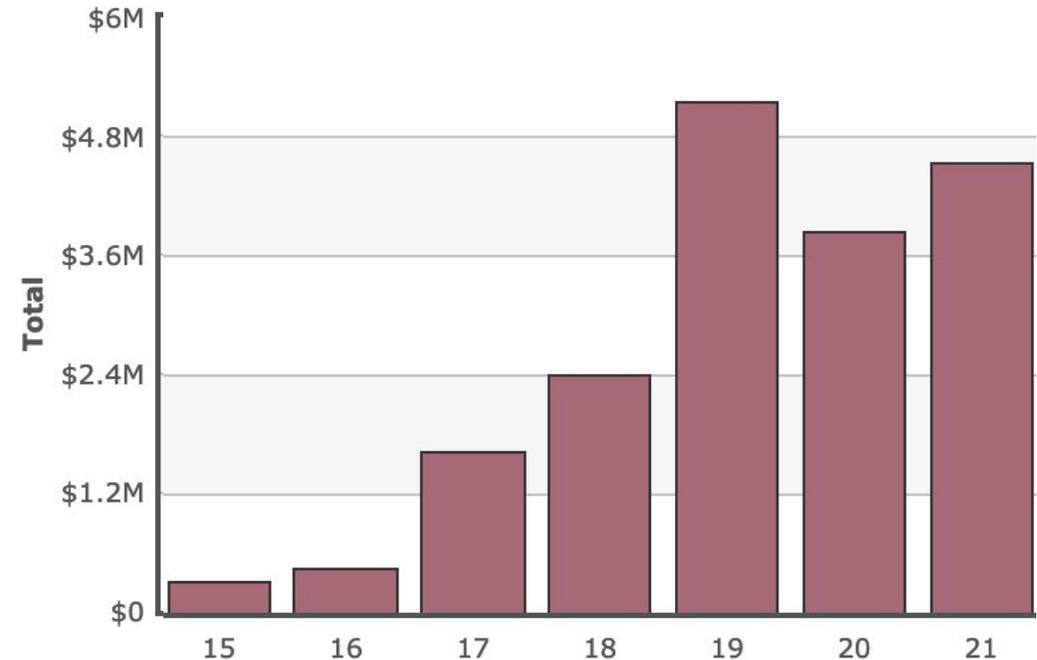
Images of Legalization



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In summary

- We have gotten a lot wrong in how we have made cannabis more available.
- We have not learned the lessons of alcohol and tobacco:
 - Don't let the industry get big
 - Marijuana businesses have donated \$24 million to state legislatures since 2010
 - Donations to Congress are also substantial
 - 106 registered lobbyists in DC



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PUBLIC
HEALTH



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CHANGE

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Boston University School of Public Health

dhjern@bu.edu
[@dhjalcohol](#)

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MORE Act in Congress: Key provisions

- Unchedules (as opposed to re-schedules) marijuana and THC, retroactively
- Requires BLS to collect statistics on demographics of owner/employees of cannabis industry
- Creates an Opportunity Trust Fund and imposes federal tax on cannabis rising from 5 to 8 percent of price per ounce or gram, depending on form of cannabis, also annual occupational tax
- Requires federal permit for all engaged in cannabis business
- Establishes Cannabis Justice Office in DOJ to administer Community Reinvestment Grant Program for persons adversely affected by the War on Drugs
- Provides for SBA assistance to persons adversely affected
- Provides for resentencing and expungement
- Requires study of societal impact of legalization of recreational cannabis by the States