HHS Region 10, State Cannabis Policies and Regulations:

A Guidance document for Northwest Substance Misuse Prevention Practitioners

Prepared by SAMHSA'S Northwest Prevention Technology Transfer Center

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Purpose

The purpose of this document is to provide the prevention workforce in Federal Region 10 states (Alaska, Idaho, Oregon and Washington) with information that supports the following:

- Prevention of youth cannabis use
- Prevention of adult cannabis misuse (heavy use and/or risky behaviors)

The information in this tool is intended to support capacity development specifically within the prevention workforce by increasing understanding of cannabis regulatory frameworks and policies that can affect prevention of youth cannabis use and harms. This includes by answering questions that Region 10's prevention workforce may have:

- **What is cannabis regulation?** This report provides information so stakeholders understand who makes policies and what kinds of policies are included in each of the four Region 10 states.
- **Why are specific policies important for prevention?** Key components of cannabis regulatory frameworks, and how each is relevant to prevention, are discussed. Because cannabis regulation is so new, some of what we think is important for prevention is related to research about regulations for tobacco and alcohol.
- **What is in place in my community right now, and is it good enough?** We describe the current status of each state's prevention-related cannabis regulations as of June 30, 2020. Further, we highlight important considerations in assessing regulatory content and advocating for prevention-supportive approaches, including how regulations affect vulnerable populations and the potential for unintended consequences. Notably, some local areas (cities, counties, boroughs or villages) have already passed additional regulations; these are not included in the scope of the report, but having an understanding of state regulations, including what additional regulation is allowed locally, is a starting point for assessing the status in any specific community.
- **What other options exist?** The existing regulations in other states may offer ideas about what is possible to strengthen cannabis regulations. This report also discusses potential policies from research on tobacco and alcohol.
- **What comes next?** Within the discussion about regulatory areas, emerging regulatory issues are also identified. These are topics that community advocates may want to anticipate and become prepared to address, whether they are intended to strengthen or weaken regulations.

Other syntheses of states' cannabis regulatory frameworks, which are not specific to prevention, may also be useful references for the prevention workforce. Links to these and other information such as cannabis-related data reports from Region 10 states are provided in the "Resources" section at the end of this report.

How prevention advocates can use this tool

- First, to generally educate stakeholders about concepts and elements of "stronger" and "weaker" policy.
- Second, to understand the status of regulations and policies within their own region, and where there are opportunities for strengthening those based on evidence about effectiveness for prevention.
- Third, to understand the status of regulations in other states in the region – especially when those are bordering states – because

that status could affect neighboring areas directly (e.g., availability of cannabis across state borders), provide models for policy goals (when they are relatively stronger), and provide examples to be avoided (if they are relatively weaker).

Effective approaches for advocacy and action

Cannabis regulations are new and can be confusing. The following advice may be useful in maintaining perspective in this work of assuring the best possible cannabis regulations and policies are in place, based on what we know now, to protect public health and safety.

Prioritize policy in prevention and bring prevention to the policy table. The importance of policies when addressing the prevention of substance use disorder cannot be understated. Many studies regarding alcohol and tobacco prevention confirm that while education is important, the policy environment directly affects behaviors and public health consequences. Comprehensive prevention efforts that include policy elements are most effective. Building prevention and public health stakeholder involvement in policy and rulemaking is key.

Know the landscape and the stakeholders. This report describes state-level regulatory processes; however, prevention stakeholders should also assess their local policies and the policymakers and processes for making them. Further, prevention stakeholders should also seek to understand the presence and perspectives of other stakeholders who are affected by and may be independently working to influence state or local policies (e.g., cannabis businesses, law enforcement, cannabis for medical use patients or advocates).

Policies can change quickly. Policies in this document were current as of June 30, 2020. However, policies can change, especially in this new environment of cannabis legalization. Prevention stakeholders are encouraged to be aware of potential for change; state regulatory agency and legislative alerts or listservs can help to stay updated. Links to other policy summaries in the Resources section of this report may be useful, if they are updated after this report's publication.

Maintain balance and credibility. In the past, some studies have overstated the dangers of cannabis use. Cannabis use can have serious risks, especially for young people, but overstating the research or repeating themes that were developed with a "reefer madness" mentality of extreme and unsupported scare tactics will only undermine the credibility of prevention stakeholders and stall any efforts to effectively advise regulations and policy. Instead, relying on solid scientific resources, acknowledge what is known and what is not known. When prevention is seen as a valued and trusted stakeholder, we will be in a position to emphasize that when it is not clear what the risks are we can use the "precautionary principle" – meaning that changes are made when they can be reasonably assumed to be safe. The Resources section of this report provides links to a few scientifically grounded summaries of the evidence on cannabis use harms, as well as to state reports about data describing cannabis use and associated health data.

Prioritize equity and inclusion. The history of the "war on drugs" has been associated with marginalization and negative impacts – such as arrests – for different communities, especially communities of color. Meaningfully engaging diverse community members early and often in policy and rulemaking processes is one effective way to assure that well-intended ideas do not

have unintended negative consequences, especially among communities that have been harmed by past policies and rules. This report emphasizes equity both as regulatory concepts are introduced and highlights some policies that specifically need review with an equity lens (see "Equity and Social Justice in Regulatory Frameworks").

Background

This section provides general information useful for understanding cannabis regulatory frameworks, including defining common language related to markets, products, and legal terms.

Note to readers: This report uses the term "cannabis" except where existing regulations or programs use the word "marijuana".

What is cannabis?

This section defines terms related to the discussion of cannabis or marijuana regulation. Different cannabis products that can be used, bought, and sold are also described below. Some of these (hemp and synthetic marijuana) are provided for clarity, and not discussed substantively in this report.

Cannabis. Cannabis or marijuana is derived from the plant Cannabis sativa. It is also sometimes called weed, pot, or by many other terms that have varied in different places and over time (e.g., grass, dope, ganja). Unless otherwise specified in this report, the term cannabis refers to any cannabis products, whether intended for either medical or recreational purposes. The term "marijuana" is also used in this report because that is the term used in state laws and regulations.

Delta 9-Tetrahydrocannabinol (THC). THC is the main psychoactive compound in cannabis. It is responsible for mind-altering effects.

Cannabidiol (CBD). CBD is one of many cannabinoid chemicals in cannabis plants. It is often the principal active ingredient in cannabis for medical use products, and it may also be found in other retail products (see "hemp"). It is not known to have psychoactive properties (in other words, it does not make the user "high" when THC is not present). However, the ratio of THC and CBD present in products may change the effect on someone who consumes cannabis products; this is not currently well-understood.

Cannabis plant buds and flowers (sometimes called "usable cannabis") are typically dried for consumption. Usable cannabis can be smoked or vaped directly or processed into other types of products. Dried leaves, trimmings and "shake" (from the bottoms of jars or bags of bud/flower) can also be used to make products.

Common methods for consumption of different cannabis product types include:

- Smoking: inhaling smoke from usable cannabis in a rolled joint, pipe, blunt or bong
- Eating: consuming "edibles" or foods with cannabis ingredients (e.g., cookies, chocolate)
- Drinking: consuming cannabis-infused beverages (e.g., teas or sodas)
- Vaping: inhaling vapor from an electronic cigarette-like vaporizer or other electronic device
- Dabbing: heating a high-potency concentrate (e.g., wax, dabs, shatter) on a hot surface and inhaling the smoke from a vessel
- Tinctures: cannabis extracts infused in an alcohol base are applied as drops under the tongue
- Topical: applying infused lotions or oils to the skin (these are not psychoactive, meaning they do not generally make people "high"; however transdermal patches with high THC levels may have intoxicating effects)

Cannabis for medical use. This term refers to cannabis that is specifically being used for treatment of a condition or symptoms. In Alaska, Oregon and Washington the state maintains a confidential registry of patients who have an authorization from a provider to use cannabis for treatment of defined "debilitating medical

conditions" (for example, cancer, HIV/AIDS, severe nausea or chronic pain).

Hemp. Hemp is defined as cannabis plants containing less than 0.3% THC, and therefore not having the psychoactive properties typically associated with cannabis plants. Conventionally, it was processed into fibers for paper, textiles and other industrial products. However, since hemp was removed from the Controlled Substances Act by the U.S. Congress as part of a December 2018 Farm Bill, and states were given leeway to regulate it, there has been an increase in products infused with cannabidiol, commonly known as CBD, that is derived from hemp. Unless restricted by a state, hemp-derived CBD products may be sold in any market outlet, including grocery stores or online. Hemp is not discussed specifically in this report. It should be noted, however, that CBD has not been approved by the FDA as a food additive.

Synthetic marijuana. These are man-made chemicals that are sometimes sold or used as an alternative to plant-based cannabis, but they are not from the same origins and do not act the same. Common names include "K2" and "Spice." Synthetic marijuana is not really a cannabis product and not regulated by states within cannabis laws (nor discussed further in this report). For more information see the CDC website https://www.cdc.gov/nceh/hsb/chemicals/sc/default.html

Potency. Cannabis product "dose" or "concentration" is frequently considered in terms of the number of milligrams of THC and CBD for infused products and the percentage of THC for usable cannabis and concentrates and extracts. However, even with the same dose or concentration the effects can be different for different people.

Legal Terminology. The following are terms often used in the context of laws about allowing cannabis.

- **Legalization.** This term can refer to either medical or non-cannabis for medical use use. Legalization means allowing cannabis products to be possessed and used by specific groups of persons (e.g., people age 21 and older, people with medical authorizations for specific conditions or who are enrolled in a patient registry). It does not necessarily mean that a market for sale of either medical or retail cannabis has been established.
- **Retail cannabis.** This term has become more commonly used (in place of "recreational cannabis") to indicate the establishment of a market for non-medical marijuana sales following legalization.
- **Decriminalization.** This term means that cannabis-related crimes are no longer subject to criminal penalties, or if they remain criminal then they are no longer subject to prosecution. People found in possession of cannabis may still be subject to a small fine, similar to a traffic ticket.

Cannabis use and public health

During decades of the "war on drugs" and federal classification of cannabis among other high-risk drugs such as heroin or cocaine, many studies have been published that show associations between cannabis use and a variety of health harms. However, many of these studies were of poor quality or over-interpreted their findings. For example, many did not effectively measure cannabis exposure in terms of consumption, consider product content, or account for co-occurring behaviors like cigarette smoking. Therefore, any discussion of harms related to cannabis use should carefully consider the quality

of any evidence used in support of decisions about regulation or other control measures.

Two comprehensive sources of carefully reviewed and scientifically verified information about known associations between cannabis use and health are:

- National Academies of Engineering, Science and Medicine (NASEM, formerly the Institute of Medicine) The health effects of cannabis and cannabinoids: The current state of evidence and recommendations for research (January 2017)
- Colorado Department of Public Health and Environment (CDPHE) Monitoring Health Concerns Related to Marijuana (multiple reports and resources, updated continuously).

Links to these reports are provided in the "Resources" section at the end of this document.

These reports indicate different levels of findings for associations between marijuana use and health outcomes. Notably, many of their findings are for associations which do not prove that cannabis use caused the health outcome (alone or in part), although studies were examined for other explanatory factors like presence of alcohol and tobacco use.

Selected findings are shown below, and more information is available within these reports, including continuously updated versions of Colorado reports that incorporate new evidence:

- Substantial or strong association between cannabis use and: traffic crashes; dependence/addiction (especially if starting at an early age); symptoms of psychosis and schizophrenia (especially among people starting regular use at an early age); chronic bronchitis (long-term, heavy use)
- Moderate/some association: regular cannabis use by youth and adolescent brain development, impact on education, dependence or risky use as an adult of alcohol, tobacco and other drugs; low birthweight for maternal use; acute heavy cannabis use and impairment in learning, memory attention; future diagnosis of anxiety or psychosis from regular use (especially among people starting regular use at an early age)
- Limited association: acute use and increased risk of heart attack, stroke
- Biological evidence for THC transference to an infant through breastfeeding (but no information on effects)

Cannabis for medical use and prevention

Cannabis has been shown to be effective for medical use for some purposes. A recent rigorous review of the evidence for effective medical use for specific purposes reported:[1]

- Conclusive/substantial effectiveness: chronic pain in adults; anti-emetics in chemo-induced nausea, vomiting; improving multiple sclerosis (MS) spasticity symptoms
- Moderate effectiveness: improving short-term sleep outcomes among those with sleep disturbance (obstructive sleep apnea, fibromyalgia, chronic pain, MS)
- Limited effectiveness: increasing appetite/decreasing weight loss associated with HIV/AIDS; improving clinician-measured MS spasticity symptoms; improving symptoms of Tourette syndrome; improving anxiety symptoms, as assessed by a public speaking test, in individuals with social anxiety disorders; improving symptoms of post-traumatic stress disorder (PTSD)

- Limited for association: Better outcomes (i.e., mortality, disability) following traumatic brain injury
- No or insufficient evidence: improving symptoms associated with dementia; improving intraocular pressure associated with glaucoma; reducing depressive symptoms in individuals with chronic pain or MS
- Limited evidence of ineffectiveness: cancers, including glioma; cancer-associated anorexia cachexia syndrome and anorexia nervosa

Relevant to prevention, the existence of a medical market has been inconsistently shown to be associated with youth cannabis use. Potentially, unregulated or poorly regulated cannabis for medical use systems could have provided access to youth.

Medical regulations are not specifically discussed in the rest of this report, although they are mentioned in some cases where they are relevant to specific application of retail cannabis regulation (e.g., medical authorized patients may be able to purchase higher-THC products in some retail settings). High-level summaries of state-level medical marijuana regulations are available from other sources; see "Resources" section at end of this report.

Legalization of cannabis in the Pacific Northwest

Legalization of cannabis for non-medical purposes has evolved rapidly since the first states (Washington and Colorado) passed voter initiatives to do so in November 2012, followed by Oregon and Alaska in November 2014. Retail cannabis sales for adults age 21 and older began in Washington in July 2014, in Oregon in October 2015, and in Alaska in October 2016.

In Region 10, regulation of cannabis for medical use sales varies. Alaska and Washington have fully integrated cannabis for medical use distribution within retail cannabis markets, but Oregon has so far retained a separate medical market (although only a small number of outlets – 3 dispensaries as of mid-2020 – have chosen to be licensed as exclusive medical dispensaries rather than as retail outlets, which can sell similar products). Cannabis for medical use program oversight is provided by the health agency in each state. Following legalization of retail cannabis, more stringent regulations for cannabis for medical use have been implemented alongside those for retail cannabis, so problems associated with previously unregulated cannabis for medical use markets may have been reduced. Although Region 10 states allow youth to be authorized as cannabis for medical use patients for some conditions, state reports indicate that this is very uncommon.

Idaho

Cannabis remains a Schedule I controlled substance in Idaho, consistent with federal law. It is illegal for any person to manufacture, deliver, possess with intent to manufacture or deliver, or possess cannabis, which refers to all parts of the plants of the genus cannabis, including or any preparation which contains tetrahydrocannabinol (THC). It is illegal to publicly use or be under the influence of cannabis. A 2019 formal statement from the Governor's Office of Drug Policy indicates clear opposition to any legalization.[2]

While Idaho has not legalized either cannabis for medical or for personal use by adults, the entire eastern border of the state is shared with Washington and Oregon, where retail cannabis sales are legal. In fact, retail outlets in both of those states are sited to make access convenient for Idaho residents (e.g., Ontario, OR; and Clarkston or Pullman, WA) and much of the

cannabis confiscated in Idaho recently has come from legal stores outside the state.[3] Therefore, prevention advocates in Idaho may wish to become familiar with the context of Washington and Oregon regulations and anticipate their influence within Idaho. For example, Washington State licensees are prohibited from advertising outside the state, but Idaho stakeholders would be more likely to observe such activities than Washington regulators. Knowing the regulations may help communities to address concerns.

Canada

Canada has legalized cannabis at the federal level, effective October 2018. Provinces determine the age of legal use within their jurisdiction. To date, all U.S. states that have legalized non-cannabis for medical use have done so only for people ages 21 and older; however, British Columbia, which borders Washington and Idaho to the north, has established the age of legal use as 19.[4] This could have an effect on prevention efforts, especially in border areas.

Applying a prevention lens to regulatory components

This section summarizes rules and laws to regulate cannabis in states.

First, we provide a description of the regulatory bodies that create and oversee the regulatory system. Then we discuss regulatory components that are most relevant to preventing cannabis use by youth and unsafe use by adults, organized as the following **"5 Ps for Prevention."**[5]

- **Public health and safety,** including requirements that prevent diversion and protect customers
- **Places to access,** including factors affecting individual possession, use; licensing and operations; placement of businesses; expanded privileges
- **Products and Potency,** including factors affecting what products are allowed, their potency; packaging and labeling requirements; and purchase limits for specific products
- **Promotion and Advertising,** including factors affecting design and content, or placement of any advertising
- **Pricing,** including taxes and other factors related to the cost of products

Each state's regulation status related to specific components as of June 30, 2020 are included in the State summary reports.

Because cannabis regulation is new, we do not yet have enough evidence to know what the "best practices" are. Therefore, some descriptions of potential effective policies for prevention in this report are based on research from tobacco and alcohol regulations, rather than only cannabis regulations implemented since states began legalizing. The "Resources" section at the end of this report provides more links to documents discussing cannabis regulations and their likely influence on public health.

Regulatory Structure: Who makes the rules?

What does this mean?

The regulatory structure in each state details which state agencies have responsibility for implementing and overseeing the laws and regulations regarding cannabis, including production and retail sales. States differ in how much regulatory authority is delegated to local jurisdictions. These jurisdictions also differ in how they operate.

Why is this important?

Understanding the regulatory structure in your state is important for:

- Knowing how and where to research and track current laws, regulations, and local ordinances.
- Educating policymakers and the public on issues regarding cannabis.
- Advocating for sound policies that promote prevention and public health.

Background and definitions

Laws originate through state legislatures and, in states where allowed, through citizen initiatives and referenda. Legislators propose new laws and make changes to laws during the legislative session.

Rules to implement state laws are made by those state agencies, boards or commissions that are designated (by law) with implementing the laws. State laws also specify the overall process by

which the rules are developed, implemented and changed.

The basic differences between laws and rules are:

Laws

- Enacted by the Legislature and signed by the Governor
- Enacted by voters (initiatives and referendums)

Rules

- Detailed regulations necessary to implement the law
- Clarifies what is allowed or not allowed under law
- Created by state agency, board or commission
- Cannot change the law in any way
- Public and transparent process
- Once final, they provide the structure for participation in the system

State laws determine the rulemaking process, allowing time for stakeholder input and providing public hearings before the rules are passed and implemented. Understanding the rulemaking process is important so you know how and when input can be provided.

It is also important to know how input can be provided when there is no formal rulemaking taking place. For example, in Washington State, the Liquor and Cannabis Board sets aside time at the end of their regular Board meetings for public comment. The Board can also be petitioned to begin a rulemaking process.

The following is a list of the agencies with responsibility for the implementation of cannabis laws in Washington, Oregon, and Alaska.

Regulatory Bodies: Entities that create rules and provide oversight.

State Regulatory Agencies

Each state has a lead agency that oversees the implementation of retail cannabis markets. Those that have primary responsibility for cannabis regulations are:

- Alaska Alcohol and Marijuana Control Office (AMCO) Marijuana Control Board, within the Department of Commerce, Community and Economic Development – Licensing and overseeing the cultivation, manufacture, and sale of cannabis. https://www.commerce.alaska.gov/web/amco/Home.aspx
- Oregon Liquor Control Commission (OLCC) – Licensing of industry; product packaging and label approval; enforcing laws and regulations at licensed locations; issuing worker permits. https://www.oregon.gov/olcc/marijuana/Pages/default.aspx The agency's rulemaking process is described here: https://www.oregon.gov/olcc/docs/publications/Rulemaking_Process.pdf
- Washington Liquor and Cannabis Board (LCB) – Licensing of the industry; enforcing the laws and rules at licensed locations. https://lcb.wa.gov/marj/marj This agency's rulemaking schedule is described here: https://lcb.wa.gov/content/rule-making-schedule

Other state agencies may have oversight of related but discrete elements of cannabis regulation. For example:

- Alaska's Division of Agriculture (within the Department of Natural Resources) – Instituting an Industrial Hemp Pilot Program.
- Oregon's Department of Agriculture – Licensing of food kitchens; lead agency for oversight of hemp production.

- Washington's Department of Agriculture – Approval of recipes and kitchen for production of food grade products; implementing 2019 Senate Bill 5276 which allows for the growing of hemp; working with the LCB regarding producers who choose to grow both cannabis and hemp. Additionally, the Washington Department of Ecology (DOE) provides guidance on environmental regulations affecting cannabis licensees and is responsible for accrediting of cannabis testing laboratories effective July 2024. https://www.oria.wa.gov/site/alias__oria/448/default.asp

Finally, each state's health agency has a role in advising health-related regulations, as well as implementing specific health-related activities and overseeing cannabis for medical use programs.

- Alaska Division of Public Health (within the Department of Social and Health Services) – Overseeing the Alaska Medical Marijuana Registry program, and also advises AMCO regulations around non-cannabis for medical use.
- Oregon Health Authority, Public Health Division – Product testing; setting concentration limits; overseeing medical cardholder registry (patient, caregiver, grower), registering cannabis for medical use growers, processors, and dispensaries; enforcing regulations at cannabis for medical use licensed locations; monitoring cannabis for medical use inventory.
- Washington Department of Health (DOH) – Establishing the rules and procedures governing cannabis for medical use; working in conjunction with the LCB in overlapping areas such as testing and labeling of medically compliant products.

Governing Bodies

Alaska, Oregon and Washington all have policy boards appointed by their governors. Washington has 3 members and no specific representation; Alaska and Oregon's boards are larger and include representation from specific areas of experience (e.g., businesses or geographic regions). Rather than managing day-to-day operations, these bodies oversee policy decisions which are then implemented by the state regulatory agency (AMCO, OLCC, or LCB).

Advisory Bodies

The extent to which advisory bodies are used varies by state. Oftentimes ad hoc committees will be established to work on specific rulemaking topics. For example, in mid-2019 Washington's Liquor and Cannabis Board (LCB) convened a "Potency Tax Work Group" to advise potential revision of the structure of taxes on specific products. Oregon has a standing Rules Advisory Committee that is made up of representatives from public health, public health, industry, and citizens.

Local Entities

Ordinances are laws enacted by local municipalities such as counties and cities. Regarding cannabis, municipalities are limited by the laws in each state regarding the scope of cannabis regulations they can enact. However, Alaska, Oregon and Washington all allow individual municipalities to ban cannabis licenses within their jurisdictions. Local ordinances generally will address time, place and/or manner of operations within the allowable scope; local zoning ordinances define where businesses can be located. It is up to the local jurisdictions to enforce their ordinances. The extent of local control is specified in the accompanying summary of state regulatory components.

Examining State Regulatory Components using the 5 Ps of Prevention

Public Health and Safety

What does this mean?

Cannabis is still federally illegal, and a significant amount of focus has been placed on public safety issues in communication from the federal government about the operations of state law in conflict with federal law. The Cole Memo issued by the Department of Justice in 2013 articulated a set of expectations that states legalizing cannabis needed to comply with in order to avoid federal government action. This memo was later rescinded by Attorney General Jeff Sessions, but still serves as a guidance document for many states. The Cole Memo led states to carefully design and enforce regulations that serve to meet eight specific expectations:

- Prevent distribution to minors
- Prevent revenue from going to criminal enterprises, gangs, and cartels
- Prevent diversion to other states
- Prevent state-authorized marijuana activity from being used as a cover for trafficking other illegal drugs or other illegal activity
- Prevent violence and the use of firearms in cultivation and distribution of marijuana
- Prevent drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use
- Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by such
- Preventing possession or use on federal property

To help ensure meeting these objectives, regulatory authorities use track-and-trace systems, institute consistent and strong enforcement of laws and regulations, and assess appropriate penalties associated with violations of the rules and regulations.

Why does it matter?

Enforcement of laws, including minors' access laws, can be an effective component of limiting youth substance use, based on experience from other substance regulation such as alcohol.[6] Enforcement activities may not be effective when conducted alone, but rather in combination with other activities, such as recommended by the CDC's Best Practices for comprehensive tobacco control programs.[7]

Region 10 variation relevant to prevention

Some key differences relevant to prevention include:

- Washington and Oregon enforcement agencies have implemented systematic undercover "minor operative decoy operations" (i.e., compliance checks) and publicly report this information. Alaska has not done so.

Key Definitions

Factors affecting public health and safety

Requirements that help prevent diversion and protect the consumer

Traceability systems

"Track and trace" systems are set up to identify and monitor cannabis products from seed to sale. One

important benefit of this type of system is to be able to trace the origin of a product when a public health concern arises. For example, if someone becomes ill because of a tainted product, the system would allow public health officials to determine where the product originated and if there are other dangerous products in circulation that need to be removed. A traceability system also serves to assist the state regulatory authority in meeting many of the objectives listed in the Cole Memo. Preventing diversion of cannabis to youth, to the illegal market, and to other states is aided with a strong traceability system.

Required laboratory testing

Laboratory testing may be less relevant to prevention but is still important for public health. Lab tests include testing for contaminants such as pesticides, molds, and residual solvents. These can pose health risks to those using the products. Lab tests also determine cannabinoid levels for the products to assure labels are accurate and, for infused products, within the legal limits for serving size and package content. States have established different specific requirements for specific tests and procedures to implement them (e.g., sampling, frequency, number).

Laboratory certification and monitoring

To ensure high standards of testing, it is important that labs be certified and monitored. All states have established some guidelines for doing this, but both the technology and guidance for assuring their quality are still in development.

Facility requirements (including security, cameras, separate entrance, etc.)

Regulations for licensed facilities include security standards (e.g. fencing for grow operations, commercial grade locks, adequate lighting, etc.), video monitoring of the entire premises, signage, etc. These requirements help to prevent unauthorized access, diversion of product, and theft, as well as safety of the employees.

Required employee training

Alaska and Oregon have required training for licensees and their employees. Training curriculum components are determined by the regulatory agencies. Well-trained employees will know and understand the regulations, helping to ensure compliance. Including health risks of use, how to properly check ID, how to recognize intoxicated individuals, etc., in the curriculum will provide additional protection for individuals and public health as a whole.

Enforcement authority

Regulatory agencies and local communities need the resources to enforce cannabis rules and regulations, both in personnel, funding, and enforcement authority. There are three prongs to this responsibility: education, monitoring, and enforcement. Licensees must be aware of and trained in the rules and regulations and how to achieve compliance. Regular and consistent monitoring helps to ensure continued compliance. And when that fails, it is necessary to take enforcement action.

Penalties for violation

Penalty structures for non-compliance with regulations vary across states. Relevant to regulatory agency-specific penalties, responses to infractions (i.e., a license violation) can range from a warning to a fine to license suspension or revocation depending on type and seriousness of violation, and violation history. A penalty structure is in place to address non-compliance.

Important considerations in developing penalty structures include:

- Differentiation in scale between imminent public health and safety issues versus violations with minimal impact to the public or to the state;
- Graduated penalties to discourage regular violations in lieu of compliance (e.g. it's easier to pay the penalty than comply);
- Consistency in enforcement.

Ongoing and emerging issues

The following are examples of issues where regulatory changes are being discussed or could be discussed in the future. Prevention advocates may want to be ready to respond to these issues.

- Traceability systems ("seed-to-sale" tracking systems for cannabis plants and products) in several states have presented challenges with software shortcomings, glitches, and unreliability. Failure of these systems may reduce their effectiveness in reducing the risk of illegal activity.
- Agency enforcement divisions may not have the enforcement authority or the resources to sufficiently monitor all aspects of cannabis regulation.

Placement and Access

What does this mean?

A variety of regulations determine where cannabis can be cultivated, processed, sold, possessed, and used. Regulations also specify the conditions that must be present. Public health and safety, including prevention of youth use and adult misuse, are considerations in setting regulations regarding place because of the effect on access. Laws regarding public use and possession limits also link to access.

Why does it matter?

Increased access to retail outlets has been consistently associated with increased use of alcohol. The Community Guide to Preventive Services Task Force, which conducts rigorous reviews of evidence for interventions, recommends restricting the location and density of alcohol retail outlets and limiting hours/days of sale as effective to decrease excessive alcohol consumption, alcohol-related crashes, and hospitalizations.[8] Evidence from tobacco outlet density has been suggestive but less strong;[9] some communities have still emphasized regulation of tobacco retail density as an important approach.[10]

Region 10 variation relevant to prevention

Some key differences relevant to prevention include:

- Washington State has "capped" the number of retail sales licenses that are allowed statewide and setting limits by jurisdiction.
- All states have established minimum "buffer" distances so that cannabis businesses cannot operate near schools. Washington State has a more extensive list of youth-related facilities that businesses cannot be sited near (e.g., parks, playgrounds); however, cities can act to reduce this buffer from the state-established 1,000 feet to 500 feet for all but schools and playgrounds, because otherwise there may not be a sufficient eligible sites in some locales for businesses to operate.
- All states ban public use, but Alaska has recently begun to allow public consumption endorsements at cannabis retailers that meet specified criteria.
- Oregon has begun to allow home delivery.

Key Definitions

Factors affecting individual possession/use

Public Use

Washington, Oregon and Alaska all currently prohibit use of cannabis in public view and on public property. The wording and definition of each statute determines how this is interpreted. The Oregon statute says cannabis may not be consumed in a public place, which is defined as

".. . a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and areas used in connection with public passenger transportation." Alaska also bans all public use of cannabis, and the definition is similar to Oregon's definition.

Washington statute states, "It is unlawful to open a package containing marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates, or consume marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates, in view of the general public or in a public place."

As states pass laws allowing social consumption sites, these sites are being exempted from the prohibition on public use. In at least some cases, they are also being exempted from the Clean Indoor Air Act. Social consumption sites are addressed specifically later in this section.

Use on tribal lands is governed by the individual tribes.

Possession Limits

The amount of cannabis a person may have in their possession is specified by law in each state rather than rule. Key differences are the amounts allowed by specific product type, for medical patients and the amounts of usable cannabis allowed in homes where home grows are allowed.

Age limits for possession and use

All states limit the purchase of retail cannabis to adults 21 years of age and older. However, states do vary on their laws regarding the purchase of cannabis by medical patients. Oregon, Alaska and Washington allow patients who are 18-20 years-old to purchase provided they meet the specified requirements.

Factors affecting business licensing and operations

Hours retail sale is allowed

Hours when retail sales can occur vary by state. Washington and Oregon similarly limit hours of sale, allowing for a maximum of 15-16 hours of operation per day. Alaska allows up to 21 hours of sale per day.

Placement of product in retail stores (e.g., behind counters)

Alaska requires products to not be visible to the public from the public right of way. Oregon and Washington require that products are not accessible to customers until they have been purchased.

Minors access to licensed retail locations

Persons under age 21 are not allowed in retail locations in all states. Limited exceptions are for medically authorized patients ages 18-20.

Mandatory signage for retail

States require signs that contain specific language about the law such as that minors are not allowed in retail stores, and that public consumption is not allowed. States may provide the signs to retailers, or require that signs meet specific criteria for visibility and readability.

Limits on number of licenses by person or entity

Limiting individual licenses may be of interest because it prevents consolidation of business entities, protecting smaller businesses. Only Washington currently does so (limits to 5 per person or entity for retailers; 3 for producers/ processors). Additionally, in Washington producers (growers) and processors cannot hold a retail license. This bans "vertical integration" which may otherwise result in lower retail costs.

Indoor or outdoor grows for business production

Some states have limited outdoor growing to deter theft. All the Region 10 states currently allow both indoor and outdoor growing.

License Restrictions and Allowances

Each state determines the types of licenses and the restrictions and allowances for the licenses. Regarding the prevention of youth use, it is helpful to understand the regulations for those licenses that are most susceptible to illegal access by youth. These include retail, producer/ cultivator, cooperatives, and home grows. Strong regulations will limit the hours for retail sales, require that products not be accessible to customers without assistance from an employee, and prohibit access to licensed properties to those under 21 years of age, with mandatory signage indicating this age limit. Security safeguards (such as perimeter fencing and camera coverage for grow operations), and effective employee training programs are covered under "Public Safety" but also affect access.

Whether there is a limit on the number of licenses one person or entity can own may not seem important until one thinks about the political power that may be yielded by larger businesses. While this may not always be the case, it is something to consider.

Factors affecting the placement of businesses (density/specific locations), especially retail/ dispensary/individual sales outlets

Limits on total number of licenses issued per category/type of license

Washington State has established "caps" on the number of retail licenses allowed per city and county, based on population, a maximum of 556 at the state level. An original cap established by the state's legalization initiative was increased to allow for consolidation with the state's medical market. Alaska and Oregon have not established limits, therefore businesses may continue to be licensed in response to perceived market demand. Oregon has recently acted to temporarily stop licensing producer (grower) licenses, in an effort to reduce overproduction of cannabis in the state.

Buffer distances

Buffer zones describe places around which business activity is prohibited. The Region 10 states have generally restricted licensed establishments from being within close proximity to child-centered locations, such as schools. Washington and Oregon require 1,000 foot buffers, and Alaska requires 500 feet. Washington has a relatively more extensive list of sites from which there is a buffer in comparison to other states, but has allowed cities to reduce state-described buffer distances for many of them

if applying the buffers results in insufficient numbers of places where businesses can be located (e.g., in urban settings with a high density of different activities). Oregon requires a buffer only from schools.

Proximity to other retail cannabis licensees

Requiring minimum distances between retail premises can also have a positive effect on reducing density. Oregon regulations allow cities and counties to set reasonable limitations on where a premises for a license may be located, and localities can prohibit a cannabis retail licensee from being located within 1000 feet from another licensed premises. Other states have not specified restrictions.

Extent of local control of licensing (including bans)

Local government in all states may prohibit licenses, either temporarily (i.e., a moratorium, typically imposed while considering options) or permanently, though some require specific actions such as referral to a local vote (Oregon). Local governments may also create a local area business license that includes specific business requirements and fees.

Local entities may have some authority to object to the processing of a specific licensed applicant for specific reasons. In Alaska and Oregon, citizens and/or local governments can object to individual licenses being granted. Local objection is also allowed in Washington, but the LCB makes a final determination.

Zoning

Local entities (cities and counties) typically control "zoning," which is the designation of what kinds of activities are allowed on parcels of land (e.g., residential only, mixed residential/business, light industrial, etc.). Prohibiting siting of businesses in residential areas is an option that is often used; Washington and Oregon prohibit the siting of licensees in parcels locally zoned for residential use alone.

Factors affecting individual access to product outside of retail settings (i.e., expanded privileges)

Business proponents and some public officials are increasing efforts to expand access in order to provide greater business opportunities, increase customer access, and increase sales. Sometimes this is called "expanded privileges."

Home delivery

In states where home delivery is allowed, regulations are established to help ensure safety of the delivery driver, tracking of product, no deliveries to those under the age of 21, etc. Oregon is the only Region 10 state currently allowing home delivery, and businesses must be approved by the OLCC to do so.

Internet sales

Currently Washington, Oregon, and Alaska all prohibit internet sales. An option for some states is to allow ordering online or placing a hold on products that would be picked up later at a licensed location. This would discourage underage purchases because of the controls in place at licensed premises.

Home grows

Oregon and Alaska allow home grows with limits on the number of plants allowed and the amount of product on site. Washington only allows home grows for medical patients and their designated providers. Access for those under 21, especially youth, is a concern with home grows. Ensuring security is more difficult and monitoring for compliance with limits is nearly impossible for

law enforcement. Search warrants are required to enter private residences.

Social or on-site consumption

Social consumption sites can vary depending on the state regulations. Alaska was the first state to allow on-site consumption at retail shops through statewide regulation, although localities can opt out.

In other states outside Region 10: California allows local jurisdiction to authorize on-site consumption. Colorado passed a bill in the 2019 legislature that will allow cannabis cafes, lounges, dispensary tasting rooms, and other businesses as well as consumption on tour buses. These businesses will be exempt from the Clean Indoor Air Act.

Gifting or sharing

States have some restrictions on how an individual may "give" cannabis to another person, including limits on amount. Some of these restrictions may be intended to prevent businesses from "giving" products as part of a promotional effort.

Ongoing and emerging issues

The following are examples of issues where regulatory changes are being discussed or could be discussed in the future. Prevention advocates may want to be ready to respond to these issues.

- Retail limits – Proponents for an open retail market believe the tight regulations are strangling the growth of this new industry. There is also concern that unlimited production when paired with limited retail outlets will drive prices too low and/or contribute to surplus product being diverted to the illegal market (this has especially been a concern in Oregon). A common refrain is to let the free market determine who succeeds and who doesn't, and not limit successful business operators. Where additional retailers are located is an important consideration. Which communities and individuals will be affected?
- Home delivery – As cannabis businesses continue to look for ways to expand their market reach and cater to consumers, home delivery will continue to be on the menu of restrictions they would like to see changed. This may or may not be limited to delivery of cannabis to medical patients. Examples of regulations that could be included in discussions of delivery are:
    - Limitations on delivery locations, such as only to private residences or only within the jurisdiction where the retail store is located;
    - Training requirements for delivery drivers;
    - Limitations on the amount of product and cash that can be transported;
    - Requirements for a travel manifest with detailed information, including driver, vehicle, delivery address, name of customer, product details and amounts, route, etc.;
    - Procedures for delivery, including verifying identity and legal age, getting a signature, etc.,
    - Limitations on times of delivery;
    - Prohibition on sales from the delivery vehicle.
- Public use – Social consumption sites. Social consumption sites are being seen as an alternative to (and possibly a solution for) cannabis use in public areas, such as sidewalks and parks. In discussions about social consumption sites, some issues to consider are:

- If the businesses are not licensed to sell cannabis, where will the cannabis be obtained?
- How will overconsumption be prevented?
- What training will there be for on-site staff?
- What health protections will there be for on-site staff?
- What impact might this have on DUI rates and crashes?
- What considerations will be in place for employee health and welfare?

Products and Potency

What does this mean?

As a method of preventing or reducing youth use and adult misuse of cannabis, regulatory practices can focus on the types of products and their potency, appearance, packaging, and labeling. Unlike alcohol and tobacco, as described earlier, cannabis products are available in a variety of forms and methods of use. Like alcohol and tobacco, product characteristics and packaging affect potential for harm, attractiveness, accessibility, and availability.

Why does it matter?

Availability of high-potency cannabis products may be of particular concern with regard to prevention. The Community Guide summarizes evidence from alcohol research and indicates that increased availability of liquor products, which have relatively higher alcohol content, is a risk for young people. Studies suggest that youth who drink alcohol prefer hard liquor[11] and that liquor consumption may be more associated with risky behaviors among youth than other types of alcohol.[12] High-potency cannabis products (e.g., concentrates, edibles, oils) could be similarly problematic.

Based on evidence about how specific products and their packaging could appeal to youth or young adults, the 2009 U.S. Family Smoking Prevention and Tobacco Control Act banned flavored cigarettes (excluding menthol) and required tobacco companies to seek FDA approval for new tobacco products. This is one approach to product restrictions for prevention.

In addition, the appearance of products, including their packaging and labeling (e.g., colors, shapes, images, words) may have an impact on their appeal to youth. The 2009 U.S. Family Smoking Prevention and Tobacco Control Act also required some new warnings and labels on tobacco packaging and advertisements, to reduce their appeal to young people.

Region 10 variation relevant to prevention

Some key differences relevant to prevention include:

- For edibles, Alaska and Oregon only allow a maximum of 5 mg of THC per serving, and Washington allows 10 mg of THC per serving.
- All three states have established child-resistant packaging rules to prevention accidental ingestion by children. Washington further requires edible servings to be individually wrapped within a package, to reduce the chance of overconsumption (including accidental ingestion by children)

Key Definitions

As described earlier, cannabis and cannabis-infused products provide a variety of methods for use/consumption – inhalation, ingestion, topical application, suppository etc. Type of products are described earlier in the “Background” section of this document. It is important to understand

the different types of products when considering policies and policy change.

Regulations for each type of product can be similar in some areas and vary widely in others. Similarly, the regulations in some areas can be similar across states, while other state regulations can be very different from each other.

Prohibited products

Prohibitions on certain types of products are generally found in the category of cannabis-infused edibles. Types of prohibitions may include:

- Products that are especially appealing to children, particularly those products that are similar to or mimic products generally marketed to children, such as lollipops, cotton candy, gummy candies, etc.;
- Products in the shape of animals, vehicles, a person or character;
- Products that require acidification, canning or retorting in order to be shelf stable;
- Food items that require refrigeration, freezing or heating or heating;
- Products that must be cooked or baked;
- Other high-risk products, such as pies that contain egg, dairy products, dried or cured meats, and fruit or vegetable juices or butters.

Potency limits: edibles/products to ingest

THC limits (maximum milligrams of THC) are typically applied to products other than those intended for smoking/inhalation. This includes solid and liquid edibles and topicals. The intent of THC limits is to reduce the probability of adverse health effects due to ingesting too much cannabis. THC limits apply to individual servings (10 mg of THC in Washington, and 5 mg in Oregon and Alaska) and total per package (10 servings, which equates to 100 mg in Washington, and 50 mg in Oregon and Alaska). THC limits are higher for medical products, which each state defines.

Potency limits: usable flower, concentrates

While the term "potency limit" can also apply to THC limits as described above, for this purpose it applies to flower and concentrates. The potency of flower, which was in the low single digits in the 1960's, is now averaging about 18%, and higher THC strains are in the 20's.

The majority of concentrates will fall into the 60-90 percent range. Higher potency increases the risk for adverse health effects, including, in some people, psychotic episodes. No state currently limits potency.

Potency limits: other products

Oregon has established specific limits for products not intended for consumption (topicals).

Factors affecting packaging and labeling

Packaging requirements

Key regulatory issues for packaging are:

- Standards for child resistant and resealable packaging;
- Single serving requirements and differentiation (e.g., separate package for each serving, demarcations on products, requirements for capsules/tablets, etc.);
- Packaging for liquids (serving size challenges; resealable containers, etc.);
- Exit packaging requirements, such as opaque packaging;
- Safety vs. environmental impact (excessive waste) vs. reasonable business costs;
- Packaging that is attractive to children and/or may cause product confusion with non-

cannabis products. This includes bright colors and designs that appeal to children.

Labeling requirements

Information required on labels generally falls into the categories of specific product information (e.g., type of product, amount of THC and other cannabinoids, ingredients, nutritional information, etc.,), warning statements; and licensee information, including business or trade name of all licensees who produced the product. With limited label space, some states require additional information, such as lab testing results, to be provided on request or via the business website. Information regarding state laws, safe usage recommendations, and additional resources may also be provided via website or printed materials, and these may be optional or required.

Considerations for label regulations include:

- In addition to THC content, the inclusion of other cannabinoids and terpenes;
- Defining what is considered appealing to children when putting restrictions on label design, colors, graphics, and wording, including prohibiting use of the term "candy" on labels;
- Use of a universal symbol that identifies a product as containing cannabis;
- Restrictions on use of statements referring to health or therapeutic benefits;
- Readability (font size, reading level).

Warning statements on labels

Each state requires a set of warning statements to be included on the package or label of the products. These warnings generally address health concerns related to use of the product. They include statements regarding driving and use of machinery under the influence of cannabis, use while pregnant or breastfeeding, the risk of addiction, the risk of smoking, and the delayed effect when using edibles. Some additional information may also be required in the form of materials that are made available and/or included with purchase or available via a website.

Factors affecting purchase of specific products

Age limits for purchase

All states limit the age for purchase to 21 for all retail products.

Transaction limits

All states limit the amount a person can purchase at one time. These purchase limits are consistent with the limits for public possession.

Ongoing and emerging issues

The following are examples of issues where regulatory changes are being discussed or could be discussed in the future. Prevention advocates may want to be ready to respond to these issues.

- **Potency:** While there have been discussions in various states on limiting potency for flower and concentrates, no state has yet done so. Washington State recently considered the topic of taxing by potency, with higher potency products taxed at a higher rate, like alcohol. One challenge in discussion of potency-specific regulation is the definition of "potency": unlike alcohol for which the effect on an individual can be estimated by volume consumed per type of alcohol and physical factors of the individual (e.g., body weight, gender), physical effects to cannabis products can vary widely by more than THC concentration (e.g., experience and expectations of the individual, mode of use, setting of use, presence of cannabinoids other

than THC). More research is needed on the specific definitions of potency.

- **Consistency in determining what is appealing to children and youth:** Whether it is the type of product, the colorful designs on the package, or the words used, putting the regulations into practice can be difficult for regulators. Judgments are subjective and are open to challenges by licensees. Clarity is needed.
- **Allowable language on labels related to desired effects of use:** Industry members in Washington State were successful in getting legislation to loosen the restrictions on approved language on labels of medically compliant products. Labels may now include claims that describe the product's intended role in maintaining a structure or function of the body and may also characterize the documented mechanism by which the product maintains a bodily structure or function.
- **Banning specific products:** In late 2019 a national outbreak of "vaping-associated lung injury" has increased interest in specifically banning flavored vaping products or all vaping products. At the time of this report, the specific mechanisms for this outbreak are not known, but appear to be related to additives in vaping or dabbing products for cannabis and/or nicotine. First attempts to implement temporary bans have met legal challenges; at this time, the implications for regulation are not yet known.

Promotion and Advertising

What does this mean?

Promotion refers to the advertising strategies that are used to advertise the retail stores and their products and gain customers. These strategies and techniques may include print advertising, internet advertising, billboards, radio and television ads, events, coupons and giveaways, etc.

Why does it matter?

Restrictions on advertising may be beneficial for prevention. Systematic reviews report a strong association between exposure to media and communications on alcohol associated with adolescents starting to drink, and increased drinking or risky drinking among those who already drink.[13,14] A separate systematic review found that multiple studies showed a positive association between direct alcohol sports sponsorship and increased levels of drinking among schoolchildren.[15] Similarly, evidence from tobacco control shows that marketing restrictions and graphic health warnings are effective for reducing smoking prevalence.[16]

Region 10 variation relevant to prevention

Some key differences in Region 10 relevant to prevention include:

- All states have implemented some restrictions on advertising and promotion, especially to reduce appeal to youth, but the specific criteria for implementing restrictions are not clear.
- Oregon has not restricted storefront advertising, but Washington and Alaska limit the number and or size of advertising in proximity of a retailer.
- Washington specifically requires outdoor ads to be affixed to a building, to prohibit commercial mascots and moving advertisements (such as "sign-spinners").
- Alaska does not have billboards (by state law, for any reason) and therefore there is no cannabis billboard advertising.

Key Definitions

Factors affecting design and content of promotions and advertising

General restrictions and requirements

General restrictions and requirements for promotion activity often centers around limiting exposure and appeal to youth. Examples include:

- Ensuring content is not appealing to children or youth nor targeting anyone under 21;
- Prohibiting statements that are false or misleading;
- Not promoting overconsumption;
- Not targeting persons out of the state nor promoting taking product across state lines

Required text, warning statements

Required text and warning statements generally serve to indicate that cannabis is legal for those 21 and over (unless a medical patient) and warn against potential health and safety risks, such as impaired driving.

Promotional items and donations

Marketing may also take the form of providing promotional items, such as t-shirts, glassware, etc. While product sampling for retail customers has expanded in the alcohol industry, it is currently not allowed in the cannabis industry. Donations of product from the retailer to the customer have also not been allowed. Offering discounts and coupons is another promotions gimmick that is not allowed in some states.

Health claims

In addition to the question of making health claims for products that have not been tested and approved by the FDA, using health claims can also be considered a promotional tool. The stated benefits of use may be a particular draw for young people who want to address issues such as anxiety, sleep disorders, etc.

Sponsorships

Alcohol and tobacco companies have long used sponsorships to promote their brands and breed familiarity. Restrictions on sponsorships vary.

Factors affecting location or placement of promotions and advertising

Age restrictions for advertising audience

Some states limit advertising exposure to youth by requiring that a certain percentage of the audience be 21 years of age and over. For example, Oregon prohibits the use of television, radio, billboards, print media or internet advertising unless the licensee has reliable evidence that no more than 30 percent of audience in or on which the advertising is to air or appear is reasonably expected to be under the age of 21. Internet access to websites is usually required to be age gated.

Prohibited locations, including buffer areas

Restricting locations for advertising serves to reduce exposure, especially to those who are underage. Most states have buffer zones around schools, defining the distance of any advertising from these facilities. Other youth-oriented facilities may be included, such as childcare centers, playgrounds and recreation centers. Some states go further and include churches and/or libraries. Buffer zones range from 100 to 1000 feet.

Advertising is often prohibited on public transit, taxis, and even on private vehicles. In some cases, local jurisdictions may increase or reduce buffer zones.

Outdoor limits

To further limit exposure to advertising, Alaska and Washington have put limits on the number and size of outdoor signs on licensed property and in the proximity of the retail outlet. Washington specifically limits a retailer to only two signs that must be affixed to the building (preventing use of inflatables, sign spinners). Alaska also restricts the use of window space that can be viewed from a public right of way.

Billboards

Washington has restricted billboard content to be primarily informational (e.g., name of business, location). Oregon allows billboards in areas where no more than 30 percent of the audience are under age 21 (however, provisions for assuring compliance are unclear). Alaska does not allow billboards (for any purpose) in the state.

Sponsorships and promotional events

All states have allowed some sponsorships or promotions, with restrictions.

Ongoing and emerging issues

The following are examples of issues where regulatory changes are being discussed or could be discussed in the future. Prevention advocates may want to be ready to respond to these issues.

- The prospect of legal challenges based on the First Amendment influences the extent of the restrictions on promotions and advertising. Some states restrict advertising to venues where a minimum percentage of the audience is expected to be at least 21 years of age, but that can also create its own challenges. As the cannabis industry moves further into the mainstream, pressure will increase to reduce advertising restrictions.

Pricing

What does this mean?

The price of cannabis products to the consumer can be influenced through policies that restrict the use of tools to reduce price, such as discounts, coupons, etc. Taxes, both excise taxes and sales taxes, are also tools to maintain higher prices for cannabis products.

Why does it matter?

The Community Guide found strong evidence that increasing the unit price of alcohol is effective in reducing excessive alcohol consumption, adolescent drinking, alcohol-impaired driving, and mortality from liver cirrhosis. The Guide also found strong evidence and recommends interventions to increase the price of tobacco products to reduce tobacco use and exposure.

Region 10 variation relevant to prevention

Some key differences relevant to prevention include:

- Washington has the highest retail cannabis product tax of any legal state to date (37%). Oregon's state tax is 17%. Alaska taxes products by product weight at the cultivation facility rather than by the value of the retail sale.
- Alaska communities may be able to impose local taxes; Oregon communities can impose a local cannabis tax of up to 3%. Washington communities are prohibited from applying local taxes on cannabis sales.

Key Definitions

Factors that affect prices

Tax structure

Excise taxes are set through statute, while sales taxes can be established both through state statute and local government. The level at which the excise tax is implemented, e.g. producer level, retail level, etc., may determine where the bulk of the burden falls. Taxes implemented at the retail level will likely place the most burden on the consumer.

In determining tax rates, a balance needs to be found. Prices that are too high can push consumers to the illegal market. Prices that are too low can increase youth access and promote overconsumption. Regular analysis of tax rates can be beneficial but should be done with public safety in mind.

State law determines how excise tax revenue is allocated. Advocating for the use of tax revenue to address the social and public health and safety costs of legalization, including prevention and treatment, is common sense. However, it should be kept in mind that when a state's economic picture changes, those revenues can be moved elsewhere. This becomes especially troublesome if the original allocation supplanted funds from other sources that were previously being used.

Local sales taxes can also be used to help offset any related costs to local government due to the presence of the licensed operations. Competition for these funds can be fierce.

Other factors that affect price

Discounts and coupons

Discounts and coupons affect the overall price and can make cannabis more accessible to at-risk populations, particularly youth and those experiencing addiction (e.g., when someone who has previously bought from a store receives coupons by email).

Minimum pricing

Minimum pricing has potential to limit very cheap sales of product (such as when there is too much product available so that prices become lower and lower in a competitive market). None of the Region 10 states have implemented such a policy.

Ongoing and emerging issues.

The following are examples of issues where regulatory changes are being discussed or could be discussed in the future. Prevention advocates may want to be ready to respond to these issues.

- High cannabis excise taxes may be perceived as driving people to purchase products through illicit markets. Washington State currently has the highest in the nation at 37% (plus state and local sales taxes which could make the effective tax rate nearly 50%). Some industry proponents believe this is too high, but prevention and treatment advocates may counter that a high tax is necessary to offset the public health and safety costs incurred with legal cannabis.
- The availability of an illicit market within a state may influence how much effect retail price will have on use patterns. For example, if there is readily available and cheaper product available through an illicit market then increasing price could just divert users to change where they get it, and consume similar

amounts; however, if there is not a prevalent illicit market then people may continue to purchase products at retail outlets, and potentially reduce their consumption.

Equity and social justice in regulatory frameworks

Some efforts to legalize retail cannabis have been motivated at least in part to promote equity and social justice. Specifically, cannabis-related arrest rates have been historically very high in minority communities (e.g., African American or Black communities), disproportionate to expected numbers based on population and prevalence of use, and advocates have emphasized the role of legalization to address the excessive negative social and economic impact of cannabis prohibition on communities of color.[17] However, although legalized, current regulatory approaches still have the potential to disproportionately, negatively impact vulnerable communities. Vulnerable communities could include those historically impacted (racial and ethnic minority groups), as well as low income communities, or any other community of concern.

Any current or proposed regulatory element should be assessed for disproportionate or negative impacts to a community. Such an assessment may be best done in collaboration with engaged stakeholders from the potentially affected communities, to assure issues are understood and that any approaches to mitigating them are acceptable.

Due to the high risks and costs (including financial capital required for startup and to navigate the complex and sometimes changeable requirements of businesses), investors in cannabis businesses in the first legal states were largely not representative of historically harmed communities. Although this has not been broadly addressed to date in Region 10 states, "Social Equity Programs" that specifically seek to engage priority community members in the industry, with the goal of distributing economic benefits within the community, have been included in more recently legalized areas (e.g., Los Angeles CA, state of Massachusetts). This may be done by prioritizing or reserving licenses for qualified individuals; providing assistance with application processes; reducing or mitigating costs of business startup; or establishing business mentorship programs that support ongoing operations. The City of Portland, Oregon, has also initiated such a program.[18] Several concerns may be relevant to this approach and the subsequent distribution of risks and benefits. Chiefly, if greater presence of retail cannabis markets within those communities that have been negatively impacted by the war on drugs is found to have further negative impacts (e.g., in prevention, if youth cannabis use increases in those communities), this may not meet the goal of improving welfare of those communities.

Other approaches to addressing equity and social justice within the broad framework of cannabis regulations may include:

- Meaningfully engaging community members in policy and rulemaking processes
- Supporting expungement efforts (i.e., removing cannabis-related criminal history from prior to legalization, which may continue to impact an individual's job, education and economic circumstances)
- Creating job opportunities within the industry (e.g., assuring that related organizations, potentially including regulatory agencies themselves, have appropriate representation from identified communities)
- Dedicating revenues to support broad community development (e.g., general

education or other programs) within priority communities

Specific issues that may be of concern in each of the "5 P" regulatory policy areas discussed in this report are summarized below. This is not an exhaustive list, but rather examples of the kinds of issues that should be considered.

Public Health and Safety

- Any underlying problems with law enforcement biases will still apply, especially for activities that remain illegal, including possession and use by minors. Support for law enforcement systems investment to implement equitable policing approaches may still be needed.

Placement and Access

- Siting policies should be evaluated to see if they result in disproportionate placement of cannabis businesses in vulnerable communities, especially those that may already have a high presence of other potentially harmful businesses like alcohol or tobacco retailers. For example, any proposed zoning or buffer rules should assess remaining available places where businesses could be located and determine whether those available places are disproportionately in low income or minority communities.

Products and Potency

- Limits on product availability within retail settings (e.g., potency limits) could affect medical patient access, when retail and medical systems are integrated. This may be especially relevant if low income patients are using cannabis for treatment due to cost barriers for other options.

Promotion and Advertising

- If cannabis businesses are disproportionately located in low income or minority communities (see "Places to access" above), the promotional efforts associated with retail outlets may also be located in those communities. Thus, the youth in the communities will be disproportionately exposed and potentially influenced by promotional and normalizing messages.
- Separately, but similar to retail business placement rules, if buffers or restrictions are placed on placement of general media (e.g., billboards, or promotional activities) such that the only remaining available spaces are in low income or minority communities, youth who live there would be disproportionately exposed.

Pricing

- Increasing prices can effectively decrease consumption, especially among youth who are known to be price-sensitive for alcohol and tobacco products, but attention should be

paid to the disproportionate effect this has on low income individuals.

- Similar to potency limits, increasing retail prices could affect medical patient access, when retail and medical systems are integrated. This may be especially relevant if low income patients are using cannabis for treatment due to cost barriers for other options.

Cannabis regulations and prevention resources

This section describes how cannabis regulations affect distribution of cannabis-related revenue, and how those resources are used for prevention. We note that funding distributions can change quickly as a result of changes in status of general state economies and legislative priorities.

The extent to which prevention and public health are considered and any commitments made when public policy is developed depends on various factors. These factors include the following:

- **What was the origin of the proposed policy or regulation?** Legislation, a citizen's initiative or proposition, a rule to implement policy, or a stakeholder request may have different kinds of content, mechanisms for passage and authority.
- **Who initiated or wrote the proposed policy or rule?** The options are numerous and include legislators, agency staff, lobbying organizations, industry members, public health and prevention advocates, grass roots activists, youth, other stakeholders. Consider whether there was diverse input (including public input), and whether prevention or public health was "at the table." Excessive participation by industry stakeholders, such that they outweigh a balanced consideration of public welfare, is sometimes referred to as "regulatory capture."
- **If there was a campaign of any sort, who funded it?** Primary or indirect funding may come from in state or out of state, large donors or small, organizations or individuals.
- **What is the motivation for the policy or rule proposal?** Is it to support business? Is it to increase public health and safety? Is it to correct issues or problems with current policies or rules? Is it to create broad social change?

Asking these questions can help to understand the role, if any, of public health and prevention advocates when cannabis legalization approaches were being developed. To what extent were policies and regulations developed with safeguards for public health and prevention? Are tax revenues from legalization designated for public health, treatment, and prevention?

With legalization of cannabis in Washington, Alaska and Oregon, the answers to these questions varied, and so also did the extent of public health and prevention safeguards as well as the designations for tax revenues. Examples of safeguards included language that allowed state regulatory agencies to write rules that could limit the number of licenses issues, set serving size limits, regulate advertising, etc.

Alaska, and Oregon followed Washington's lead by designating revenues to address public health and prevention, although how the funds are allocated (amounts, to which entity and for what purpose) varies in each state.

As of June 2020, tax rates for the three states are:

- Washington: 37 percent assessed at retail level. This includes cannabis sold to medical patients.
- Alaska: $50 per ounce bud and $15 per ounce other parts of the plant, assessed at cultivator level.
- Oregon: 17 percent assessed at retail level. Under certain circumstances cities and counties can add up to 3 percent. The retailer can retain 2 percent to cover expenses.

General revenue allocations

Alaska and Oregon allocate funding based on a percentage of the revenue and distributed to general categories of activities. Washington's funding allocation relatively more prescriptive, distributed as a "base" and then in a different way beyond that amount.

Alaska. Allocation of tax revenues is:

- 25 percent to the General Fund
- 25 percent to the Marijuana Education Fund
- 50 percent split among the Department of Public Safety, Department of Health and Social Services, and the Department of Corrections.

Oregon. Revenues are allocated as follows:

- 40 percent to Common School Fund
- 20 percent to Mental Health Alcoholism and Drug Services
- 15 percent to State Police
- 10 percent to Cities for enforcement of the measure
- 10 percent to Counties for enforcement of the measure
- 5 percent to Oregon Health Authority for alcohol and drug abuse prevention

Washington. Initiative 502 in Washington set up two tiers of revenue allocation. The first tier provided set dollar amounts for implementation of specific activities including establishing and implementing regulations (allocated to the Liquor and Cannabis Board); a cost-benefit evaluation, youth and young adult surveys, and a website with research-based information about cannabis (Health Care Authority); establishing a medical marijuana program for health professionals and a patient database (Department of Health); a state drug enforcement task force (Washington State Patrol); marijuana product testing laboratory systems development and accreditation (Department of Ecology); and compliance testing for pesticides in marijuana (Department of Agriculture). The second tier of allocations is based on percentages of the remaining funds. These second tier allocations have changed over time (see next section).

Dedication of funding in regulations for specific purposes – including prevention purposes – is critical for assuring resources will be available. However, prevention stakeholders should understand that although funds may have been dedicated they are never "guaranteed." Funding can still be moved elsewhere by policymakers, potentially influenced by budget crises or political considerations. Washington State provides an example of how prevention funding approved by voters has been changed over time.

Washington State's original marijuana legalization initiative (I-502) was written with clearly specified requirements to fund some specific prevention and safety-related activities. Dedication of funds for prevention was emphasized in the Voter's

Pamphlet Argument for Initiative Measure 502 statements: "New funding will go to health care, research and drug prevention" and "Decades of research show what works to prevent kids from abusing drugs. Based on this research, Initiative 502 restricts advertising and provides funding to proven prevention programs. It also provides funding to programs that help keep kids in school."[19]

Prevention Funding: A Case Study Of Changes Over Time In Washington State

Washington State's original marijuana legalization initiative (I-502) was written with clearly specified requirements to fund some specific prevention and safety-related activities. Dedication of funds for prevention was emphasized in the Voter's Pamphlet Argument for Initiative Measure 502 statements: "New funding will go to health care, research and drug prevention" and "Decades of research show what works to prevent kids from abusing drugs. Based on this research, Initiative 502 restricts advertising and provides funding to proven prevention programs. It also provides funding to programs that help keep kids in school."[1]

The initiative described explicitly how a first tier of revenue would be allocated, detailing amounts for activities, which agency should receive the funds, and any restrictions to particular periods of time. Allocations for "second tier" funding were described as percentages of the remaining funds that were to be allocated for specific purposes, including prevention. Two years after the initiative passed and before revenues were realized, the Washington State Legislature changed the wording for the second tier of allocations to be "up to" the percentage originally set. The result of this change is that exact amounts for each allocation are set by the legislature when developing the state budget. Table 1 shows how funding has been allocated, and how the allocation compares to what was originally described in the initiative. The allocation for Basic Health is the only one that has continued to be allocated at the original percentage amount (50 percent). Other allocations are now well under the percentages set by the initiative. Further, in some cases previously dedicated state funding has been moved elsewhere and replaced with marijuana tax revenues; as a result, the net gain in prevention-related funding is less than it appears.

1. Washington State Office of the Secretary of State, November 6, 2012 Voters' Pamphlet. https://wei.sos.wa.gov/agency/osos/en/press_and_research/PreviousElections/2012/General-Election/Documents/13-%20Benton.pdf

Table 1: Washington State marijuana tax revenue allocations, overall and for prevention

Receiving entity and purpose (prevention-related efforts only)	I-502 Description of Allocation	FY 16	FY 17	FY 18	FY 19
Washington State total tax/fee revenue		$189 million	$319 million	$367 million	$394 million†
Tier 1 funding specified for prevention-related activities					
HCA: Youth and young adult surveys, WSIPP benefit-cost report, UW cannabis health information website	Annual: Surveys $500,000; Report $200,000; Website $20,000	$720,000	$720,000	$720,000	$720,000
Tier 2 (remaining) funding available		$155,882,285	$260,209,170	$352,319,189	$368,096,730
Receiving entity and purpose (prevention activities in gray)	**I-502 Description of Allocation***	**FY 16**	**FY 17**	**FY 18**	**FY 19**
Basic Health Trust Fund Account Supports access to healthcare	50 %	$77,941,000 (50 %)	$130,105,000 (50 %)	$216,160,000 (61 %)	$194,000,000 (53 %)
DSHS/HCA**: Prevention/ reduction of substance abuse	15 %	$12,814,00 (8.2 %)	$27,786,000 (10.7 %)	$27,786,000 (7.9 %)	$27,786,000 (7.5 %)
DOH Marijuana education and public health program	10 %	$7,500,000 (4.8 %)	$7,500,000 (2.9 %)	$9,761,000 (2.8 %)	$9,764,000 (2.65 %)
HCA Contracts with community health centers	5 %	$5,351,000 (3.4 %)	$12,520,000 (4.8 %)	$17,616,000 (5.0 %)	$18,405,000 (5.0 %)
UW Research	0.6 %	$206,000 (0.13 %)	$207,000 (0.08 %)	$227,000 (0.064 %)	$227,000 (0.061 %)

Receiving entity and purpose (prevention activities in gray)	I-502 Description of Allocation*	FY 16	FY 17	FY 18	FY 19
WSU Research	0.4 %	$138,000 (0.09 %)	$138,000 (0.05 %)	$138,000 (0.039 %)	$138,000 (0.037 %)
OSPI Drop-out prevention	0.3 %	$251,000 (0.16 %)	$511,000 (0.2 %)	$513,000 (0.146 %)	$515,000 (0.14 %)
General Fund As appropriated, includes allocations for local jurisdictions	Remainder	$51,680,285 (33 %)	$81,442, 170 (31 %)	$80,118,189 (22.7 %)	$117,261,730 (31.9 %)

* Tier 2 language was changed from "x percent" allocation as listed in I-502 to "up to x percent" by State Legislature.

** DSHS agency division that implemented relevant activities was moved to HCA agency in FY19;.

Entities receiving cannabis excise tax revenues in Washington are: Health Care Authority (HCA); Department of Health (DOH); University of Washington (UW); Washington State University (WSU); Office of the Superintendent of Public Instruction (OSPI); General Fund (which includes allocations to local jurisdictions); Washington State Institute for Public Policy (WSIPP) is an independent agency conducting a benefit-cost study through year 2032.

† Estimate based on reported excise tax for FY19 and fee revenues from FY18

Supporting agencies for prevention and public health

Funding has been allocated to specific agencies in each Region 10 legal state that has legalized retail marijuana, for the purpose of prevention and public health. Each of these agencies has specific responsibilities, and also provides relevant advisement to the regulatory agencies.

Alaska

The State of Alaska Department of Health and Human Services (DHHS) Marijuana Education Program was created to diminish adverse health consequences due to the use of marijuana in Alaska, and also advises AMCO regulations around marijuana. The principal goals of the program are to prevent youth initiation and use, prevent impaired driving, eliminate accidental ingestion, reduce secondhand marijuana smoke exposure in public workspaces, support treatment, inform ongoing policymaking, and educate the public. More information is available at http://dhss.alaska.gov/osmap/Pages/marijuana.aspx

Oregon

The Oregon Health Authority Public Health Division (PHD) provides information about cannabis use, public health effects, and provides public education, especially for high-priority groups such as youth and vulnerable populations. The PHD also administers the Oregon Medical Marijuana Program (OMMP), providing oversight for medical patients and medical marijuana dispensaries, processors and grow sites. Regulations for these OMMP businesses often align with OLCC regulations for retail businesses. More information about the PHD's role is available at https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/MARIJUANA/Pages/public-health-role.aspx and an infographic about state agency roles is available at https://www.oregon.gov/olcc/marijuana/Documents/Marijuana_StateAgencyResourcesByTopic.pdf

Washington

The Washington State Department of Health (DOH) has been directed to provide a marijuana public health "hotline" for referral to substance abuse treatment providers, a grants program for local health departments and other community agencies, and a media campaign about health and safety risks of marijuana use. The DOH also oversees implementation of the 2015 Cannabis Patient Protection Act that includes a patient database and medical marijuana consultant training and certification. Sales of medical products for this program are completely integrated within the retail sales system. More information about DOH's role is available at https://www.doh.wa.gov/YouandYourFamily/Marijuana

How resources are used for prevention

The three legalized retail states in Region 10 have had different approaches to funding prevention and safety with marijuana revenues. Some states' regulations have been very prescriptive in how the funds are used within the agencies specified. Others have been purposely left vague so the agencies can adjust as needs change. While this can be helpful, it can also mean that funds are diverted from prevention, education and treatment and used to fill other budget gaps. This can be especially problematic if voters are led to believe that funds will be used for specific purposes and as additional funding, not to supplant other funding sources.

Table 2 provides an overview of the prevention-related activities funded by cannabis excise taxes. This is intended to generally summarize the allocations by state, and examples of this spending related to prevention are provided. We

note that states also spend cannabis revenue funds on other activities, such as administration of cannabis for medical use programs (WA), general health or social services (WA supports services for pregnant and parenting women through parent-child assistance programs, AK supports domestic violence prevention).

Table 2: State commitments of cannabis revenue to specific cannabis prevention-related activities

	Alaska	Oregon	Washington
Prevention, education and treatment			
School/community-based individual education	X		X
Mental health and substance use disorder prevention treatment	X		X
Media/educational campaigns for prevention	X		X
Website for evidence-based information			X
Enforcement			
State law enforcement	X	X	X
Local law enforcement	X	X	X
Data collection and reporting			
Surveillance	X		X
Research			X
Evaluation			X

Note: some funding may be spent on these activities above by the agencies that receive funding; the table indicates formal requirements to provide funding for specific activities.

Funding for prevention, education and treatment

Alaska. Alaska's Marijuana Education Fund supports afterschool and summer learning funding through the Marijuana Education Fund. Middle schools can apply for "Positive Youth Development Afterschool Program" funding to implement evidence-based programs that engage young people in skill-building that helps to prevent substance use. The Department of Health and Social Services is funding seven organizations, statewide, to provide services in over 53 communities. DHSS is also funding the Division of Juvenile Justice to build leadership skills and support connectedness for justice involved youth. And Department of Education and Early Development to support suicide prevention work across Alaska's alternative school system.

The treatment component supports the use of Screening, Brief, Intervention, and Referral to Treatment (SBIRT) tools to be incorporated in the primary care and behavioral health settings to screen for cannabis use disorder.

The state also funds small statewide media campaigns to prevent marijuana-impaired driving (including TV and radio ads), a safe storage campaign to prevent accidental child ingestion, and maintains a public website of health-related information.

Oregon. Oregon's Public Health Division (PHD) has had limited ongoing resources for activities. The PHD created prevention and education resources, including with input from a scientific review group to assure that any public statements are appropriate to the evidence base. A guide for school administrators and educators was created in collaboration with the Oregon Department of Education. An educational pamphlet for pregnant and breastfeeding women was made available online for use in clinical settings. Limited public education campaigns, primarily distributed online, have included "Stay True to You" (http://www.staytruetoyou.org/) for teens and "Talk with Them" (http://www.talkwiththem.info/) for parents.

Washington. In Washington State, Initiative 502 clearly stated expectations for use of the funds. Legislation that followed made some changes, and actual implementation has been affected by the budgeting process. In brief, here are some of the requirements.

- The creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use.
- The development, implementation, maintenance, and evaluation of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women.
- Creation, implementation, operation, and management of a marijuana public education and public health program that contains a) a marijuana use public health hotline; b) a grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and c) media-based education campaigns across television, internet, radio, print, and out-of-home advertising separately targeting youth and adults.

- For more detail on the funding allocations in Washington State, go to https://app.leg.wa.gov/RCW/default.aspx?cite=69.50&full=true.

Funding for enforcement

In general, the state regulatory agencies are responsible for the ensuring compliance with and enforcement of rules and regulations related to licensed premises. Other law enforcement agencies, especially local law enforcement, are tasked with handling issues that do not involve licensees. It is important to know the extent of the authority of enforcement officers from a regulatory agency, and the lines can at times be blurry. (Example: In Washington, if a fight breaks out between patrons at a licensed alcohol premise, an enforcement officer does not have the authority to arrest the patrons. The officer must wait for local law enforcement to handle this situation.)

State and local agency resources are limited. All three state agencies (AMCO, OLCC and WSLCB) have regulatory authority for cannabis and alcohol, and in Washington the agency also regulates tobacco and vapor products.

Alaska. Alaska Marijuana Control Office (AMCO) enforcement officers routinely inspect licensed premises and investigate potential or alleged violations. Enforcement officers may, with the concurrence of the commissioner of public safety, exercise the power of peace officers (with limitations) when those powers are granted by the board. However, there is some ongoing need for interpreting authority: in fall 2018, the Alaska State Troopers informed AMCO that its enforcement officers were not considered peace officers and would no longer have access to the Alaska Public Safety Information Network and the Alaska Records Management System.

Oregon. The Public Safety Division of the Oregon Liquor Control Commission (OLCC) operates 12 offices statewide and conducts marijuana and liquor license investigations, responds to complaints, and investigates law violations. The OLCC conducts minor in possession decoy operations and publicly reports on their results. Field office staff also work in partnership with local governments and community groups to resolve problems created by marijuana and liquor businesses or their patrons.

Washington. Officers with the Washington State Liquor and Cannabis Board are limited-authority, commissioned law enforcement officers. They are responsible for enforcing state liquor, cannabis, and tobacco laws and regulations and providing education to licensed businesses, community, and local law enforcement agencies. They also work in partnership with other state agencies and local governments to address issues and resolve problems.

Funding for data collection and reporting

Dedicated funding may be used to collect and report on cannabis-related risk factors, behaviors and health or social outcomes (surveillance), study and provide new information on the science of cannabis use and related factors (research), or to evaluate and report on effects of specific or comprehensive interventions (including changes in policies).

Alaska. Alaska's DHHS receives funding to support collection and reporting of public health data, including information about patterns of marijuana use among youth, pregnant women, adults, and associated health and social consequences. Evaluation of the state's prevention-focused afterschool program is provided as well, but there are not funds for evaluation of the state's

comprehensive efforts (e.g., prevention media campaigns).

Oregon. Oregon developed a comprehensive cannabis-related public health data surveillance plan with funding from the state's medical program, prior to implementation of retail sales. The Public Health Division continues to collect data and report on cannabis use and related outcomes using the original guidance from this plan; however, specific funding is not earmarked for data collection and reporting.

Washington. Cannabis revenue funding has been dedicated to collection of youth surveys (the Washington State Healthy Youth Survey); however, not to a systematic synthesis and reporting of those results in combination with other data to describe cannabis-related public health measures. Legalization initiative funding was also earmarked for the Washington State Institute for Public Policy (WSIPP) to "conduct cost-benefit evaluations of the implementation" of the law (through 2032). The evaluations must include measures of impacts on public health, public safety, cannabis use, the economy, the criminal justice system, and state and local costs and revenues. Results of these on-going evaluations are considered in the development of rules and regulations. They also may shed light on the effectiveness of prevention strategies, especially those being funded with excise tax revenues.

Unintended consequences

This report has discussed direct effects of cannabis regulations in a legal retail context, and their effect on prevention. However, we also note that there are a variety of "unintended consequences" that could have emerged alongside, and which could affect the prevention field. In addition to concerns about equity and social justice that could emerge from the design or implementation of cannabis regulations (see previous section), other significant issues that the prevention workforce should be aware of include:

Youth arrests. Although legalized for adult consumption, cannabis possession and use remains illegal for youth and young adults under age 21. One unexpected consequence observed in Oregon immediately following legalization was that cannabis-related youth arrests (called "referrals" in Oregon's juvenile justice system) increased.[20] This could be related to several factors. First, as part of legalization, the number of cannabis-related offenses that youth could be charged with was increased, and expanded to include "internal possession" (meaning, a youth under the influence of cannabis could be charged with possession, even if they did not visibly possess any product). Second, initially a set proportion of Oregon revenues were distributed to local area law enforcement for unspecified activities, and although not directed to enforce cannabis laws this could have been perceived as an expectation. Third, more youth could have been using cannabis, or could have been using more openly due to perceived normalization of use. Whatever the cause, greater engagement with the criminal justice system is a risk factor for young people. Prevention stakeholders should work to support enforcement of the law, but also to assure supportive consequences for youth, and avoid having youth engaged in penalty-focused processes that increase risk for a variety of negative outcomes.

Effects of cannabis legalization on alcohol/ tobacco regulation (and use). Cannabis use is associated with alcohol and tobacco use – many of the youth who use cannabis also use these other products. Some of the greatest net public health effects of cannabis legalization may result from subsequent changing patterns of tobacco and alcohol use, the magnitude and direction

of which are currently not known, particularly among the young. Cannabis could be either a substitute or complement for different substances (meaning, youth might quit using some other products in favor of cannabis, or use of cannabis could increase use of other products). Reviews of the potential influence of cannabis policy liberalization on alcohol use have concluded that the effects are complex, likely to vary by gender or age group.[21] Prevention stakeholders should be aware of the impacts of cannabis legalization on prevention of other substance use.

Market growth and evolution of products, potency over time. Since the launch of retail cannabis sales, the market has unexpectedly evolved to include higher-potency and new cannabis products (e.g., vapes, dabs, shatter, wax). A study of Washington's "seed-to-sale" traceability system found that its legal cannabis market has trended toward higher-THC products, as flower products with THC concentration over 20% and extract products with over 60% THC are now commonplace.[22] We know relatively little about the health consequences of these new products, especially for youth. Although it is difficult to know for sure, prevention stakeholders should work to assess the continued evolution of the market in terms of products, price, and promotions. Continuous monitoring of marketplaces and their activities from a prevention perspective, with consideration of how regulations may need to be adapted in the face of a changing market, will likely be important.

Summary: Building “Best Practices”

This report has described the current status of Region 10 retail cannabis regulatory frameworks and specific policies, highlighting their relevance for prevention. Prevention stakeholders may review this information and compare their own jurisdiction’s policies to those in other places. They may then ask: “so what is the best practice?”

Legalization of cannabis use and sales for non-medical purposes is relatively new. The public health impacts of doing so are not yet well-understood. Regulatory design has relied heavily on examples from alcohol and tobacco as a start, but cannabis is a different product with unique characteristics, including medical use. Only time will tell what broad and general approaches will work best for minimizing risks for young people and vulnerable populations.

In the absence of certain knowledge, prevention stakeholders should work toward what they and their partners believe to be the most appropriate regulatory approaches for prevention, including in each of the “5 P” areas: Places for Access, Products, Promotion, Public Safety, and Price. Assuring that high-quality information on cannabis use and harms is important so that we know whether or how much public health and safety has been affected. Over time, the associations between public health outcomes and different regulatory approaches that have been applied at the state and local level will help to understand what the “best practices” are for laws and rules in support of prevention.

Resources

This section provides links to other documents that discuss cannabis and public health, including regulatory approaches to protect health.

Major systematic reviews of health effects associated with cannabis use

- The National Academies of Engineering, Science and Medicine (NASEM, formerly the Institute of Medicine) published a systematic review in 2017 of evidence about health harms and medical benefits associated with marijuana use. The health effects of cannabis and cannabinoids: The current state of evidence and recommendations for research. Washington, DC: The National Academies Press. January 2017. doi: 10.17226/24625. Available at http://nationalacademies.org/hmd/reports/2017/health-effects-of-cannabis-and-cannabinoids.aspx
- Colorado Department of Public Health and Environment (CDPHE) received funding from their legalization initiative to establish a multidisciplinary comprehensive systematic review of health harms and medical benefits associated with cannabis use. There have been three reports to date. Results are publicly available and posted when updated at https://www.colorado.gov/marijuanahealthinfo

Summaries of current state non-cannabis for medical use regulatory structures

- National Institute on Alcohol Abuse and Alcoholism (NIAAA), Alcohol Policy Information System (APIS) systematic review of state non-medical (recreational) cannabis policies is available at https://alcoholpolicy.niaaa.nih.gov/apis-policy-topics, however at the time of this report the summary had last been updated in January 2019.
- NORML State laws and penalties https://norml.org/laws
- Washington State local-level cannabis regulations can be found in a searchable database at the Municipal Research and Services Center (MRSC), a nonprofit that collects and codes all local policies, on any topic. http://mrsc.org/Home/Explore-Topics/Legal/Regulation/Marijuana-Regulation-in-Washington-State.aspx
- Carnevale Associates LLC Status of State Marijuana Legalization (May 2020). Timeline of legalization for both medical and non-cannabis for medical use, including anticipated in fall 2020. https://www.carnevaleassociates.com/our-work/status-of-state-marijuana-legalization.html

Summaries of current state cannabis for medical use laws

- National Conference of State Legislatures (NCSL) is a bipartisan organization that supports state legislatures. A detailed summary of state medical marijuana laws as well as discussion of federal vs. state law. http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx (revised 10/17/19)
- The Network for Public Health Law is a national group providing local and national support to legislatures in states, territories and commonwealths of the U.S. Funding is provided by the Robert Wood Johnson Foundation. A detailed state-level

legal summary table is available. https://www.networkforphl.org/wp-content/uploads/2020/01/Medical-Marijuana-Programs.pdf (last updated 2/14/19, search https://www.networkforphl.org/ using the term "marijuana" for more recent versions)

- Prescription Drug Abuse Policy System (PDAPS) http://pdaps.org/ Funded by the National Institute on Drug Abuse (NIDA) to track key state laws related to prescription drug abuse. Summarizes state law for medical caregivers, patients, dispensaries, and product safety. (last updated 1/31/17)

Summaries of effective regulatory approaches for tobacco and alcohol that protect public health

The Community Guide to Preventive Services Task Force ("The Community Guide") provides evidence-based recommendations for regulating alcohol and tobacco, which may inform development of cannabis regulations.

- Tobacco prevention, promoting quitting, eliminating secondhand smoke and eliminating tobacco-related disparities https://www.thecommunityguide.org/content/task-force-findings-tobacco
- Reducing excessive alcohol consumption (this definition includes any consumption by youth) https://www.thecommunityguide.org/content/task-force-findings-excessive-alcohol-consumption

Discussion of cannabis regulatory structure elements and public health

- Pacula R, Kilmer B, Wagenaar A, Chaloupka F, Caulkins J. (2014) Developing public health regulations for marijuana: Lessons from alcohol and tobacco. AJPH 104:1021-1028. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4062005/
- Barry RA, Glantz S. (2016). A Public Health Framework for Legalized Retail Marijuana Based on the US Experience: Avoiding a New Tobacco Industry. PLoS Medicine. 13(9):e1002131. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5038957/
- Kilmer B. (2019). How will cannabis legalization affect health, safety, and social equity outcomes? It largely depends on the 14 Ps. American Journal of Drug and Alcohol Abuse. Taylor and Francis Ltd. https://doi.org/10.1080/00952990.2019.1611841
- Shover CL, Humphreys K. (2019) Six policy lessons relevant to cannabis legalization. The American Journal of Drug and Alcohol Abuse. https://pubmed.ncbi.nlm.nih.gov/30870053/
- Orenstein DG and Glantz SA, Cannabis Legalization in State Legislatures: Public Health Opportunity and Risk (October 3, 2019). Marquette Law Review. Available at SSRN: https://ssrn.com/abstract=3463986

Interactive maps of licensed cannabis retail stores for Region 10

- Oregon: OLCC website https://geo.maps.arcgis.com/apps/webappviewer/index.html?id=5b1c97ec0b34471bbba6dda8830f7628

- Washington: LCB website: http://wslcb.maps.arcgis.com/apps/View/index.html?appid=a84ba123b8d94a65aa03ae573a65c1aa

Resources for taking specific policy actions: models from alcohol and tobacco prevention

Outlet density

- ChangeLab Solutions Tobacco Retailer Density: https://www.changelabsolutions.org/product/tobacco-retailer-density
- ChangeLab Solutions. Local authority to regulate the density of alcohol outlets FAQ. 2019. http://alcohol-psr.changelabsolutions.org/alcohol-psr-faqs/local-authority-to-regulate-the-density-of-alcohol-outlets-faq/
- Cushing J, Miller C, Riibe D, et al. STRATEGIZER 55 Regulating Alcohol Outlet Density An Action Guide. http://www.camy.org/_docs/resources/reports/alcohol-availability/strategizer-55-regulating-alcohol-outlet-density.pdf

Taxes

- ChangeLab Solutions. Alcohol Taxes FAQ. http://alcohol-psr.changelabsolutions.org/alcohol-psr-faqs/alcohol-taxes-faq/
- Porter KP, Frattaroli S, Pannu H. Public Health Policy in Maryland: Lessons from Recent Alcohol and Cigarette Tax Policies. Abell Foundation. February 2018. https://www.abell.org/sites/default/files/files/Abell%20Public%20Health%20Report%20022718.pdf.

Marketing

- Center on Alcohol Marketing and Youth (CAMY), Johns Hopkins Bloomberg School of Public Health. 2012. "State Laws to Reduce the Impact of Alcohol Marketing on Youth: Current Status and Model Policies." http://www.camy.org/_docs/research-to-practice/promotion/legal-resources/state-ad-laws/CAMY_State_Alcohol_Ads_Report_2012.pdf

Comprehensive cannabis data reports per Region 10 state

- Alaska: Marijuana Use and Public Health in Alaska 2020. Alaska Department of Health and Social Services.
- http://dhss.alaska.gov/dph/Director/Documents/marijuana/MarijuanaUse_PublicHealth_Alaska_2020.pdf
- Oregon: Marijuana Use, Attitudes, and Health Effects in Oregon (2016) and Fact Sheets (updated 2019). Oregon Health Authority, Public Health Division. https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/MARIJUANA/Pages/publications.aspx
- Washington: Impacts of Recreational Marijuana Legalization in Washington (2015, 2016). Office of Financial Management. https://sac.ofm.wa.gov/impacts-recreational-marijuana-legalization-washington and I-502 Evaluation and Benefit-Cost Analysis: Second Required Report (2017). Washington State Institute for Public Policy. http://www.wsipp.wa.gov/ReportFile/1670/Wsipp_I-502-Evaluation-and-Benefit-Cost-Analysis-Second-Required-Report_Report.pdf

Additional Northwest PTTC Resources in this Series

- Individual State Cannabis Policy Summaries for HHS Region States: Alaska, Idaho, Oregon and Washington. (June 30, 2020).
- HHS Region 10, Cannabis Policies and Regulations: A multi-state comparison across three Northwestern states. (June 30, 2020).

References

1 The National Academies of Engineering, Science and Medicine (NASEM, formerly the Institute of Medicine) published a systematic review in 2017 of evidence about health harms and medical benefits associated with marijuana use. The health effects of cannabis and cannabinoids: The current state of evidence and recommendations for research. Washington, DC: The National Academies Press. January 2017. doi: 10.17226/24625. Available at http://nationalacademies.org/hmd/reports/2017/health-effects-of-cannabis-and-cannabinoids.aspx

2 Idaho Office of Drug Policy, Marijuana Legalization Position Statement, February 2019. Accessible at https://odp.idaho.gov/wp-content/uploads/sites/114/2019/07/Policy-Statement-on-Marijuana-Legalization-Feb_19.pdf

3 Jackson S. New store appears to be filling Idaho's pot void. Moscow-Pullman Daily News. March 11, 2019. Available at https://dnews.com/local/new-store-appears-to-be-filling-idaho-s-pot-void/article_5a772a3d-1a7b-5c01-9419-6eeb7bc9e859.html

4 For current status of Canadian cannabis laws see Government of Canada. Cannabis laws and regulations. https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/laws-regulations.html*; British Columbia laws are described at Public Safety and Emergency Services: Cannabis* https://www2.gov.bc.ca/gov/content/safety/public-safety/cannabis

5 Although similar in title and related in content, these Ps are different from those described in Kilmer, B. (2019). How will cannabis legalization affect health, safety, and social equity outcomes? It largely depends on the 14 Ps. American Journal of Drug and Alcohol Abuse. Taylor and Francis Ltd. https://doi.org/10.1080/00952990.2019.1611841

6 Harding, F. M., Hingson, R. W., Klitzner, M., Mosher, J. F., Brown, J., Vincent, R. M., … Cannon, C. L. (2016). Underage Drinking: A Review of Trends and Prevention Strategies. American Journal of Preventive Medicine, 51(4), S148–S157. https://doi.org/10.1016/j.amepre.2016.05.020

7 Centers for Disease Control and Prevention (CDC). Best Practices for Comprehensive Tobacco Control Programs – 2014. https://www.cdc.gov/tobacco/stateandcommunity/best_practices/index.htm

8 Community Guide to Preventive Service Task Force. Findings for Excessive Alcohol Consumption. Summary of findings available at: https://www.thecommunityguide.org/content/task-force-findings-excessive-alcohol-consumption

9 Nuyts PAW, Davies LEM, Kunst AE, Kuipers MAG. The association between tobacco outlet density and smoking among young people: A systematic methodological review. Nicotine and Tobacco Research. 2019. Accessible at https://doi.org/10.1093/ntr/ntz153

10 For example, ChangeLab Solutions Tobacco Retailer Density resources available at: https://www.changelabsolutions.org/product/tobacco-retailer-density

11 Siegel MB, Naimi TS, Cremeens JL, Nelson DE. Alcoholic beverage preferences and associated drinking patterns and risk behaviors among high school youth. Am J Prev Med. 2011;40(4):419-26. https://pubmed.ncbi.nlm.nih.gov/21406275/ .

12 Naimi TS, Siegel M, DeJong W, O'Doherty C, Jernigan D. Beverage- and brand-specific binge alcohol consumption among underage youth in the U.S. J Subst Use. 2015;20(5):333-339. https://pubmed.ncbi.nlm.nih.gov/26425112/

13 Anderson P, deBrujn A, Angus K, Gordon R, Hastings G. Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies. Alcohol & Alcoholism. 2009;44(3):229-243 https://academic.oup.com/alcalc/article/44/3/229/178279

14 Jernigan, D., Noel, J., Landon, J., Thornton, N., & Lobstein, T. (2017). Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008. Addiction, 112, 7–20. https://onlinelibrary.wiley.com/doi/full/10.1111/add.13591

15 Brown K. Association between alcohol sports sponsorship and consumption: a systematic review. Alcohol and Alcoholism. 2016:51(6):747-755. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5091292/

16 Levy DT, Tam J, Kuo C, Fong GT, Chaloupka F. The impact of implementing tobacco control policies: the 2017 Tobacco Control Policy Scorecard. J of Public Health Management and Practice. 2017; 24(5):448-457. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6050159/

17 See for example: Firth CL, Maher JE, Dilley JA, Darnell A, Lovrich NP. Did marijuana legalization in Washington State reduce racial disparities in adult marijuana arrests?, Substance Use & Misuse. 2019;54:9, 1582-1587, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6948106/

18 City of Portland, Oregon. Social Equity Program for cannabis small businesses. https://www.portlandoregon.gov/civic/article/698417

19 *Washington State Office of the Secretary of State, November 6, 2012 Voters' Pamphlet.* https://www.sos.wa.gov/_assets/elections/voters%20pamphlet%202012.pdf

20 *Firth CL, Hajat A, Dilley JA, Braun M, Maher JE. Implications of cannabis legalization on juvenile justice outcomes and racial disparities. Am Journal of Preventive Medicine. 2020 Apr;58(4):562-69.* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7266456/

21 *Caulkins JP, Kilmer B, Kleiman MAR, MacCoun RJ, Midgette G, Oglesby P, Pacula RL, Reuter PH. (2015). Considering Marijuana Legalization: Insights for Vermont and Other Jurisdictions, Santa Monica, Calif.: RAND Corporation, RR-684, 2015. As of March 3, 2015:* http://www.rand.org/pubs/research_reports/RR864.html

22 *Smart R, Caulkins JP, Kilmer B, Davenport S, Midgette G. (2017) Variation in cannabis potency and prices in a newly-legal market: Evidence from 30 million cannabis sales in Washington State. Addiction.* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5673542/