

Draft position paper on AS.17.38 the Regulation of Marijuana

In accordance with its mission to improve the lives of beneficiaries, the Alaska Mental Health Trust Authority provides leadership in advocacy, planning and program implementation on behalf of all beneficiaries. In 2013, recognizing the magnitude of the negative impacts of alcohol and drug abuse on Alaskans, trustees approved a substance abuse prevention and treatment focus area. Therefore, the Trust is committed to early intervention, prevention and treatment of addiction and substance abuse. The Trust will support effective, evidence-based and innovative strategies focused on reducing the negative health impacts from alcohol and substance abuse through broad-based public health approaches.

On November 4, 2014, Alaska voters passed ballot measure 2, an act to tax and regulate the production, sale, and use of marijuana. This initiative legalized the possession, use, display, purchase, transportation of marijuana accessories and one ounce or less of marijuana; the possession, growth, processing and transportation of no more than six plants. In addition to legalizing the substance this ballot initiative included explicit provisions for the development of a commercial marijuana industry.

Early initiation and regular adolescent use of marijuana have been identified as particular risk factors for later problematic cannabis (and other drug) use, impaired mental health, delinquency, lower educational achievement, risky sexual behavior and criminal offending in a range of studies. It is estimated that approximately one in ten people who had ever used cannabis will become dependent with risk increasing markedly with frequency of use.¹ Further, there is evidence that there will be significant downstream health and social services costs and consequences with the legalization of marijuana including: reduced perception of risk of marijuana among youth, increased costs for addiction and substance abuse treatment, and increase in child protection services for youth in homes with regular and persistent marijuana use. Unintentional marijuana ingestion has increased by young children after modification of drug enforcement laws for marijuana possession in Colorado.^{2,3}

In 2009, 2011 and 2013 Alaskan alternative high school students reported using marijuana in the past 30 days at a rate of 50.5%, 47.6% and 47.8% respectively.⁴ Their counterparts in Alaskan traditional high schools reported in the past 30 days 22.7% in 2009, 21.2% in 2011 and 19.7% in 2013.⁵ A significant number of

¹ Copeland, J., Swift, W. (2009). Cannabis use disorder: Epidemiology and management. *International Review of Psychiatry* Vol 21, No. 2, Pages 96-103.

² Wang G, Roosevelt G, Heard K. Pediatric Marijuana Exposures in a Medical Marijuana State. *JAMA Pediatrics*. 2013;167(7):630-633. doi:10.1001/jamapediatrics.2013.140.

³ Hurley W, Mazor S. Anticipated Medical Effects on Children From Legalization of Marijuana in Colorado and Washington State: A Poison Center Perspective. *JAMA Pediatrics*. 2013;167(7):602-603. doi:10.1001/jamapediatrics.2013.2273.

⁴ State of Alaska. (2014). Alaska Youth Risk Behavior Survey. Anchorage, Alaska

⁵ State of Alaska. (2014). Alaska Youth Risk Behavior Survey. Anchorage, Alaska.

beneficiaries in the system are struggling with marijuana addiction. The most recent year of treatment reporting for Alaska, 2012, documented:

- Persons ages 12-17: 77% of substance abuse treatment admissions were youth seeking help with marijuana or hash use
- Persons aged 18+: 36.8% substance abuse treatment admissions were seeking help with marijuana or hash use

These numbers have remained steady over a five-year period and youth substance abuse treatment admissions for marijuana use have increased from 66.7% in 2007 to 77% of annual treatment admissions in 2012.⁶

To maximize public health and minimize impacts on beneficiaries, the Trust supports legislative amendments on critical issues which need resolution prior to regulation development. The following amendment considerations to AS 17.38 are outlined in effort to protect current and future beneficiaries of the Alaska Mental Health Trust Authority.

Amendment considerations are outlined below, recognizing additional amendments may be identified as implementation of AS 17.38 proceeds.

- Extend the regulatory process: The current nine-month period is not sufficient given the complexities of AS.17.38 and the potential risk to Trust. The Legislature should extend the nine month period to take the time to pass meaningful amendments upon which the regulations would be based.
- Define statutory language: The Trust recommends adoption of the definitions defined by the Alcohol Beverage Control (ABC) board on February 12, 2015, in their document “Preliminary Considerations for Implementation of AS 17.38.” The definitions provided include marijuana, marijuana concentrate, marijuana product, public, edible marijuana product and adulterated food or drink product.
- Exclusions: All adulterated food and drink products should be excluded, as recommended by the ABC board on February 12, 2015, in their document “Preliminary Considerations for Implementation of AS 17.38.”
- Labeling of Products: Packaging, warning requirements, labeling and child protection recommendations should be adopted as described in the February 12, 2015, ABC Board document “Preliminary Considerations for Implementation of AS 17.38.”
- Licensing:
 - Adopt the licensing recommendations provided by the ABC board on February 12, 2015, in their document “Preliminary Considerations for Implementation of AS 17.38”, including, a strict merit selection process for licenses, the four license types (cultivation, manufacturing, retail and laboratory), and enforcement.
 - Prioritize creation and establishment of marijuana testing facilities, as explored in 17.38.070(a)(2) and (a)(3) 17.38.070(b)(2) and (b)(3) and 17.38.070(c)(2) and (c)(3). It is recommended that Alaska adopt the standards from the reference “America Herbal Pharmacopoeia’s Cannabis Inflorescence Standards of Identity, Analysis and Quality Control.” The ABC board or Marijuana Control board must establish and enforce minimum testing requirements for marijuana grown, processed or sold in licensed marijuana establishments. Marijuana testing licenses should be created separate from other types of marijuana licenses whether or not the Legislature created such a license through statute. Legislative amendments should include authority for the ABC board or a Marijuana Control board to establish testing

⁶ SAMSHA (2007-2012). Treatment Episode Data Set -- Admissions (TEDS-A), <http://www.icpsr.umich.edu/icpsrweb/content/SAMHDA/index.html>

licenses through regulation if the Legislature fails to create such licenses through statutory amendment.

- Establish standardized population level limits in licensing and density considerations.
- License awards must be based on a strict selection process that selects license type awards based on a scheme that allows for laboratory, cultivation and laboratory licenses to be established prior to the awarding of retail licenses. This will ensure the development of revenue streams for the regulatory oversight and enforcement.
- Indirect financial compensation: Establish clear guidelines to prohibit the unlicensed sale and distribution (e.g., donations for product) as well as establish penalties for violations.
- Establish driving level limits and driving under the influence standards: The Trust supports amendments that establish intoxication and impairment definitions and limits. Both Colorado and Washington have set limits for driving while using recreational marijuana at 5 nano grams of THC per milliliter (5ng/ml) of whole blood, other states have set the limit at 0 or 2 nano grams of THC per milliliter.
- Advertising: The regulation of advertising is a key element in managing youth perception of harm and normalization of marijuana use. Strict regulations should be adopted which prohibits advertising of marijuana products through various channels including television, print, radio, social media and out-of-home (transit, billboards/banners at sporting locations, signage not on buildings, etc.). Signage of the buildings must be discrete, must have secured entry ways, and prohibit the entrance of minors.
- Funding Considerations: An appropriate level of resources for the development of regulations and implementation of AS 17.38 must be allocated.
 - Regulatory Board: In order for the state of Alaska to have adequate resources to safely regulate marijuana and alcohol, it is imperative that the board receives an appropriate level of funding to staff the administrative, licensing, education and enforcement of AS 17.38. At the time of passage of AS 17.38, the five-member volunteer ABC board was served by one director and a total statewide staff of 10 full-time employees. This is not sufficient for proper administration and enforcement in the state of Alaska. For comparison, the city of Denver with a population of 650,000 added 37.5 full-time employees to enact, enforce, and educate concerning marijuana rules in their jurisdiction. It will be imperative to adequately fund the agency and provide enough staff to serve the necessary functions to safely regulate both alcohol and marijuana in Alaska.
 - Public Education: The implementation of an evidence-based public education campaign will impact social norms around the use, health effects, and regulation of marijuana to support effective youth prevention and prevent poor public health impacts from the law. Adequate funds must be provided to ensure that ongoing comprehensive public health education is widely available.
 - Data Collection and Monitoring: One of the lessons learned from Colorado is that the collection of data is critical for monitoring the impacts of marijuana implementation and for providing foundational data to support necessary adjustments to laws. A designated committee should be formed for the purpose of monitoring marijuana impacts on health and public safety to help guide public health policy. Appropriate levels of resources must be allocated to compile, collect and update information on the health impacts of marijuana use and commercialization.

- Stakeholder Engagement: The regulation of recreational marijuana use requires coordination between a number of disciplines and content areas. A task force should be formed to support the development of regulations that includes but is not limited to:
 - Chronic disease prevention and control (e.g., lessons from tobacco and alcohol)
 - Maternal and child health (e.g., effects on adolescent brain development, use while pregnant or breastfeeding, secondhand smoke exposure in children)
 - Injury prevention (e.g., impaired driving, workplace hazards)
 - Food safety (e.g., edible preparations)
 - Environmental health (e.g., disposal and waste, safe pesticide use)
 - Mental health and substance abuse (e.g., psychosis and interactions with other substance abuse)
 - Department of Education (e.g., academic impact, student infractions/consequences)