Planning for Medical Marijuana Facilities in Massachusetts

October 29, 2015
Karla L. Chaffee

Berkshire Regional Planning Commission
5th Thursday Presentation Dinner
An Act for the Humanitarian Medical Use of Marijuana
STATUS: An Act for the Humanitarian Medical Use of Marijuana

As of October 1, 2015:

- 13,607 registered and active patients

  - Based on Colorado’s experience, Massachusetts projects that 2% of the population (132,000 people) will qualify as registrants.

- 554 registered and active caregivers

- 19,783 active physician certifications issued
STATUS: An Act for the Humanitarian Medical Use of Marijuana

- New England Treatment Access, Inc. in **Northampton** (approval to sell, Sept. 23, 2015)
- In Good Health, Inc. in **Brockton** (approval to sell, Sept. 3, 2015)
- Alternative Therapies Group Inc. in **Salem** (approval to sell, June 23, 2015)
- Final Certificates of Registration granted to RMDs in **Ayer** and **Lowell**
- 154 RMDs have submitted an application of intent
The Act Requires….

- Between one and 5 RDMs per county
- “Hardship” cultivation
- Buffers of 500 feet from facilities where “children commonly congregate”
- Stocks based on projected need
- Annual registration renewal
- Online registration for patients, caregivers, physicians and dispensary agents
Becoming a Registered Marijuana Dispensary

• **Requirements:**
  - Non-profit
  - Vertically integrated

• **Process:**
  - Application
    - Siting Profile
    - Letter of Support or Non-Opposition
  - Inspection Phase/ Local permitting
  - Final Certificate of Registration
  - Approval to Sell
Municipal Options

- Do Nothing
- Moratorium
- Pass consistent local regulation

“Although we conclude that a municipality may not completely ban such centers within its borders, we also conclude that municipalities are not prohibited from adopting zoning by-laws to regulate medical marijuana treatment centers, so long as such zoning by-laws do not conflict with the Act ….” Attorney General decision (March 13, 2013)
Municipal Options

- **What laws conflict with the Act?**
  - Prohibition
    - Compliance with federal law
  - Some local registration requirements
  - Home-cultivation special permit or other limitation
  - Prohibition on home delivery
  - Certain screening requirements
  - Compromises to facility security
  - “Mitigation” payments
Municipal Options

• What *can* a municipality regulate?
  o Reasonable hours of operation
  o Reasonable buffer requirements
  o Dimensional requirements
  o Designate zones
  o Traffic & circulation
  o Design review
  o Signage & lighting
  o The Act also requires coordination with local law enforcement
To avoid preemption by state, local zoning ordinances should:

- Avoid direct conflict with state statutory scheme
- Be aware of rights created by state statute

To avoid preemption by state, local zoning ordinances should not:

- Permit conduct which state prohibits
- Prohibit conduct which state permits
- Penalize conduct which state exempts from penalty
State Laws: Status of Marijuana Laws

Source: NORML, Drug Policy Alliance, and the Marijuana Policy Project
What to expect with recreational legalization?
Higher visibility = cultural change?
Remind you of anything?
Is dope the next craft beer?
“Artisanal” edibles
Federal Laws: Schedule I Drugs

Marijuana maintains its Schedule I classification

- The drug or other substance has a high potential for abuse
- The drug or other substance has no currently accepted medical use in treatment in the United States
- There is a lack of accepted safety for the use of the drug or other substance under medical supervision
- Schedule I drug examples:
  - Heroin
  - LSD
  - Ecstasy

- Schedule II drug examples:
  - Cocaine
  - Morphine
  - Oxycodone
Discussion & Questions?

KARLA L. CHAFFEE

ROBINSON & COLE LLP
ONE BOSTON PLACE, 25TH FLOOR
BOSTON, MA 02108
DIRECT 617.557.5956

KCHAFFEE@RC.COM

BLOG: WWW.RLUIPA-DEFENSE.COM