



# Overview of State Regulated Cannabis Programs and Perinatal-Related Policies

Opioid Policy Fellows

January 7, 2023

Karmen Hanson, MA

Senior Fellow, Health Program



## Legislators seek to learn and understand to inform their policy decisions.

A group of legislators and legislative staff tour a Colorado cannabis cultivation and processing facility.  
July 2019

Photo credit: Karmen Hanson, NCSL

## Legislators consider topics like:

- Business licensing
- Provider referral policies
- Qualifying conditions
- Purchase limits
- Home cultivation
- Local control
- Testing
- Perinatal-related policies



# Legislative Roles in Cannabis Regulation

- Drafting legislation or enabling language
- Creating rules/regulations or assigning responsibility of it
- Establishing fees, taxes, funding oversight and enforcement
- Oversight or assigning program implementation and evaluation
- Many states allow localities to regulate industry and control licensure, taxes, locations, etc...



# Sneak Peak: New NCSL Publication!

## EXECUTIVE SUMMARY

### How Four States Incorporated Public Health into Cannabis Policy

#### A Case Study Report

This report explores the experiences of several states as they regulated nonmedical adult cannabis use through the lens of a public health perspective. The report includes four state case studies developed through research and process participant interviews, including those considered early adopters of nonmedical cannabis use as well as more recently adopting states. Challenges and lessons learned include issues surrounding the role and protection of public health, data collection and monitoring, industry and public engagement, education and social equity.

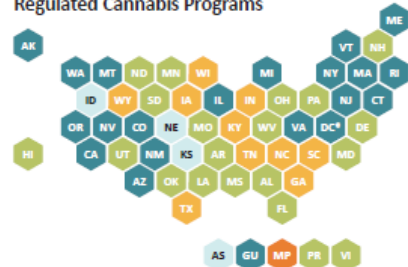
#### Current State of Cannabis Legalization

Cannabis contains more than 100 compounds or cannabinoids, some of which produce a psychoactive effect or "high," like tetrahydrocannabinols (THC). Other compounds include cannabidiol (CBD), which is not intoxicating. Cannabis containing over 0.3% delta-9 THC and products derived from it remain categorized as Schedule I under the federal *Controlled Substances Act*, with "no currently accepted medical use in the United States, a lack of accepted safety for use under medical supervision, and a high potential for abuse."

States began regulating cannabis for medical use in 1996 and for nonmedical adult use in 2012. During the expansion of states regulating medical cannabis from 2014 to 2017, over a dozen states without medical cannabis allowed for low-THC or CBD-only products for people with specific health conditions.

As of July 2022, 37 states, three territories and the District of Columbia have approved cannabis for medical use. Nineteen states, two territories and the District of Columbia allow for the nonmedical use of cannabis by adults over age 21. Thirteen states enacted via ballot measure and five state legislatures took nonmedical measures into their own hands.

#### Regulated Cannabis Programs



- Adult & medical use regulated program
- Adult use only no medical regulated program
- Comprehensive medical cannabis program
- CBD/Low THC program
- No public cannabis access program

\* Limited adult possession and growing allowed, no regulated production or sales. DC, May 2022

#### Key Considerations

From the beginning: The path to a well-regulated and operating cannabis industry has potential challenges and lessons learned for public health, according to experts interviewed for this report. These challenges and lessons include collecting and monitoring data, engaging and educating interested parties, regulating consumer products and businesses, and ensuring equitable opportunities for people who would like to participate in the industry.



# Regulators & Oversight Examples

## Medical programs

### Majority Single Agency

- Departments of Health: 20 states- most manage patient registries
  - 7 have advisory boards/commissions to add conditions

## Medical and nonmedical programs

### Multiple Agencies

- Arkansas, Louisiana, Illinois, Ohio, Utah

### Others

- Medical Cannabis/Marijuana Boards or Commissions: Maryland, Vermont
- Liquor or Cannabis Control Boards: Massachusetts (moved from Dept. of Health)
- Boards of Pharmacy: Virginia
- Department of Revenue: Colorado (Marijuana Enforcement Division) and Dept. of Public Health & Environment
- Dept. of Consumer Protection: Connecticut
- Dept. of Regulatory Affairs: Michigan
- Bureau of Cannabis Control: California



# What varies by state?

- Types and costs of business license applications and renewals.
- State may cap number of business licenses.
- Taxes applied- may vary for medical and non-medical.
- Types of products and THC-content allowed.
- Cost and duration of patient registry cards.
- Training required for medical professionals or budtenders.



# What is tested For?

- Potency
- Biological Contaminants
  - Water Activity/Moisture Content
- Pesticides
- Heavy Metals
- Residual Solvents
- Contaminants and Filth





# Perinatal-Related Rules and Regulation Examples

Pregnancy, nursing, conceiving, etc.

- Posted warning signs
- Labeling requirements
- Printed educational material
- Public education and messaging campaigns
- Certifying practitioner education requirement
- Excluded conditions
- Warnings of possible reporting to state
- Public health research



Source: [https://ccb.vermont.gov/sites/ccb/files/2021-09/Examples\\_Symbols\\_Labels\\_Cannabis.pdf](https://ccb.vermont.gov/sites/ccb/files/2021-09/Examples_Symbols_Labels_Cannabis.pdf)

# In-Store Warning Examples

## Illinois

h) Signage that shall be posted inside the premises.

(1) All dispensing organizations must display a placard that states the following: “Cannabis consumption can impair cognition and driving, is for adult use only, may be habit forming, and **should not be used by pregnant or breastfeeding women.**”

## Colorado

(h) A REQUIREMENT THAT EVERY MEDICAL MARIJUANA STORE AND RETAIL MARIJUANA STORE POST, AT ALL TIMES AND IN A PROMINENT PLACE, A WARNING THAT READS ...

WARNING: USING MARIJUANA, IN ANY FORM, WHILE YOU ARE **PREGNANT** OR BREASTFEEDING PASSES THC TO YOUR **BABY** AND MAY BE HARMFUL TO YOUR **BABY**. THERE IS NO KNOWN SAFE AMOUNT OF MARIJUANA USE DURING **PREGNANCY** OR BREASTFEEDING.

## Nevada

Point of purchase: A medical marijuana dispensary shall: Include a written notification with each sale of marijuana, edible marijuana products or marijuana-infused products which advises the purchaser:

(5) **That pregnant women should consult with a physician before ingesting marijuana or edible marijuana products;**

# Warning Label Requirement Examples

## Arizona

A. THE DEPARTMENT SHALL DEVELOP A WARNING LABEL THAT INCLUDES A STATEMENT THAT **MARIJUANA USE MAY AFFECT THE HEALTH OF A PREGNANT WOMAN AND THE UNBORN CHILD.**

## Virginia

§ 4.1-1402. Labeling and packaging requirements; prohibitions.

a. For retail marijuana and products:  
“GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA....  
**MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING.”**

## New Jersey

Labeling:  
Warning labels that include the nationwide toll-free telephone number used to access poison control centers ... as well as include, but are not limited to, one or more of the following statements...

**"There may be health risks associated with the consumption of this product, including for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

## Montana

Section 109. Required warning labels.  
... package containing the marijuana or marijuana product bears the following statements ...  
:

(2) “WARNING: Consumption of marijuana by **pregnant women may result in fetal injury and low birth weight.**”

(3) “WARNING: Consumption of marijuana by **nursing mothers may result in infant hyperactivity and poor cognitive function.**”

# Warning Label Requirement Examples cont.

## California

(c) All cannabis and cannabis product labels and inserts shall include the following information prominently displayed in a clear and legible fashion... (1) The following statements, in bold print:

“GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. .... **CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL...**”

## Massachusetts

Labeling:

“This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks.

**Marijuana use during pregnancy and breast-feeding may pose potential harms.** It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.”

## New York

Labeling:

13. Medical cannabis shall be dispensed to a certified patient or designated caregiver in a sealed and properly labeled package. The labeling shall contain: (a) .... (d) a warning stating, “This product is for medicinal use only. **Women should not consume during pregnancy or while breastfeeding except on the advice of the certifying health care practitioner...**”

# Public Health Messaging Examples

## California

(c) The State Department of Health Care Services shall establish and implement a public information program... provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from cannabis use, the potential harms of using cannabis **while pregnant or breastfeeding**, and the potential harms of overusing cannabis or cannabis products.

## Illinois

**g)** The Department of Public Health shall develop and disseminate: **(1)** educational information about the health risks associated with the use of cannabis; and

**(2)** one or more public education campaigns ... directed at children, adolescents, parents, and **pregnant or breastfeeding women**, to inform them of the potential health risks associated with intentional or unintentional cannabis use.

## New York

(c) To develop and implement a statewide public health campaign focused on the health effects of cannabis and legal use, including an ongoing education and prevention campaign that ... educates the general public, including parents, consumers and retailers, on ... **information for pregnant or breastfeeding women**, and the overconsumption of edible cannabis products;

# Arizona Warning and Required Reporting

Signage and reporting requirements:

10. REQUIRING MARIJUANA ESTABLISHMENTS TO DISPLAY IN A CONSPICUOUS LOCATION A SIGN THAT **WARNS PREGNANT WOMEN ABOUT THE POTENTIAL DANGERS TO FETUSES CAUSED BY SMOKING OR INGESTING MARIJUANA WHILE PREGNANT OR TO INFANTS WHILE BREASTFEEDING AND THE RISK OF BEING REPORTED TO THE DEPARTMENT OF CHILD SAFETY DURING PREGNANCY OR AT THE BIRTH OF THE CHILD BY PERSONS WHO ARE REQUIRED TO REPORT.** THE RULES SHALL INCLUDE THE SPECIFIC WARNING LANGUAGE THAT MUST BE INCLUDED ON THE SIGN. THE COST AND DISPLAY OF THE SIGN REQUIRED BY RULE SHALL BE BORNE BY THE MARIJUANA ESTABLISHMENT.

# New Hampshire

## Provider counseling, in-store signs and documents

The department shall adopt rules, pursuant to RSA 541-A, to document that counseling has been provided by the certifying provider to all women of child-bearing age and adolescents 25 years of age or less, and the parent or guardian of a patient less than age 18, about the risks of cannabis use in adolescence, **during pregnancy, and while breastfeeding, prior to issuing or reissuing a therapeutic cannabis card to such individuals.**

**Information about the risks of cannabis use during pregnancy and while breastfeeding,** as outlined by the therapeutic cannabis medical oversight board. **Such information shall include the posting of an informational poster regarding the risks of cannabis use during pregnancy and while breastfeeding in a conspicuous location at the alternative treatment center's dispensary location.**

Prepare, in conjunction with the bureau of alcohol and drug services and the division of public health services, a **brochure and a poster which provides information relative to the risks of cannabis use during pregnancy, adolescence, and while breastfeeding,** which shall be posted and available to the public in all therapeutic cannabis dispensary locations.

# Qualifying Condition Exclusions

## Alabama

---

QUALIFYING MEDICAL CONDITION. Any of the following conditions or symptoms of conditions, but only after documentation indicates that conventional medical treatment or therapy has failed unless current medical treatment indicates that use of medical cannabis is the standard of care: ....

i. Persistent nausea that is not significantly responsive to traditional treatment, **except for nausea related to pregnancy, cannabis-induced cyclical vomiting syndrome, or cannabinoid hyperemesis syndrome.**

## Arkansas

---

This amendment does not permit a person to:

(4) Smoke marijuana:

(A) In a place where the smoking of tobacco is prohibited by law;

(B) In the presence of a person who is under fourteen (14) years of age;

(C) Inside a motor vehicle, aircraft, motorized watercraft, or any vehicle drawn by power other than muscle power;

**(D) Knowingly in the presence of a pregnant woman; ....**



## Florida

---

**(4) PHYSICIAN CERTIFICATION.** — (a) A qualified physician may issue a physician certification only if the qualified physician:

4. Determined whether the patient is **pregnant** and documented such determination in the patient's medical record. A physician may not issue a physician certification, except for low-THC cannabis, to a patient who is **pregnant**.

## Utah

---

(2) For the purposes of this chapter, each of the following conditions is a qualifying condition:

(f) persistent nausea that is **not** significantly responsive to traditional treatment, **except for nausea related to:**

**(i) pregnancy;**

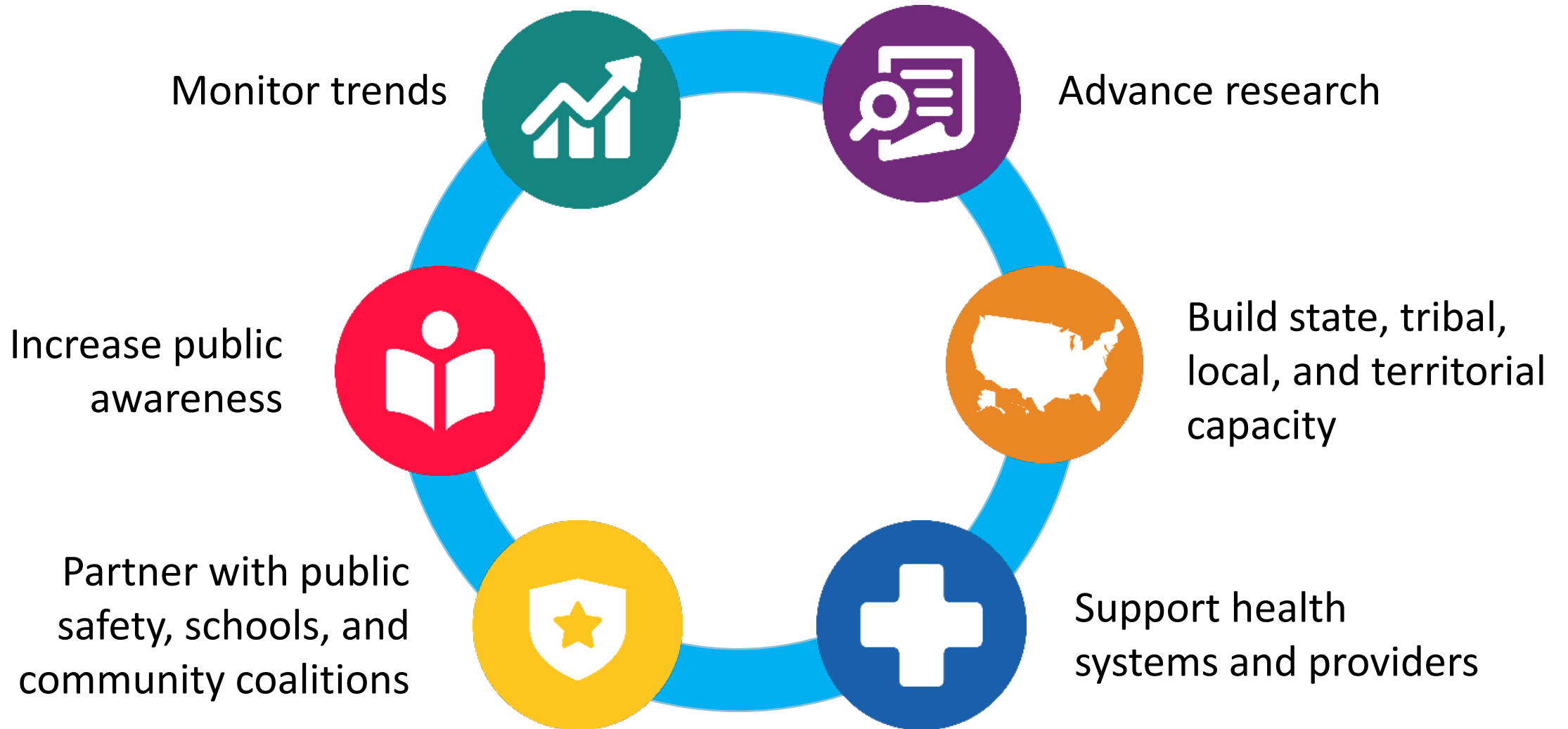
## Illinois

- (3) ... Department of Revenue shall transfer...
- (A) 2% shall be transferred to the Drug Treatment Fund for
- (i) developing and administering a scientifically and medically accurate public education campaign educating youth and adults about the health and safety risks of alcohol, tobacco, **illegal drug use (including prescription drugs), and cannabis, including use by pregnant women; and (ii) data collection and analysis of the public health impacts of legalizing the recreational use of cannabis.**

## New York

- (c) **To develop and implement a statewide public health campaign focused on the health effects of cannabis and legal use, including an ongoing education and prevention campaign that educates the general public,** including parents, consumers and retailers, on the legal use of cannabis, the importance of preventing youth access, the importance of safe storage and preventing secondhand cannabis smoke exposure, **information for pregnant or breastfeeding women,** and the overconsumption of edible cannabis products;

# Cannabis Strategic Plan





Karmen Hanson, MA  
Senior Fellow

**Reach out anytime!**

[Karmen.Hanson@ncsl.org](mailto:Karmen.Hanson@ncsl.org)