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# Mid-Atlantic States + Overview

## Legislation/Markets

- The Marijuana Policy Project calculates a whopping 37 legalization bills for medical or recreational marijuana are likely to be introduced in 33 states and the District of Columbia in 2017.
- Over 55 million people on the I-95 corridor.
- East Coast focused medical and blossoming recreational markets – Massachusetts and Maine.
- This deck is a very brief overview of Delaware, Florida, Maine, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania.

# Delaware

- March 30, 2017, 14 Delaware legislators announced their sponsorship of HB110, the Delaware Marijuana Control Act – regulates cannabis same as alcohol. The existing medical marijuana law would not be affected by HB 110, except that pre-existing medical marijuana licensed businesses shall receive priority in licensing for recreational use.
  - Because the bill will establish a new tax, it needs a a super-majority of legislators in the General Assembly to say yes to reform
- On December 18, 2015, Delaware became the 19<sup>th</sup> state to implement a decriminalization or legalization law. Six months earlier, Gov. Jack Markell signed HB 39, making possession of personal use amounts of marijuana a civil violation.
  - HB 39 makes possession of up to one ounce of marijuana by adults a civil violation punishable by a \$100 fine with no possibility of jail. Possession of up to an ounce of marijuana was previously a misdemeanor punishable by up to a \$575 fine and up to three months in jail.

# Delaware

- Delaware's first compassion center opened in June 2015 – First State Compassion opened to qualified patients on June 26, 2015. The second in Sussex County is expected to open in Spring 2017, and a third in Kent County in the latter half of 2017.
- First State now has control of two of the state's three MMJ businesses.
- The state's other dispensary, Columbia Care, was awarded Delaware's second license on Sept. 23.

# Florida – No Formal Regulations From November 2016 Election Yet

- In 2014, the Florida Legislature passed a medical marijuana law pursuant to which the Department of Health issued authorizations to seven (7) organizations to cultivate and dispense medical cannabis for and to qualified patients. 6 currently open.
  - Florida's law provided in part that only entities that have been in operation as a registered nursery in Florida for at least **30 continuous years** were allowed to apply for one of the initial low-THC cultivation licenses.
- Florida's Amendment 2 - voter approved in November 2016 - expands Florida's Medical Marijuana Law while easing some of the more onerous requirements in the 2014 law such as the bond requirement, only need to be in business in FL for 5 years, adding regulations for seed-to-sale tracking, and enhanced oversight of security cameras and transportation of marijuana.
- Florida's current Legislative Session is set to end on May 5, 2017 - bills in the Senate and House outline different ways to implement a medical marijuana program.

# Florida – 10 Qualifying Conditions

- Cancer
- Epilepsy
- Glaucoma
- HIV
- AIDS
- Post-Traumatic Stress Disorder (PTSD)
- Amyotrophic Lateral Sclerosis (ALS)
- Crohn's disease
- Parkinson's disease
- Florida Department of Health has proposed allowing the Florida Board of Medicine to decide what conditions could qualify a patient for medical cannabis instead of leaving to his/her physician

# Florida

- Existing Program resulting from 2014 law: Florida's supply of medical marijuana for patients is grown, cultivated and produced by seven nurseries across the state that have partnered with companies to do the processing, sales and marketing.
- Patients cannot grow their own medical marijuana, regardless of condition. Smoking cannabis, medicinal or not, is still illegal.
- Home delivery is permitted under the law and thus with the number of patients estimated to be 500,000, expanded home delivery is expected given the current limited number of dispensaries.

# Florida

- Currently, Florida has a vertically integrated system, meaning the dispensing organizations that are currently licensed to dispense medical cannabis in Florida have to grow their own cannabis and do not purchase it from outside sources.
- With Amendment 2 passing in November 2016, the question of whether or not Florida is going to move from a vertically integrated system to a horizontally integrated still remains unanswered.
- Further, neither of the Bills currently being debated in Florida's House and Senate provide for a significant expansion of authorized dispensaries beyond the seven (7) currently able to operate.

# Florida

## Where can Medical Marijuana be Grown and What is the Cost to Apply?

- Amendment 2 is to be applied state wide. However, many cities and counties are considering putting down a moratorium on medical cannabis.
- The Health Department's Office of Compassionate Use is not accepting applications for the Compassionate Use Act.
- However, the fees for a license under 2014's Compassionate Use Act were \$300,000 plus a \$5 Million performance bond.
- Amendment 2 eliminates the bond requirement and may further expand access to licenses for marijuana business organizations.

# Florida

- Lawmakers look to add diversity to medical marijuana – Senate Bill 406 - asks that a diversity plan be written into medical marijuana laws. It would be something similar to Florida's Minority Business Enterprise program, but for the medical marijuana industry.
- Currently, the only state in the country that has a diversity goal outlined in its law is Pennsylvania (c/o Roz McCarthy, Minorities For Medical Marijuana).

# Maine

- 1999: Maine Medical Marijuana Act passes - authorized medical use of marijuana but did not address access
- 2009: New Maine Medical Marijuana Act approved by voters - repeals & replaces 1999 law
- 2011: Amendments to Medical Marijuana Act
- Prior to November 2016 elections, Medical Marijuana Act authorized eight (8) dispensaries, one in each of Maine's designated Health Districts
- First six (6) dispensaries received licenses in July 2010; eight (8) open as of 2016.
- Maine had over 50,000 registered medical cannabis patients in 2016.

# Maine Medical

- Thirteen (13) Qualifying Conditions:
  - Cancer
  - Glaucoma
  - Positive status for human immunodeficiency virus (HIV)
  - Hepatitis C
  - ALS (Amyotrophic Lateral Sclerosis)
  - Crohn's disease
  - Agitation of Alzheimer's disease
  - Nail-patella syndrome
  - Intractable pain, or a chronic or debilitating disease or medical condition or its treatment that produces cachexia or wasting syndrome, severe nausea, seizures (such as those characteristic of epilepsy) or severe and persistent muscle spasms (such as those characteristic of multiple sclerosis)
  - Intractable pain that has not responded to traditional treatments for 6 months or more
  - PTSD
  - Inflammatory bowel disease
  - Dyskinetic and spastic movement disorders and other diseases causing severe and persistent muscle spasms.

# Maine Recreational

- On November 8, 2016, Maine voters narrowly passed Question 1, the Marijuana Legalization Act, a Question 1 authorizing the adult use of marijuana.
- The licensing authority of the Marijuana Legalization Act is the Department of Agriculture, Conservation, and Forestry; Question 1 authorizes the following types of licenses:
  - Retail cannabis store licenses
  - Retail cannabis cultivation facility licenses
  - Retail cannabis products manufacturing licenses
  - Retail cannabis testing facility licenses
  - Retail cannabis social club licenses

# Maine Recreational

## Proposed Maine Retail Marijuana Business Licenses

- Retail marijuana store license: license fee between \$250-2,500; non-refundable application fee between \$10-250
- Retail marijuana cultivation facility license: license fee between \$10-100 per 100 square feet; non-refundable application fee between \$10-250
- Retail marijuana products manufacturing facility license: license fee between \$100-1,000; non-refundable application fee between \$10-250
- Retail marijuana testing facility license: license fee approximately \$500; non-refundable application fee between \$10-250
- Retail marijuana social club license: license fee between \$250-2,500; non-refundable application fee between \$10-250

# Maine Recreational

## Number of licenses available:

- Question 1 prohibits the state from limiting the total number of retail marijuana stores, but allows municipal oversight. Municipalities may regulate the number of retail marijuana stores. They may also regulate the location and operation of all retail marijuana establishments, including social clubs, and may ban any type of retail marijuana establishment or social club.□
- The state may limit the retail marijuana cultivation, either by placing a cap or by limiting the amount of production permitted (such as based on previous months' sales). The state is limited to a total of 800,000 square feet of plant canopy, unless increased at a later date, with at least 40% of licensees cultivating 3,000 square feet of canopy or less. The most a single licensee may cultivate is 30,000 square feet. If a licensee does not use its full cultivation space within a year, its allocated space may be reduced.
- Question 1 prioritizes a compliance-based approach, but imposes competition in the event of more applications being received than are allowed. Medical marijuana caregivers and applicants who have cultivated in compliance with Maine's law for at least two years will receive priority. The municipality's preferences for licensure will be considered in the event of deciding between qualified applicants.
- Question 1 does not prohibit applicants from operating more than one marijuana establishment.

# Maine Recreational

- Maine passed a bill in January giving lawmakers extra time to draft regulations for its recreational marijuana program, delaying the start of adult-use sales until February 2018. Under the original ballot initiative passed by voters in the 2016 election, the program would have launched as early as September 2017.
- A bill to allow existing Maine dispensaries to sell to the recreational market while lawmakers draft adult-use program regulations will be proposed this year, though it's not clear whether it has enough support to pass.

# Maine Recreational

- Types Of Cultivation Facility Licenses Issued:
  - (1) Licenses for cultivation centers with 3,000 square feet or less of plant canopy
  - (2) Licenses for cultivation centers with more than 3,000 square feet of plant canopy
- Marijuana cultivation facilities will be governed and licensed according to unit blocks of 100 square feet of plant canopy. It is projected that slightly less than half of all licenses will be issued to licensees producing 30 unit blocks (3,000 square feet) or less. Notably, the maximum amount of unit blocks a licensee will be permitted to grow is 300, or 30,000 square feet.
- The City of Portland, ME has permitted legal recreational marijuana use since 2013.
- At 3.8 percent, Maine is tied with California for the most citizens with medical marijuana cards.

# Maryland

- Large controversy over licensing in MD.
  - Diversity
  - Political favorites
- PA response requires diversity and no political influence...
- Planning to expand licensing for minority/women owned companies.

# Massachusetts

- On January 1, 2013, the Humanitarian Medical Use of Marijuana Act, Chapter 369 of the Acts of 2012 (the “Act”), went into effect allowing qualifying patients with certain defined medical conditions the legal authority to obtain and use marijuana for medicinal use in the Commonwealth of Massachusetts.
- 9 Defined qualifying conditions: AIDS; Amyotrophic lateral sclerosis (ALS); Cancer; Crohn's disease; Glaucoma; Hepatitis C; HIV; Multiple sclerosis (MS); Parkinson's disease.
- Also allows for “other debilitating conditions as determined in writing by your doctor”.

# Massachusetts Recreational

- The Massachusetts Marijuana Legalization Initiative approved by voters in November 2016
- Includes language that allows the creation of cannabis social clubs as in Amsterdam. Although the law explicitly states “no person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited”, it also says that this rule “shall not apply to a person who consumes marijuana or marijuana products in a designated area of a marijuana establishment located in a city or town that has voted to allow consumption on the premises where sold”
- In order to open a cannabis social lounge in the future, a business will need the approval of local voters.
- Program expected to be operational by June 2018.
- Allows for the cultivation, process, distribution and sale of hemp.

# Massachusetts

## STATUS OF NEW LICENSES

### POST-NOVEMBER 2016 ELECTIONS

- Currently, no new applications for licenses being accepted for cultivation, manufacturing, retail dispensaries or lab testers,
- Existing medical marijuana licensees will receive priority licensing, which ends in 2018, after which the state will publish a Notice of Application Opportunity (Notice) which will detail the requirements to new applicants for submission.
- Localities are allowed to regulate time, place and manner no more restrictively than medical marijuana regulations. Local governments can limit establishment numbers; however, any bans or limits below 20% are required to be approved by voters.
- The state's program is operated by the Cannabis Control Commission, which is allowed to institute an absolute cap on statewide marijuana cultivation.
- Delivery services remain illegal at this time.

# Massachusetts

- Massachusetts lawmakers delayed the start of adult-use sales even further, giving the state six more months to establish regulatory and licensing procedures. Rec stores were originally scheduled to open in January 2018, but that's now been extended until June 2018.
- There are 4 license types offered in Massachusetts: Cultivator; Manufacturer (Processor); Retail (Dispensary); Tester (Laboratory)
- \$3,000, non--refundable application fee applies.

# Massachusetts

## Recreational - What Is NOT Legal?

- Recreational marijuana cannot be sold in any form in Massachusetts without a retail license. The Cannabis Control Commission will be responsible for issuing retail licenses.
- Using marijuana is illegal in any public place. It's also illegal to use marijuana in any place where tobacco is banned.
- Marijuana growing at home must be done discreetly and securely. Marijuana plants cannot be plainly visible from the street or any public area and must be cultivated someplace where there is a security device.
- Tenants cannot grow marijuana in their residences or smoke it if their landlord has a rule against it. Rental agreements, however, cannot prohibit tenants from consuming marijuana “by means other than smoking.”

# New Jersey

- Senate President on record as focused on moving quickly on new NJ legislation as soon as Christie leaves office.
- 5 of 6 licensed dispensaries open; one just transferred ownership.
- September 2016 PTSD added 2016 and saw sales increases with some NJ dispensaries becoming profitable for the first time.
- Panel of experts appointed last year and in February, 2017 held hearings on adding chronic pain.
- Around 12,500 patients, well below national average.
- Many companies are “positioning” for 2018.

# New Jersey

- New Jersey's medical marijuana industry posted a banner year in 2016, with patient counts ballooning 76% and sales volume doubling thanks to a series of small changes to the state's MMJ program and the opening of two new dispensaries.
- New Jersey's medical marijuana program saw its patient count nearly double last year, breaking the 10,000 mark for the first time, according to an annual report released by the New Jersey Department of Health.
- More than 450 people suffering from post-traumatic stress disorder have enrolled in New Jersey's medical marijuana program since mid-September, when Gov. Chris Christie agreed to add PTSD to the list of treatable conditions for MMJ. The PTSD enrollees amount to about 4% of the 10,800 MMJ patients.
- State lawmakers from Tennessee and New Jersey have traveled to Colorado recently to glean insights from the medical and recreational marijuana industries there and investigate the potential economic benefits for their own states.

# New York

- All Medical – oil only; each entity can produce 5 brands of products (1 brand must be THC/CBD ratio of 1:20); 10 mg max dose per product.
- Practitioners register and issue certifications like PA (one year certification).
- Same permit registration fees as PA; permits not transferrable.
  - Bloomfield just acquired.
- 5 permits; operational within 6 months.
- No delivery; testing done by NYDOH permitted labs in NY.
- Restricted advertising and vaporization in certain places.
- Expanded market soon.
- Uses “Marihuana” throughout regulations.
- Gov. Cuomo wants to expand the program.

# New York

- Vireo, which first obtained permission from the state in January to deliver medical cannabis instead of requiring patients to pick up purchases at storefront dispensaries, has launched its service by offering deliveries in the boroughs of Queens and Brooklyn, as well as in Nassau and Suffolk counties on Long Island, the New York Business Journal reported.
- Deliveries will then expand to Westchester, the Bronx, Manhattan and Staten Island, TV station WNBC reported.
- According to the Business Journal, Columbia Care began MMJ deliveries to patients in upstate New York last month, making it the first in the state to launch a delivery service.

# New York

- March 2017 Chronic pain is now a qualifying condition, and physician assistants are permitted to certify patients for MMJ.
- Etain Health of New York made waves when it announced it landed an agreement to supply MMJ products to a Bronx nursing home.
- Under the deal, Etain will help health personnel become certified to recommend medical marijuana and also will provide MMJ products to nursing home residents who have received a recommendation.
- One potential obstacle to similar deals: A federal institution, the Department of Health and Human Services, regulates nursing homes and provides some with funding. Some facilities fear they could lose their funding if they allow a federally illegal drug, the New York Times reported.
- But Stephen Hanse, president of the New York State Health Facilities Association, believes arrangements like Etain's will become more common, the New York Daily News reported.
- Interestingly, when Maine changed its MMJ law to allow dispensaries in 2009, one of the new provisions permitted nursing homes and in-patient hospice centers to act as registered caregivers. To become registered caregivers, the homes and hospice centers were required to buy cannabis from a dispensary- not one nursing home has signed up as a caregiver.

## New York

- The first New York dispensary opened over a year ago, in January 2016, but only 10,250 patients have made a purchase and just 6,403 have been repeat buyers, Politico reported Friday.
- One of the five New York licensees, PharmaCann is using only 8%-10% of its production capacity because it hasn't had enough patient demand to maximize its capabilities.
- Etain, for example, is offering a repeat customer discount.
- Vireo Health, has obtained permission to deliver MMJ. A third was recently purchased by a California-based MMJ management company, MedMen.

# New York

- Two former employees of a multistate medical cannabis company have been formally charged with illegally transporting MMJ products across state lines, from Minnesota to New York.
  - Both defendants, once officers of Minnesota Medical Solutions
  - Vireo Health, the parent company of Minnesota Medical Solutions, holds MMJ licenses in both states. The defendants, according to the charges, were taking cannabis oil from Minnesota to Vireo's facility because marijuana plants grown by the company in New York were "inadequate to make medicine," the Times Union reported.
  - A third defendant is also expected to be charged in connection with the case, according to the Times Union. But the company itself will not be charged with any wrongdoing.

# Ohio

- On May 10, 2016, House Bill 523 was approved, authorizing the use of marijuana for medical purposes, and establishes the Medical Marijuana Control Program.
- On June 8, 2016, Ohio Governor Kasich signed House Bill 523 into law, authorizing the creation of a new medical marijuana framework in Ohio. Under the new law, State agencies will offer licenses for cultivators, dispensaries, processors and testing labs.
- Estimates of the Ohio patient population vary from 185,000 to 325,000.

# Ohio

Twenty-One (21) Qualifying Conditions For Medical Cannabis in Ohio:

- Alzheimer's disease; Amyotrophic Lateral Sclerosis (ALS); Cancer; Chronic Traumatic Encephalopathy; Crohn's disease; epilepsy; fibromyalgia; glaucoma; hepatitis C; HIV-AIDS; inflammatory bowel disease (IBD); chronic, severe, or intractable pain; multiple sclerosis; Parkinson's disease; Post-Traumatic Stress Disorder (PTSD); sickle cell anemia; spinal cord disease, or injury; Tourette Syndrome; traumatic brain injury; ulcerative colitis.

# Ohio

- Applications for cultivators were released on April 21, 2017 are due in June 2017; applications for processors, dispensaries, and testing labs are expected by September 2017.
- Up to 24 licenses —12 "level I" (large growers) licenses for up to 25,000 square feet of growing space and 12 "level II" licenses for up to 3,000 square feet.
- Ohio has set some of the highest licensing fees in the country. Larger growers must pay a \$20,000 application fee and a \$180,000 license fee. Smaller grow operations must pay \$2,000 to apply and an \$18,000 license fee. Annual renewal fees also apply.
- Department officials can decide in September 2018 whether to issue additional licenses or grant additional grow space to existing license holders.

# Ohio

- Grower license winners will be announced in September.
- Applications for dispensaries and processors will also become available in September. A lot remains to be done in Ohio, but if the rollout goes smoothly, dispensaries could be open by the third quarter of 2018.
- Applicants who meet the first round of qualifications will be evaluated based on how they plan to cultivate and label medical marijuana, secure the cultivation facility and fund operating expenses, according to the Plain Dealer.
- Small-grow applications will be accepted June 5-16. Those for large grow will be accepted June 19-30. It's not yet known when the licenses will be awarded, but the program must be up and running by September 2018 under state law.

# Ohio

- Ohio's medical marijuana law requires mandatory marijuana testing to be done by an in-state, public university.
- Ohio-based Black Elk Biotech has awarded Ohio University (OU) a \$1.85 million contract to examine therapeutic benefits generated from cannabis and other natural products. After September 2019 (first year of MMJ program operations) private testing labs can enter the market.
  - Black Elk Biotech is a subsidiary of Black Elk, an Ohio company focused on products and medicines derived from fruits, trees, plants and other vegetation.
- A license from the state and federal governments must be obtained in order to study cannabis for therapeutic uses, and OU plans to include cannabis in their study once the proper documentation is in place. Their applications are currently pending.
  - Issue essentially is public universities risk losing their federal drug-testing certifications if they delve into a substance — marijuana — that is deemed illegal under federal law.

# Pennsylvania

- On May 17, 2016, Rep. Ed Gainey, one of the lead sponsors of medical marijuana legislation in Pennsylvania, introduced HB 2706, a bill that would decriminalize the possession of marijuana. Currently, an individual arrested for possession of up to an ounce of marijuana can still be sentenced to a maximum of 30 days in jail and fined up to \$500. Rep. Gainey's bill would reduce the penalty to a fine not to exceed \$100.
- DOH Update April 26, 2017:
  - 231 applications approved for Safe Harbor
  - DOH received about 500 “packages” for grower/processor and dispensary applicant (some of which contain more than one application) and has opened about half of them.
  - 132 Grower/Processor and 126 Dispensary applications have been logged
  - DOH will intake, evaluate, and score the applications by June 30<sup>th</sup>.
  - Will release names today of those that have been logged to date with the rest coming 4-6 weeks.
  - DOH is doing intake, evaluating, and scoring simultaneously.

# Pennsylvania

- MJ Freeway wins seed-to-sale tracking contract.
- Side Story:
  - Net Savings Link Inc. said its cannabis division will open an office in Shanghai, China, next month to expand its medical marijuana technology business into the world's most populous country.
  - Company based in Cresco, Pennsylvania,
  - “Chinese companies have 309 out of the 606 patents filed around the world that relate to cannabis,” company president James Tilton said in the release.
  - All plant-touching marijuana businesses remain illegal in China, but the country does grow hemp and exports it to the United States.
- Pennsylvania regulators issued draft rules governing how doctors can qualify to recommend medical marijuana and certify patients to receive the drug under the state's new MMJ program.
- Medical cannabis advocates, however, warned the proposed regulations could limit patient access to MMJ.