Governor’s FY 2019 Budget: Articles

Staff Presentation to the House Finance Committee
March 20, 2018
Introduction

- Article 17 - several changes to medical marijuana laws to increase access to affordable products, continue the move away from self-grow and enhance compliance
  - Regulatory oversight shift
  - Expansion of regulated entities
  - Patient-related changes
  - Enforcement changes
2005 Assembly passed legislation to create a medical marijuana program

- Vetoed by Governor Carcieri
  - Veto overridden first day of 2006 session
- Original law sunset June 30, 2007
  - Made permanent by 2007 Assembly
- Administered by Department of Health
  - No specific staff or funds authorized
- 2014 Assembly lifted cap on compassion center plant count imposed in 2012
2016 Assembly

- Expanded regulation and enforcement
  - Departments of Health & Business Regulation
  - Shifted licensing of compassion centers to DBR

- Established licenses for cultivators
  - Grow plants exclusively for compassion centers
  - Centers not obligated to purchase from them

- Instituted tagging system for plants grown by patients and caregivers
  - Authorized fees for plants tags
History – Rhode Island Program

- **2016 Assembly**
  - Moved to annual registration renewals
  - Established protocols for sharing information with law enforcement
  - Required all registration, renewal & license fees be deposited as restricted receipts
    - Use by DOH & DBR to administer program
    - 4.0 new positions in Business Regulation

- **2017 Assembly** authorized transfer of excess receipts to general revenues
History – Rhode Island Program

- Health
  - Patients
  - Caregivers
  - Authorized purchasers
    - Can purchase on behalf of patient

- Business Regulation
  - Cultivators
  - Compassion Centers
  - Plant Tags
    - Patients
    - Caregivers
Participation

Source: Department of Health
Article 17 – Medical Marijuana

- Regulatory oversight shift
- Expansion of regulated entities
  - Licensed manufacturers
  - Compassion centers
- Patient-related changes
- Enforcement
- Fiscal impact
Regulatory oversight shift

- Licensing of caregivers and authorized purchasers would move from Health to Business Regulation

- Governor also proposed shift of caregiver oversight as part of 2016 changes
  - Assembly maintained in Health

- To align with DBR’s regulation of plant growth via tag system
  - Allow for more enforcement options
Article 17 – Oversight

- Article also makes technical corrections to align 2 sections of law
  - No substantive changes
- Governor’s requested amendment
  - More clearly delineates authority between Health & Business Regulation
Article 17 – Medical Marijuana

- Regulatory oversight shift
- **Expansion of regulated entities**
  - Licensed manufacturers
  - Compassion centers
- Patient-related changes
- Enforcement
- Fiscal impact
Article 17 – Manufacturers

- Existing facilities currently make related products – no separate license
  - Edibles and Oils
- Article creates “manufacturer” license
  - Plants would be supplied by cultivators and compassion centers to process products
    - Sales to compassion centers or other manufacturers only
  - Decentralize supply chain
    - Minimize compassion center market control
Article 17 – Manufacturers

- Application fees and licenses not in law
  - To be set by regulation
- Revenue estimate assumes 74 facilities
  - Includes existing compassion centers, some existing cultivators
    - Exempts those entities that currently manufacture or had demonstrated prior intent to do so from initial application fee
  - Assumes 4 classes would be licensed by size to be set by regulation
    - Classes and fees not specified in the article
## Article 17 – Manufacturers

<table>
<thead>
<tr>
<th>Type of Manufacturer</th>
<th>Count</th>
<th>Appl. Fee</th>
<th>Annual License</th>
<th>Fiscal Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Micro</td>
<td>5.0</td>
<td>$1,000</td>
<td>$3,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>New - up to 1,000 ft²</td>
<td>35.7*</td>
<td>$5,000</td>
<td>$15,000</td>
<td>$535,000</td>
</tr>
<tr>
<td>New - 1,000 to 2,500 ft²</td>
<td>15.0</td>
<td>$5,000</td>
<td>$20,000</td>
<td>$375,000</td>
</tr>
<tr>
<td>New – over 2,500 ft²</td>
<td>15.0</td>
<td>$5,000</td>
<td>$30,000</td>
<td>$525,000</td>
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<tr>
<td>Current Compassion Centers</td>
<td>3.0</td>
<td>*</td>
<td>$30,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>73.7*</td>
<td><strong>$155,000</strong></td>
<td><strong>$1,390,000</strong></td>
<td><strong>$1,545,000</strong></td>
</tr>
</tbody>
</table>

*Rounding issue with estimate – actual will be whole number*
Compassion Centers

Current limit is 3 centers - aka dispensaries

Dispensaries to Patient Ratio low

- National ~ 1:1,500
- Rhode Island ~ 1:6,240

Market efficiency concerns

- Wholesale price decreases have not passed to consumers
- Existing centers have narrow plant strain offerings
  - Encourages continuation of home grows at large scale
Compassion Centers

- Article would allow 15 centers
  - Application process opens if registered centers ever drop below 15
  - Approval process must consider underserved areas
- Fees for both initial application and registration renewals would increase
**Article 17 – Compassion Centers**

<table>
<thead>
<tr>
<th>Compassion Center</th>
<th>Initial</th>
<th>Registration/Renewal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rhode Island - Current</td>
<td>$250</td>
<td>$5,000</td>
</tr>
<tr>
<td>Rhode Island - Article 17</td>
<td>$10,000</td>
<td>$30,000</td>
</tr>
<tr>
<td>Connecticut</td>
<td>$1,000</td>
<td>$5,000</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>$1,500 / $30,000</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

- **MA/CT comparison to retail centers only**
  - CT - producer license $25,000 initial; $75,000 renewal
  - MA - manufacturer, cultivator, and testing facility all separate licenses
Article 17 – Compassion Centers

- Article changes licensed activities
  - Prohibits unlicensed cultivation & manufacturing
    - As noted with new manufacturer license
  - Cultivators currently licensed by facility size via regulation
    - DBR established 5 classes
      - Micro and A through D
    - Current compassion centers are allowed to grow without separate license
      - Existing centers would be Class A or larger
Article 17 – Compassion Centers

- Compassion Centers
  - Allows centers to sell to patients with out of state registry cards
    - Any state cardholder
    - Federal/state law prohibit transport across state lines
  - Offers legal option for acquisition and use away from primary residence
    - Legal use requires a facility/place
As drafted, article allows all compassion centers to hold all three license types

- Compassion Center
- Cultivator
- Manufacturer

Department indicates intent is to clarify allowable instances through regulation

- Disperse activities for product diversity and access
Article 17 – Compassion Centers

- Possible combinations
  - Existing Compassion Centers with all licenses
  - Existing Cultivators with retail license
    - Maintain current cultivator license to grow
      - May decrease cultivator license, but not increase
  - “Retail only” Compassion Centers
    - May include micro-manufacturer license
Article 17 – Medical Marijuana

- Regulatory oversight shift
- Expansion of regulated entities
  - Licensed manufacturers
  - Compassion centers
- Patient-related changes
- Enforcement
- Fiscal impact
RI Patient Process

Step 1

Doctor recommends treatment

- Can be made by physician from RI, MA, or CT*

Step 2

Application to Dept. of Health

- Annual & includes:
  - DOB
  - Address/Proof of Residency
  - Medical records
- Non-refundable fee $50
  - $25 for Medicaid, SSI, Vets’ Disability

Step 3

Patient selects method(s)

- Self-grow
- Human Caregiver
- Authorized Purchaser
- Compassion Center

*MA & CT physicians permitted by 2009 Assembly
# Qualifying Diseases and/or Symptoms in RI

<table>
<thead>
<tr>
<th>Diagnosis</th>
<th>Symptoms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cancer</td>
<td>Severe nausea</td>
</tr>
<tr>
<td>Human Immunodeficiency Virus (HIV)</td>
<td>Wasting Syndrome</td>
</tr>
<tr>
<td>Acquired Immune Deficiency Syndrome (AIDS)</td>
<td>Severe, debilitating chronic pain</td>
</tr>
<tr>
<td>Glaucoma</td>
<td>Severe muscle spasms</td>
</tr>
<tr>
<td>Hepatitis C</td>
<td>Seizures (not limited to epilepsy)</td>
</tr>
<tr>
<td>Post-traumatic stress disorder</td>
<td>Alzheimer’s Disease</td>
</tr>
</tbody>
</table>
Article 17 – Patients

- Current law allows CT and MA physicians to do referrals
  - Out of state doctors ~ 40% of all referrals
- Article restricts referrals to Rhode Island licensed physicians
  - Out of state physicians not subject to local Department of Health oversight and accountability
- Article ends medical records mandate
  - May still be required through regulation
Medical conditions
- Expands patient eligibility to include “acute pain”
- Term-limited and based on a practitioner’s recommendation
  - Not to exceed six months
  - Only temporary condition allowed
  - No authorization to grow or appoint caregiver
Hospice Patients

- Current law exempts patients and caregivers from registration fee
- Article exempts their authorized purchasers from fee as well
Article 17 – Patients

- Under current law all patients can appoint a caregiver
  - Article prohibits self-grow patients from appointing a caregiver
    - Unless there is a proven need
- Caregivers may grow for 5 patients
  - 4 if caregiver is also a patient
  - Article restricts caregiver patient load to 1
    - Unless patient is an immediate family member
    - Other circumstances subject to regulation
Current law permits program participants to possess and cultivate medical marijuana.
- Allowed amounts are established by participant type.
- Article further restricts plant counts and access.
  - Limit excess home grows.
# Article 17 – Patients

- Article lowers allowable plant limits for patients and caregivers by one third
  - Increases possession limits by 20%

<table>
<thead>
<tr>
<th>Type</th>
<th>Current law</th>
<th>Article 17</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mature</td>
<td>Seedling</td>
</tr>
<tr>
<td>Patients</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>Caregiver -1</td>
<td>12</td>
<td>24</td>
</tr>
<tr>
<td>Caregiver -1+</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>Absolute Maximum</td>
<td>24</td>
<td>24</td>
</tr>
</tbody>
</table>
Article 17 – Patients

- Under current law program participants may gift excess product to other participants
  - Do not have to be connected via caregiver
  - Cannot be sold
- Article repeals allowance for gifting
  - Authorizes DBR to set regulations for transfers of product between caregivers and patients connected through regulator process
Article 17 – Medical Marijuana

- Regulatory oversight shift
- Expansion of regulated entities
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  - Compassion centers
- Patient-related changes
- Enforcement
- Fiscal impact
Article 17 – Enforcement

- Codifies DBR’s areas of regulation and allows for future licensed industries – excluding retail
  - Transportation/Delivery
  - Destruction
- Requires cultivators and manufacturers to use seed to sale tracking system
  - Cultivators already required by regulation
- Prohibits medical marijuana “emporiums”
  - Distribution and use establishments and clubs
Article 17 – Enforcement

- Extends grounds for registry card denial for caregivers & purchasers to prior violations
  - Currently only incomplete or falsified information
- Gives DBR authority for show cause/cease and desist orders for any program violation of a licensed activity
  - Appealed decisions stand until Superior Court ruling
Article 17 – Enforcement

- Establishes fines for Compassion Centers
  - No threat to public health/safety - $500
  - Threat to public health/safety - $2,000
  - No collections assumed in budget
Article 17 – Enforcement

- **Enforcement**
  - Department of Health to certify third-party laboratories
    - Perform testing pursuant to regulations
  - Governor’s requested amendment
    - Provides law enforcement protections for laboratory facilities, employees, affiliates
      - Similar to protections for other regulated industries
Article 17 – Medical Marijuana

- Regulatory oversight shift
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- Patient-related changes
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- Fiscal impact
### Compassion Center Collections

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Gross Receipts</th>
<th>Sales Tax: 7%</th>
<th>Surcharge: 4%</th>
<th>Total Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>$416,400</td>
<td>$29,148</td>
<td>$16,656</td>
<td>$45,804</td>
</tr>
<tr>
<td>2014</td>
<td>$6,728,900</td>
<td>$471,023</td>
<td>$269,156</td>
<td>$740,179</td>
</tr>
<tr>
<td>2015</td>
<td>$9,643,100</td>
<td>$675,017</td>
<td>$385,724</td>
<td>$1,060,741</td>
</tr>
<tr>
<td>2016</td>
<td>$17,158,500</td>
<td>$1,201,095</td>
<td>$686,340</td>
<td>$1,887,435</td>
</tr>
<tr>
<td>2017</td>
<td>$28,263,275</td>
<td>$1,978,429</td>
<td>$1,130,531</td>
<td>$3,108,960</td>
</tr>
<tr>
<td>2018*</td>
<td>$25,038,025</td>
<td>$1,752,662</td>
<td>$1,001,521</td>
<td>$2,754,183</td>
</tr>
</tbody>
</table>

*through 2/2018 – 8 months – annualizes to $4.1 million
### Article 17 – DBR Data

#### FY 2017 DBR Participant Counts

<table>
<thead>
<tr>
<th>Category</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applications</td>
<td>117</td>
</tr>
<tr>
<td>Compassion Centers</td>
<td>3</td>
</tr>
<tr>
<td>Cultivators</td>
<td>53</td>
</tr>
<tr>
<td>Plant Tags</td>
<td>55,118</td>
</tr>
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</table>

#### FY 2017 DBR Collections

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applications</td>
<td>$585,750</td>
</tr>
<tr>
<td>Plant Tags</td>
<td>457,746</td>
</tr>
<tr>
<td>Licenses</td>
<td>296,000</td>
</tr>
<tr>
<td>Registry ID Cards</td>
<td>23,730</td>
</tr>
<tr>
<td>Enforcement</td>
<td>3,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,366,226</strong></td>
</tr>
</tbody>
</table>
## FY 2017 DOH Participant Counts

<table>
<thead>
<tr>
<th></th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patients</td>
<td>18,050</td>
</tr>
<tr>
<td>Caregivers</td>
<td>2,639</td>
</tr>
<tr>
<td>Authorized Purchasers</td>
<td>206</td>
</tr>
</tbody>
</table>

## FY 2017 DOH Collections

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patients</td>
<td>$570,285</td>
</tr>
<tr>
<td>Caregivers</td>
<td>174,870</td>
</tr>
<tr>
<td>Authorized Purchasers</td>
<td>12,250</td>
</tr>
<tr>
<td>Minor Patients</td>
<td>375</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$757,780</strong></td>
</tr>
</tbody>
</table>
Article 17 – Medical Marijuana

- FY 2019 Budget - $2.0 million & 12 FTE
  - Business Regulation -
    - Total spend $1.3 million
    - 4.0 new positions for total of 8 FTE
      - $0.3 million more for staffing
      - $0.2 million more for operations
  - Health
    - Total spend $0.7 million
      - Consistent with prior years
      - Enacted 4.0 positions
## Article 17 – Medical Marijuana

### FY 2019 Budget Impact

<table>
<thead>
<tr>
<th>Source</th>
<th>Sales Tax/ Surcharge</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compassion Centers</td>
<td>$1,728,486</td>
<td>$1,675,000</td>
</tr>
<tr>
<td>Manufacturing Licenses</td>
<td>-</td>
<td>1,545,000</td>
</tr>
<tr>
<td>Acute Pain</td>
<td>283,745</td>
<td>160,743</td>
</tr>
<tr>
<td>Out-of-state purchasers</td>
<td>389,961</td>
<td>-</td>
</tr>
<tr>
<td>Cost Recovery/Expenses</td>
<td>-</td>
<td>(732,468)</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>$2,402,192</strong></td>
<td><strong>$2,648,275</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$5,050,467</strong></td>
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</table>
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