

TOWARDS CANNABIS CONTROL

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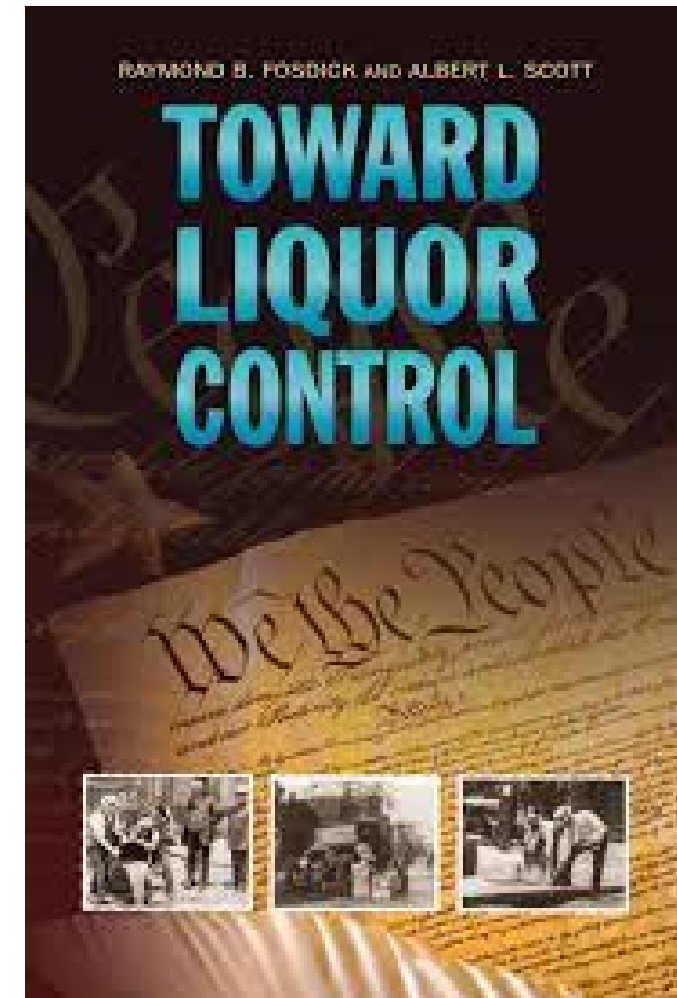
de Beaumont
BOLD SOLUTIONS FOR HEALTHIER COMMUNITIES.

DE BEAUMONT FOUNDATION

Our mission is to advance policy, build partnerships, and strengthen public health to create communities where people can achieve their best possible health.

HISTORICAL CONTEXT

- In 1933, John D. Rockefeller Jr. commissioner a report that explored how other countries had learned about how to best regulate alcohol
- *Toward Liquor Control* filled a policy vacuum that Prohibition had created
- We now have an analogous situation with cannabis. How should states proceed?



EXISTING WORK AND EXPERTISE



NABCA

NATIONAL ALCOHOL BEVERAGE
CONTROL ASSOCIATION

A PUBLIC HEALTH PERSPECTIVE ON CANNABIS

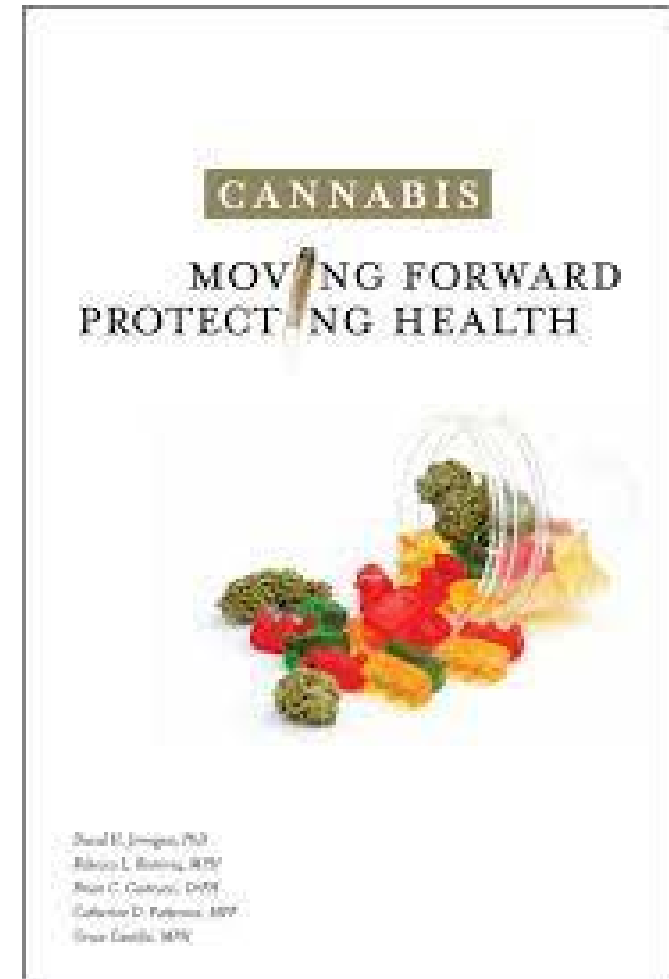
- Where is the public health guidance for cannabis?
- Not taking a position on legalization of non-medical cannabis
- What is the state of the evidence?
- What is working in states that have already legalized non-medical cannabis?
- What is working in other countries who have legalized cannabis?

PUBLIC HEALTH GOALS

- Protecting youth
- Controlling the prevalence, frequency, and intensity of cannabis use
- Reduced cannabis related harms to individuals and communities
- Ensuring accurate information about cannabis use
- Minimizing the influence of industry in setting cannabis policies

THE BOOK

- Published in 2021 by APHA press
- Makes evidence-informed recommendations around cannabis regulation to protect the health of the public
- Takes no position on whether or not cannabis should be legal
- Most up to date research available



THE ROLE OF PHILANTHROPY

- Philanthropy occupies a unique position in American society
- The only stakeholders we are beholden to are our Boards
- Obligated to think broadly about power and voice
- DBF is committed to policy as a tool to address health

PARTNERS



Dr. David Jernigan

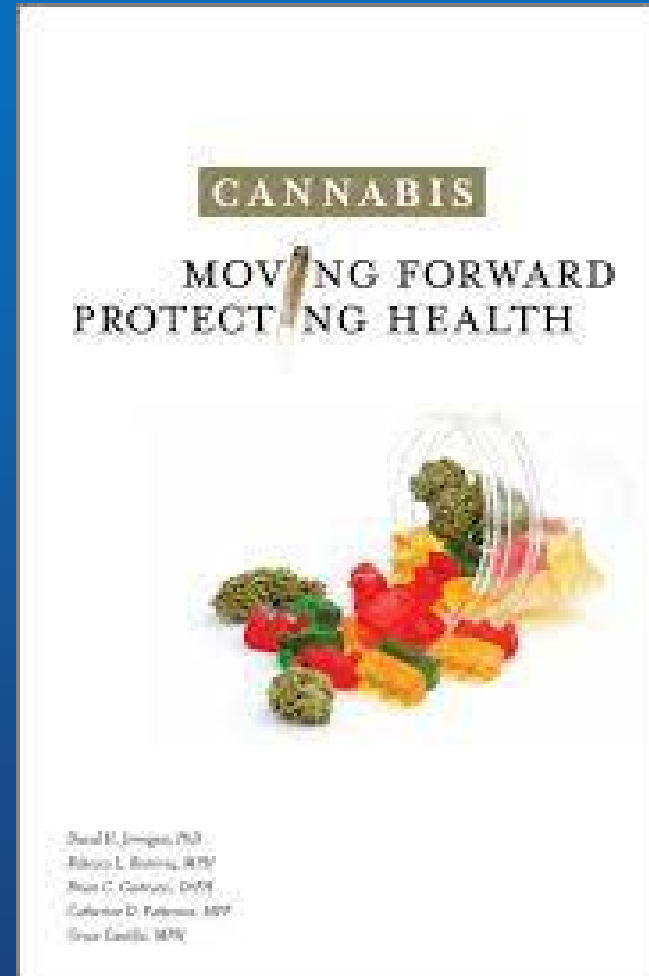
ALCOHOL AND CANNABIS

- My background: primarily in alcohol policy
- Substitutes or complements?
 - Reviews and systematic reviews disagree (95 studies identified in most recent review)
 - Mechanisms for the relationship:
 - Patterns and context of co-use
 - Timing and order of use
 - Cannabinoid formulations and pharmacokinetic interactions
 - User characteristics (populations, diagnostic status, etc.)

ALCOHOL AND CANNABIS

- Overlap in the industries
 - Altria - \$1.8 billion in Canadian producer Cronos (55% stake)
 - Constellation – \$4 billion in Canopy Growth (38% stake)
 - Molson Coors – Truss Beverage Co. – introduced cannabis-infused beverages in Canada
- Failure to learn the lessons of alcohol or tobacco

WHAT WE FOUND



ELEMENTS TO CONSIDER IF STATES LEGALIZE:

- Cannabis regulatory systems
- Products
 - Packaging and labeling
- Physical availability
- Promotions/marketing

- Prices/taxes
- Social justice
- Enforcement
- Surveillance systems

REGULATORY SYSTEMS EXPLORED

- Home cultivation only
- Cannabis social collectives
- Government monopoly
- Public authority
- Licensed regulatory system – public health-focused
- Licensed regulatory system – commercial

For each, lay out strengths and weaknesses, with particular attention to the “4 P’s” of marketing, and industry influence



The Cannabis Corner,
Stevenson, Washington

Home Cultivation Only

Cannabis Regulatory System	Strengths	Weaknesses
Home cultivation <u>only</u>: Adults may cultivate up to a maximum number of plants (and may in some cases give a certain amount to others)	Physical availability – no retail stores allowed Industry influence – minimized as commercial interests are not allowed	Product restrictions/controls – generally no mechanisms in place to regulate/monitor product quality, use of pesticides, safety of concentrates or edibles

Cannabis Social Collectives

Cannabis Regulatory System	Strengths	Weaknesses
Co-ops (Cannabis Collectives): Individuals may cultivate up to a maximum number of plants and can share (either give or sell at-cost) with other club members	Physical availability – no retail stores allowed Product restrictions/controls – State can include public health controls on potency, amount allowed to be shared, prohibited, pesticides etc. Industry influence – minimized as commercial interests are not allowed	Product restrictions/controls – generally no mechanisms are in place to regulate/monitor product quality, use of pesticides, safety of concentrates or edibles, but could be implemented

Government Monopoly

Cannabis Regulatory System	Strengths	Weaknesses
Wholesale and/or Retail Monopoly: A single government agency is the sole wholesaler and/or retailer of cannabis products cultivated and/or processed by many producers.	<p>Pricing controls – controls over prices at wholesale and/or retail can keep prices from falling too low, collection of taxes on production are easier to collect and monitor</p> <p>Physical availability – controls over outlet density, hours and days of sale, etc., can limit physical availability</p> <p>Product restrictions/controls – controls products on the market, their potency, serving size, and packaging; can mandate warning labels.</p> <p>Promotions/Marketing controls – agency can keep products generic, banning branding or labeling, thus eliminating most marketing and promotional opportunities</p>	<p>Promotions – If retail level is not part of the monopoly, private retailers may conduct extensive marketing that can promote excessive consumption and expand the market</p>

Public Authority

Cannabis Regulatory System	Strengths	Weaknesses
<p>Public Authority: Similar to a monopoly, but the state government creates a single, independent, special-purpose public authority that is the sole purchaser and distributor of cannabis. May include retail as well.</p>	<p>Pricing controls – controls over prices at wholesale and/or retail can keep prices from falling too low, collection of taxes on production are easier to collect and monitor</p> <p>Physical availability – controls over outlet density, hours and days of sale, etc., can limit physical availability</p> <p>Product restrictions/controls – controls products on the market, potency, serving size, packaging; can mandate warning labels.</p> <p>Marketing/promotions controls – agency can keep products generic, banning branding or labeling, and thus eliminating most marketing and promotional opportunities.</p> <p>Industry influence – limited by controls on the membership of governing and advisory bodies; industry members may find it easier to work with a public authority than a monopoly as it operates more as a commercial enterprise.</p>	<p>Industry influence – If retail level is not part of the authority, private retailers may conduct extensive marketing that can promote excessive consumption and expand the market</p>

Licensed Regulatory System – Public Health-focused

Cannabis Regulatory System	Strengths	Weaknesses
<p>Licensed Regulatory System – public health focused: Competitive private market, subject to laws and regulations, public health and safety goals set and regulated by state department of health.</p>	<p>Pricing controls – Authority to set prices through price controls, including minimum pricing levels and taxes.</p> <p>Physical availability – can restrict licenses by size, number and density to reduce availability and keep prices higher</p> <p>Product restrictions/controls – strict controls can limit the products on the market, their potency, serving size, packaging; can also mandate warning labels</p> <p>Industry influence – managed through a prohibition on vertical integration, required licensing of all tiers, limits on number of licenses permitted to each owner; may require that licenses be non-profit organizations or collectives to reduce profit motive; prohibits industry members from lobbying or serving on advisory boards</p>	<p>Industry influence – if not properly set up, public health agencies may not be as experienced in business licensing and regulations and fall prey to industry capture</p>

Licensed Regulatory System - Commercial

Cannabis Regulatory System	Strengths	Weaknesses
<p>Commercial Licensed Regulatory System: Competitive private market, subject to laws and regulations. Normally overseen by a cannabis control agency.</p>	<p>No particular strengths from a public health perspective; preferred by private businesses and venture capital because allows for maximum freedom to develop profit-making enterprises</p>	<p>Pricing controls – apart from taxation and minimum pricing, prices set by competitive market, which may lead to very low prices for cannabis products, competition for new users and heavier use among existing customers</p> <p>Physical availability – controls may be put in place regarding licensees, density of outlets, etc.; however, as seen with alcohol, such controls are more readily eased over time than tightened</p> <p>Product restrictions/controls – pressure to grow market share and profitability may incentivize marketing of stronger products or decreased product quality</p> <p>Industry influence – unchecked growth of large companies operating across multiple tiers will harm ability of smaller producers or retailers to survive and expand lobbying influence of large businesses; without strict regulations, industry members can serve as commission members or on advisory panels</p>

CANNABIS REGULATORY SYSTEMS: SUMMARY OF FINDINGS

- Illegal markets won't disappear overnight.
- Lots to learn from alcohol and tobacco:
- Easier to start conservative and liberalize than to start liberal and get restrictive
- Monopolies, public authorities, and public health-oriented licensed regulatory systems provide greater control over distribution, sales and promotion of the product.

CANNABIS REGULATORY SYSTEMS: POLICY RECOMMENDATIONS

- Move slowly – take a cautious approach to developing a regulatory system.
- Keep businesses small, prevent undue industry influence, and maximize local control
- If adopting a licensing system, make it public health-focused, and adopt measures that:
 - Guard against regulatory capture;
 - Prohibit vertical integration;
 - Prevent industry influence over policy decisions;
 - Keep businesses small and diverse; and
 - Permit local jurisdictions to place additional requirements on cannabis businesses.

LOCAL CONTROL

- Opt-in versus Opt-out
- Time, place, and manner restrictions
 - Days and hours of sale
 - Signage
 - Distance from other outlets, schools, recovery homes, and other sensitive land uses
 - Product delivery

The profit problem

“To be profitable, most firms will need to maintain and encourage heavy use which could have serious implications for rates of cannabis use disorder and other public health outcomes.”

Source: Kilmer, B. How will cannabis legalization affect health, safety, and social equity outcomes? It largely depends on the 14 Ps. *The American Journal of Drug and Alcohol Abuse*, 2019.

Products



New Products...



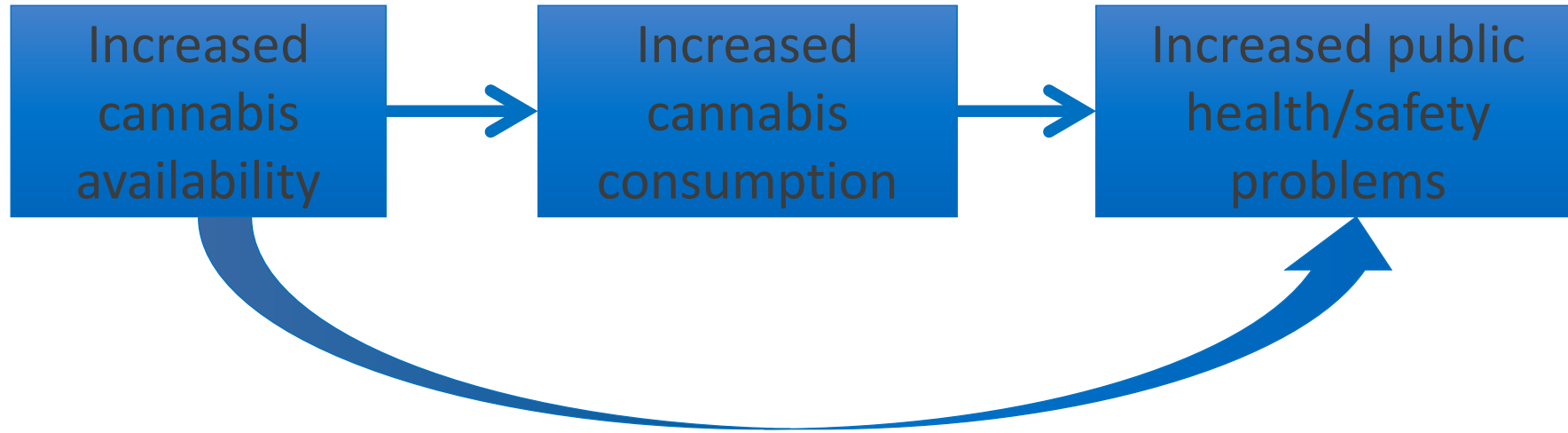
PRODUCTS: POLICY OPTIONS

- Prohibit concentrates.
- Establish a THC ceiling.
- Ban use of all but an approved list of pesticides.
- If edibles and drinkables are allowed, prohibit sale of these products in outlets within 1,500 feet of schools.
- Prohibit any product deemed to be “appealing to children.”

PRODUCTS: PACKAGING POLICY OPTIONS

- Require child-proof or child-resistant packaging.
- Require on all product packaging rotating and specific health and safety warnings that cover at least 30% and ideally 50% or more of a package's principal display area.
- Require plain packaging (i.e., no branding).
- Require clearly visible labels that list percent concentration and THC/CBD ratio.
- Require labeling that indicates whether pesticides were used in cultivation of product.

PHYSICAL AVAILABILITY AND RELATED PROBLEMS



PHYSICAL AVAILABILITY: POLICY OPTIONS

- Minimum purchase age laws: 21+
 - No one under 21 employed in cannabis businesses
- Population-based caps on the number of cannabis outlets
- At least a 1,000- foot buffer zone from sensitive land uses
- Ensure that zoning restrictions and proximity buffers equitably distribute cannabis businesses through a community
- Include cannabis provisions in social host laws
- Enforcement is important!

Cannabis Marketing



NEW MARKETING APPROACHES

“...while the alcohol and tobacco industries crafted their original marketing campaigns decades ago using traditional media (e.g., print, billboards, radio), cannabis businesses have their origins in the digital age and consequently, they rely largely on social media to sell their products.”

Source: Trangenstein PJ, Whitehill JM, Jenkins MC, Jernigan DH, Moreno MA. Active cannabis marketing and adolescent past-year cannabis use. *Drug and alcohol dependence*. 2019;204:107548.

CANNABIS MARKETING: SOCIAL MEDIA

- A majority of cannabis-related social media accounts are run by advocacy groups and industry interests, rather than by individuals sharing opinions or experiences.
- A number of Instagram influencers appear to be doing paid work for cannabis companies, despite a ban on cannabis businesses advertising directly on Instagram, Twitter, and Facebook.

Park SY, Holody KJ. Content, Exposure, and Effects of Public Discourses about Marijuana: A Systematic Review. *J Health Commun.* 2018;23(12):1036-1043.

Varghese S. Weed firms are using Instagram influencers to dodge regulations. *Wired UK.* January 19, 2019, 2019.

CANNABIS MARKETING AND PROBLEMATIC CANNABIS USE AMONG ADOLESCENTS

- Adolescents who saw billboards rarely/sometimes had 5 times the odds of a Cannabis Use Disorder
- Adolescents who saw billboards most/all of the time had 7 times the odds of weekly use and 6 times the odds of Cannabis Use Disorder
- Adolescents who owned/were likely to own branded merchandise had nearly 23 times the odds of weekly use

Trangenstein PJ, Whitehall JM, Jenkins MC, Jernigan DH, Moreno MA. Cannabis Marketing and Problematic Cannabis Use Among Adolescents. *Journal of Studies on Alcohol and Drugs*, 82(2), 2021.

MARKETING: POLICY OPTIONS

- Remove, at the state level, tax deductibility of marketing expenses for cannabis
- Focus restrictions on marketing content and placement on what is allowed instead of what is prohibited
- Restrict advertising to media and events where the audiences contain 15% or fewer youth under 21, roughly the percentage of 12-20 year-olds in the general population
- Create a state cannabis scientific advisory board to review the scientific literature in order to approve/reject health claims and ads that could be appealing to youth
- Counter-advertising/marketing campaigns

PRICES/TAXES

- Cannabis taxes should be set high enough to increase prices post-legalization, more than countering the drop in price likely to occur in the wake of legalization.
- Taxes should be based on potency to discourage excessive consumption, and automatically adjust for inflation.
- Minimum pricing, minimum markup, and tax floor policies should be implemented.
- Price promotions, bulk purchases, coupons, and bundling of products with services should be prohibited.
- Cannabis taxes should generate sufficient revenue to provide adequate funding to support:
 - A robust cannabis control agency to evaluate the health and safety impact of legalization
 - state and local as well as mass-reach interventions, substance use prevention, cessation and treatment, counter-marketing, surveillance, and evaluation.

CANNABIS REGULATION AND SOCIAL JUSTICE: SUMMARY OF FINDINGS

- Cannabis law enforcement, both before and after legalization, disproportionately affects poor and particularly African American communities, with long-term effects on both individuals and communities.
- Legalization of non-medical cannabis has been driven by concerns about these disproportionate effects.
- Decriminalizing arrests for cannabis use and possession can address this injustice, without full legalization of non-medical cannabis for commercial sale.
- Research suggests that legalizing cannabis for non-medical use decreases the overall number of cannabis-related arrests but does not eliminate racial inequalities among those arrested.

CANNABIS REGULATION AND SOCIAL JUSTICE: POLICY RECOMMENDATIONS

- Decriminalize cannabis possession for both adults and youth.
- Establish expungement programs for previous cannabis-related criminal convictions.
- Burden of the expungement process should be on the criminal justice system and not on previously convicted individuals.
- Address disparities in arrests of African American and Latino persons in and of themselves, separate from changes in cannabis policy.
- Explore options for reinvesting cannabis revenue into socially disadvantaged communities without linking these initiatives to cannabis businesses.

MONITORING AND SURVEILLANCE

- WE ARE NOT READY!
- Existing national surveys are still asking the wrong questions.
- There is no national detailed legal database tracking policies and changes over time to facilitate evaluation.
- State licensing, enforcement and adjudication data are not often not accessible.
- We need publicly available seed-to-sale tracking systems for cannabis production and sales, consistent across states.
- We need more research to understand and regulate cannabis impairment and traffic crashes.

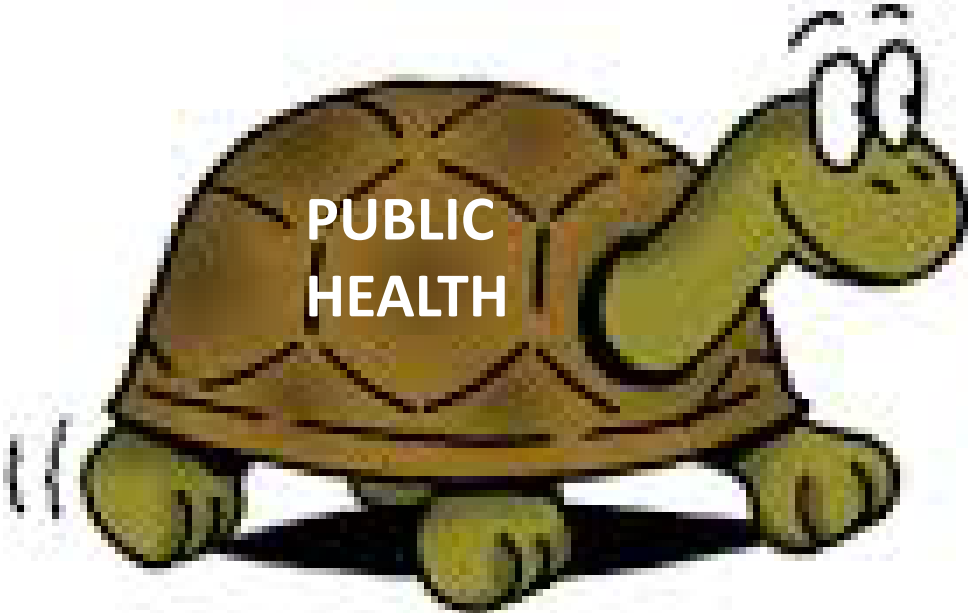
ENFORCEMENT

- Sufficient funding, resources, and expertise for enforcement of cannabis laws.
- Policies and practices to ensure that enforcement operations and priorities are not influenced by revenue or cannabis industry pressures.
- Clear enforcement guidelines and protocols to ensure fair and consistent enforcement.
- Publicly available and accessible records management system tracking enforcement actions.
- Inclusion in such a system of data by income, race, sex, and location to facilitate public monitoring of equity in enforcement practices.

Images of Legalization



CAN THE TORTOISE WIN THIS RACE?



PUBLIC
HEALTH



CANNABIS
REGULATORY
CHANGE