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PERSPECTIVE

Turning point for marijuana regulation?

By Ryan Lowther

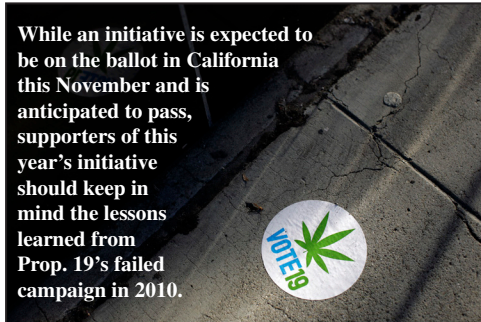
On April 11, the New York Times published an article discussing how the marijuana industry in California is growing up and becoming big business. The article, citing figures provided by cannabis research companies Arc View and New Frontier, stated that California's medical marijuana sales hit \$2.7 billion last year, accounting for nearly half of all legal marijuana sales in the country. Legal sales of marijuana in California are poised to grow exponentially should voters approve a ballot initiative in November legalizing recreational use and sales.

While such an initiative is expected to be on the ballot in California this November and is anticipated to pass, supporters of this year's initiative should keep in mind the lessons learned from Proposition 19's failed campaign in 2010. Prop. 19, which sought to legalize recreational use, was not well-funded or planned. Its supporters did not engage in enough outreach to garner support among key industry players. Opponents to Prop. 19 made arguments that the initiative was overreaching in some areas and entirely too vague in others, and Prop. 19's supporters were not prepared to counter these arguments. While in the end, Prop. 19 campaign failed to win voter approval, it did spark a national conversation and move advocacy in the industry forward.

The landscape of 2016 looks a lot different than the landscape of 2010. There has been a shift in people's perceptions about the dangers and benefits of marijuana use. Today, 24 states and the District of Columbia have laws permitting medical marijuana use. Additionally, Alaska, Colorado, Oregon, Washington and the District of Columbia have adopted laws legalizing recreational use. In California, the medical marijuana market is set for a major overhaul since Gov. Jerry Brown signed the Medical Marijuana Regulation and Safety Act (MMRSA) establishing a much needed regulatory framework for the legal cultivation, distribution and sale of medical marijuana in California. MMRSA, which is comprised of three bills, is the most significant legislation in California since voters enacted Proposition 215 in 1996 legalizing use of marijuana for medical purposes.

The four states that have adopted laws legalizing recreational use can provide voters with answers to many questions and concerns that couldn't be answered in 2010. Colorado and

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Washington legalized recreational use in 2012, making them the two states with the longest history of regulating recreational use in the nation. Both states have implemented a robust regulatory framework and structured their laws in an effort to comply with the guidance provided by the U.S. Department of Justice and reduce the risk of federal intervention into these state experiments. A recent report by the Public Policy Institute of California (PPIC) recommends adopting the same robust regulatory approach for California, and includes an overarching message that California should start with a tightly regulated market that limits access and then ease restrictions as California learns from its experience and the experiences of other states. The report groups its analysis and recommendations into five key policy areas and makes the following recommendations:

- *Cultivation, production and processing:* start with a limited number of licenses, limit the size of cultivations, require seed-to-sale tracking and implement strict environmental and water use requirements.
- *Sale, consumption and possession:* limit sales to individuals 21 or older, prohibit home grows, restrict quantities that individuals can buy, and allow for the sale of marijuana only in stores that are licensed to sell it.
- *Taxes and finance:* institute a sales and/or excise tax as a percentage of the selling price.
- *Public health and safety:* implement an aggressive prevention/education campaign aimed at youth, develop measures to prevent drugged driving, including funding research to develop an impairment standard, and make substance abuse treatment available for the uninsured.
- *Governance:* develop a single regulatory framework for both medical and recreational marijuana use that requires reporting and data collection across a number of indicators.

(For a further discussion of the PPIC report, check out the April 21 column by the report's authors, Patrick Murphy and John Carnevale, titled "Legalization lessons learned from Colorado, Washington.")

The Adult Use of Marijuana Act (AUMA), currently viewed as the initiative most likely to reach the ballot in November, aligns with many of PPIC's recommendations. Building on the existing regulatory framework established by MMRSA, it would provide for regulation of the medical and recreational use markets by the Bureau of Marijuana Control under California's Department of Consumer Affairs. AUMA has made an effort to model itself after national best practices, lessons learned from other states, and the recommendations of the Lieutenant Governor's Blue Ribbon Commission on Marijuana Policy. The initiative, which has been funded by Sean Parker and Drug Policy Action, has already garnered the support of the Lieutenant Governor, the California NAACP, the California Medical Association, and many key industry players such as the Marijuana Policy Project of California and the California Cannabis Industry Association.

California led the nation when it adopted Proposition 215. Since then other states have picked up the baton creating markets for the cultivation, distribution and sale of marijuana for recreational use. California voters should have the chance in November to establish California once again as a leader in the legal use of marijuana.

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